

**Special Education Procedures Assuring the Implementation of Comprehensive Programming for Children with Disabilities**

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## **Section 1. Free Appropriate Public Education and Comprehensive Programs**

### **A. Comprehensive Program**

Harlem School District #122 provides and maintains appropriate and effective educational programs in order to afford every child with a disability who is between the ages of 3 and 21, is enrolled in Harlem School District #122, and requires special education and related services to address the adverse effect of the disability on his/her education (including transfer children and children who have been suspended or expelled from school) a free appropriate public education (FAPE). As part of this effort, Harlem School District #122 provides all eligible children who are residents of Harlem School District #122 with a comprehensive program of special education, which includes the following:

1. A viable organizational and financial structure;
2. Systematic procedures for identifying and evaluating the need for special education and related services;
3. A continuum of appropriate alternative placements available to meet the needs of children for special education and related services which may include, but is not limited to, any of the following:
  - a. Regular classes;
  - b. Special classes;
  - c. Special schools;
  - d. Home/hospital services; and
  - e. State operated or nonpublic programs.
4. Qualified personnel who are employed in sufficient number to provide:
  - a. Supervisory services;
  - b. Instructional and resource services;
  - c. Related services; and
  - d. Transportation services.
5. Appropriate and adequate facilities, equipment and materials;
6. Functional relationships with public and private agencies that can supplement or enhance the special education services of the public schools;

7. Interaction with parent(s)/guardian(s) and other concerned persons that facilitates the educational development of children with disabilities;
8. Procedures for internal evaluation of the special education services provided; and
9. Continuous planning for program growth and improvement based on internal and external evaluation.

B. Public Awareness

Harlem School District #122 shall create public awareness of special education and related services and advise the public of the rights of children with disabilities pursuant to developed procedures. In creating public awareness of special education and related services and advising the public of the rights of children with disabilities, Harlem School District #122 shall comply with the following:

1. Information provided to the public shall be made available in each of the major languages represented in Harlem School District #122 and in the language that will be understandable to parent(s)/guardian(s), regardless of ethnic or cultural background or hearing or visual abilities;
2. Annual notification shall be provided to all parent(s)/guardian(s) in Harlem School District #122 regarding the special education services available in or through Harlem School District #122 and of their right to receive a copy of the ISBE regulations upon request;
3. Annual dissemination of information to the community served by Harlem School District #122 regarding the special education services available in or through Harlem School District #122 and the rights of children with disabilities;
4. Documentation, including examples as appropriate, of Harlem School District #122's efforts in this regard shall be maintained in Harlem School District #122's files.

C. Providing Free Appropriate Public Education

Each School District will provide a free appropriate public education (FAPE) to all children with disabilities between the ages of 3 and 21, including children with disabilities who have been suspended or expelled from school for more than 10 consecutive school days during the school year, or who receive a series of removals that

constitute a change in placement. In order to meet the requirements of a free appropriate public education, Harlem School District #122 shall comply with the following:

1. All children, ages birth through 21, who are suspected of having a disability, which adversely affects educational performance, are identified, located and evaluated in accordance with the Child Identification procedures set forth in the ISBE Regulations.
2. The special education and related services shall be provided according to the child's individualized education program (IEP), which shall be developed in accordance with these procedures, at no cost to the parent. The IEP shall specify the special education and related services needed in order to ensure that the child receives FAPE, including any extended school year services, if appropriate.
3. FAPE shall be made available to all eligible children with disabilities no later than the child's third birthday.
4. The special education services and placement that constitute FAPE for a particular child shall be identified based on the child's unique needs and not on the child's category of disability. These services shall address all of the child's identified needs for special education and related services.
5. The special education and related services shall be provided to an eligible child even though the child is advancing from grade to grade.
6. Harlem School District #122 shall provide nonacademic and extracurricular services and activities in a manner necessary to afford children with disabilities an equal opportunity to participate in those services and activities.
7. No delay shall occur in implementing a child's IEP, including any case in which the source of payment or provision of services to the child is being determined.
8. No eligible child from 3 through 21 years of age may be permanently excluded from the public schools, either by direct action by the board of education, by indication of Harlem School District #122's inability to provide an educational program, or by informal agreement between the parent(s)/guardian(s) and Harlem School District #122 to allow the child to remain without an educational program.
9. Harlem School District #122 need not provide a child with services during periods in which the child has been removed from his/her current placement for 10 school

days or fewer in a particular school year, if services are not provided to a child without disabilities who has been similarly removed. However, an eligible child who has been suspended or expelled from school for more than 10 school days during a particular school year shall continue to receive services necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP.

10. If a child with a disability who is receiving special education from a local School District transfers to another School District, the receiving School District shall ensure that the child receives FAPE in conformity with the child's IEP. If the receiving School District is unable to obtain a copy of the child's current IEP or a verbal confirmation of the requirements of the IEP from the previous School District, the child shall be enrolled and served in the setting that Harlem School District #122 believes will meet the child's needs until a copy of the current IEP is obtained or a new IEP is developed by Harlem School District #122. In no case shall a child be allowed to remain without services during this interim period.
11. In providing FAPE to children with disabilities who have been suspended or expelled from school, Harlem School District #122 shall meet the requirements set forth in Subpart E of the ISBE Regulations.
12. Any child for whom services are sought shall not be denied FAPE regardless of any jurisdictional disputes among Illinois agencies.

D. Exceptions to Providing FAPE

1. A child with a disability who has graduated with a regular high school diploma or its equivalent shall not be provided FAPE. Children with disabilities who receive something other than a standard diploma shall remain eligible for FAPE until the child reaches the age of 21. Children who become 21 during the school year shall be allowed to complete that year.
2. Any child 18 through 21 years of age who is incarcerated and who is not identified as eligible and did not have an IEP in his/her educational placement immediately prior to incarceration shall not be provided FAPE.

LEGAL REF.: 20 U.S.C. §§ 1412 (State eligibility), 1413 (local educational agency eligibility).  
34 C.F.R. §§ 300.121 (free appropriate public education–FAPE), 300.122  
(exception to FAPE for certain ages), 300.300 (provision of FAPE),  
300.301 (FAPE-methods and payments), 300.309 (extended school year  
services).  
105 ILCS 5/14-1.02 (children with disabilities).  
23 Ill. Admin. Code §§ 226.50 (requirements for a FAPE), 226.700 (general).

APPROVED:

## **Section 2. Full Educational Opportunity Goal**

### **A. Establishment of the Goal**

Harlem School District #122 has established a goal of providing full educational opportunity to children with disabilities aged birth through 21. Attainment of the full educational opportunity goal for children, ages birth through 2, will be accomplished through full participation in, and full implementation of the “Infants and Toddlers with Disabilities Act.”

### **B. Annual Data Collection Requirements**

1. Harlem School District #122 shall annually collect the following information regarding children with disabilities residing within the jurisdiction of Harlem School District #122:
  - a. The number of children with disabilities, by race, ethnicity, and disability category, who are receiving a free appropriate public education;
  - b. The number of children with disabilities, by race and ethnicity, who are receiving early intervention services;
  - c. The number of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education;
  - d. The number of children with disabilities, by race, ethnicity, and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities;
  - e. The number of children with disability, by race, ethnicity, and disability category, who, for each year of age from age 14 to 21, stopped receiving special education and related services because of program completion or other reasons and the reasons why those children stopped receiving special education and related services;
  - f. The number of children with disabilities, by race and ethnicity, who from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons;
  - g. The number of children with disabilities, by race, ethnicity, and disability category, who under subparagraphs (A)(ii) and (B) of §

1415(k)(1) of IDEA, are removed to an interim alternative educational setting; the acts or items precipitating those removals; and the number of children with disabilities who are subject to long-term suspensions or expulsions;

- h. The number of special education teachers;
  - i. The number of related services personnel;
  - j. The cost of all personnel;
  - k. The number of children receiving special education transportation;
  - l. The types of alternative placements available for children with disabilities; and
  - m. The number of children served in each type of placement.
2. Harlem School District #122 shall also annually collect information regarding the facilities, personnel and services necessary to accomplish the full educational opportunity goal.

LEGAL REF.: 20 U.S.C. §§ 1412 (State eligibility), 1413 (local educational agency eligibility), 1418 (program information).  
34 C.F.R. §§ 300.123 (full educational opportunity goal-FEOG), 300.124 (FEOG-timetable), 300.125 (child find).  
23 Ill. Admin. Code §§ 226.700 (general), 226.760 (evaluation of special education), 226.800 (personnel required to be qualified).



### **Section 3. Confidentiality of Personally Identifiable Information**

#### **A. Confidentiality**

1. The school student records of a child with disabilities shall be maintained confidentially in accordance with the requirements of the Individuals with Disabilities Education Act, the Family Educational Rights and Privacy Act, The Illinois School Student Records Act, the Illinois School Code, the Illinois Mental Health and Developmental Disabilities Confidentiality Act, and their respective implementing regulations.
2. Harlem School District #122 shall designate a Records Custodian to take all reasonable measures to comply with the confidentiality requirements of the Illinois School Code, Illinois School Student Records Act, the Illinois Mental Health and Developmental Disabilities Act, Individuals with Disabilities Education Act, and Family Educational Rights and Privacy Act, and their respective implementing regulations.
3. The Records Custodian shall assume responsibility for the following:
  - a. Respond to any request for inspection and review of school student records, including a request for a copy of school student records;
  - b. Respond to any request for an explanation or interpretation of a school student record;
  - c. Respond to any request to amend or destroy a school student record;
  - d. Respond to any request to disclose or release personally identifiable information and/or school student records;
  - e. Keep a record of parties obtaining access to school student records including the name of the party, the date access took place, and the purpose of the authorized use;
  - f. Maintain, for public inspection, a current listing of the names and positions of the employees who may have access to personally identifiable information;
  - g. Provide upon request from the parent(s)/guardian(s) or the child at the age of majority, a list of the types and locations of school student

records collected, maintained, or used by Harlem School District #122;

- h. Take all reasonable measures to protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages of maintenance of school student records.
- 4. The school principal, person with like duties, or principal's designee, shall take all action necessary to assure that each person collecting or using personally identifiable information receives training or instruction regarding the policies and procedures governing confidentiality of personally identifiable information.
- 5. Harlem School District #122 will notify the parent(s)/guardian(s) or the child with disabilities at the age of majority of the right to access the school student records, to request amendments and to request a records hearing:
  - a. The school will notify annually the child and the student's parent(s) if the child is under the age of majority, of their rights under the federal and State law with respect to access including, but not limited to, the following:
    - (1) The types and location of information contained in the permanent and temporary school student records;
    - (2) The right to inspect and copy permanent and temporary school student records and the cost of copying such records;
    - (3) The right to control access to and release of school student records and the right to request a copy of information released;
    - (4) The rights and procedures for challenging the contents of school student records that maybe inaccurate, misleading or improper;
    - (5) The persons, agencies or organizations having access to the school student records without parental consent;
    - (6) The right to copy any school student record or information contained therein which is proposed to be destroyed or deleted

and the school's schedule for reviewing and destroying such information;

(7) The categories of information the school has designated as "directory information" and the right of the parent(s)/guardian(s) to prohibit the release of such information.

b. Notice will be delivered by the means most likely to reach the parent(s)/guardian(s) or the child at the age of majority, including direct mail, parent-teacher conferences, delivery by the child to the parent, or incorporated in a "parent-student" handbook or other informational brochure for children and parent(s)/guardian(s) disseminated by the school.

B. Type of Records Subject to Disclosure

1. School student records available for review by parent(s)/guardian(s) or authorized persons are those writings or other recorded information concerning a child and by which a child may be individually identified, maintained by a school or at its direction or by an employee of a school, regardless of how or where the information is stored. The following are not school student records and are not subject to disclosure. Writings or other recorded information maintained by an employee of Harlem School District #122 or other person at the direction of Harlem School District #122 for his/her exclusive use, provided that all such writings and other recorded information are destroyed not later than the student's graduation or permanent withdrawal from the school, and provided further that no such records or recorded information may be released or disclosed to any person except a person designated by the school as a substitute unless they are first incorporated in a school student record and made subject to all of the provisions of federal and State law.
2. School student records do not include information maintained by law enforcement professionals working in the school.

C. Inspection and Review of School Student Records

1. Harlem School District #122 shall permit parent(s)/guardian(s) and any other authorized persons the opportunity to inspect, review, and copy all school student records.
2. The Records Custodian shall respond to and grant any written request to inspect and to copy school student records to a parent(s)/guardian(s) or authorized representative within 15 school days after the date of receipt of such written request by the Records Custodian.
3. If requested by an authorized person, the Records Custodian shall provide a copy of the school student record if he/she determines that the parent(s)/guardian(s) will be effectively prevented from exercising his/her right to inspect and review school student records at the location where such records are normally maintained (or at any other location where Harlem School District #122 offers to produce such records). Harlem School District #122 may charge a reasonable fee for copies of records. Harlem School District #122 shall not charge a fee when the Records Custodian determines that, a parent(s)/guardian(s) is to bear the cost of such copying.

D. Release of Personally Identifiable Information

1. Harlem School District #122 shall obtain written parental consent or consent from the child at age of majority before permitting personally identifiable information to be released or used except as otherwise authorized by law.
2. Harlem School District #122 may not release, transfer, disclose or otherwise disseminate information maintained in the school student record, except as follows and as provided by law:
  - a. To a parent(s)/guardian(s) or child or person specifically designated as a representative by a parent, or;
  - b. To an employee or official of the school or School District or State Board of Education with current demonstrable educational or administrative interest in the student, in furtherance of such interest.

- c. To the official records custodian of another school within Illinois or an official with similar responsibilities of a school outside Illinois, in which the child has enrolled, or intends to enroll, upon the request of such official or student.
- d. To any person for the purpose of research, statistical reporting or planning, provided that no child or parent(s)/guardian(s) can be identified from the information released and the person. Special to whom the information is released signs an affidavit agreeing to comply with all applicable statutes and rules pertaining to school student records.
- e. Pursuant to a court order, provided that the parent(s)/guardian(s) shall be given prompt written notice upon receipt of such order of the terms of the order, the nature and substance of the information proposed to be released in compliance with such order and an opportunity to inspect and copy the school student records and to challenge their contents.
- f. To any person as specifically required by State or federal law.
- g. To juvenile authorities when necessary for the discharge of their official duties who request information prior to adjudication of the child and who certify in writing that the information will not be disclosed to any other party except as provided under law or order of the court. For purposes of this Section, a juvenile authority means:
  - (1) A judge of the circuit court and members of the staff of the court designated by the judge;
  - (2) Parties to the proceedings under the Juvenile Court Act of 1987 and their attorneys;
  - (3) Probation officers and court-appointed advocates for the juvenile authorized by the judge hearing the case;
  - (4) Any individual, public or private agency having custody of the child pursuant to court order;

- (5) Any individual, public or private agency providing education, medical or mental health service to the child when the requested information is needed to determine the appropriate service or treatment for the minor;
  - (6) Any potential placement provider when such release is authorized by the court for the limited purpose of determining the appropriateness of the potential placement;
  - (7) Law enforcement officers and prosecutors;
  - (8) Adult and juvenile prisoner review boards;
  - (9) Authorized military personnel;
  - (10) Individuals authorized by court.
- h. Subject to regulations of the State Board, in connection with an emergency, to appropriate persons if the knowledge of such information is necessary to protect the health or safety of the child or other persons.
  - i. To any person, with the prior specific-dated written consent of the parent(s)/guardian(s) designating the person to whom the records may be released, provided that at the time any such consent is requested or obtained, the parent(s)/guardian(s) shall be advised in writing that he has the right to inspect and copy such records, to challenge their contents, and to limit any such consent to designated records or designated portions of the information contained therein, as provided by law and as described herein.

E. Transfer of Records

- 1. Harlem School District #122 shall forward, within 10 days of receipt of notice of the student's transfer to any other private or public elementary or secondary school located in this or any other state, a copy of the student's unofficial record of the student's grades to the school to which the child is transferring. Harlem School District #122 at the same time shall forward to the school to which the child is transferring the remainder of the student's school student record and a Certification of

Good Standing form. “In good standing” means that the student’s medical records are up-to-date and complete and the child is not being disciplined by a suspension or expulsion.

- a. Prior written notice must be provided to the parent(s)/guardian(s) regarding the nature and substance of the information being released/transferred. Prior written parental consent is required to transfer the student’s school student record to the receiving public School District if to the extent that such school student records contain mental health and or developmental disabilities information protected by the Illinois Mental Health and Developmental Disabilities Confidentialities Act.
- b. Harlem School District #122 shall send the parent(s)/guardian(s) and the child at age of majority notice that the record is being forwarded to the new School District. The notice shall advise the parent(s)/guardian(s) and the child at the age of majority of their right to inspect the record being transferred.
- c. Harlem School District #122 shall maintain a copy of the transferring student’s temporary record for a period of not less than 5 years. The transferring student’s temporary record will be destroyed not later than July 1 of the fifth year after the student’s transfer. Harlem School District #122 shall maintain for 60 years the transferring student’s permanent record.
- d. Upon transfer, graduation or permanent withdrawal, psychological evaluations, special education files and other information contained in the student temporary records which may be of continued assistance to the child may, after 5 years, be transferred to the custody of the parent(s)/guardian(s) or to the child if the child has succeeded to the rights of the parent(s)/guardian(s). Harlem School District #122 shall explain to the child and the parent(s)/guardian(s) the future usefulness of these records.

F. Amendment of School Student Records

1. A parent(s)/guardian(s) who believes that information in the school student records is inaccurate or misleading or violates the privacy or other rights of the student, exclusive of grades of the child and references to expulsions or out-of-school suspensions, may if the challenge is made at the time the student's records are forwarded to another school which the child is transferring, challenge the specific entry in question.
2. The request for a hearing must be submitted in writing and contain notice of the specific entry or entries to be challenged and the root of the challenge.
3. The school principal, or principal's designee, upon receiving a written request from a parent(s)/guardian(s), shall hold an informal conference with the parent(s)/guardian(s) within 15 school days from the date of receipt of the request. The school principal, or principal's designee, will amend or delete information he or she determines to be inaccurate, irrelevant or improper. If the school principal, or principal's designee, refuses to amend the information, he or she shall inform the parent(s)/guardian(s) of the refusal and advise the parent(s)/guardian(s) of his/her right to proceed with a hearing.
4. If the dispute is not resolved by the informal conference, formal procedures shall be initiated:
  - a. A hearing officer, who shall not be employed in the attendance center where the child is enrolled, shall be appointed by Harlem School District #122.
  - b. The hearing officer shall conduct a hearing within a reasonable time, but no later than 15 days after the informal conference, unless the parent(s)/guardian(s) and school officials agree upon an extension of time. The hearing officer shall notify the parent(s)/guardian(s) and the school officials of the time and place of the hearing.
  - c. A verbatim record of the hearing shall be made by a tape recorder or a court reporter.



5. The written decision of the hearing officer shall, no later than 10 days after the conclusion of the hearing, be transmitted to the parent(s)/guardian(s) and Harlem School District #122. It shall be based solely on the information presented at the hearing and shall be one of the following:
  - a. To retain the challenged contents of the student record;
  - b. To remove the challenged contents of the student record; or
  - c. To change, clarify or add to the challenged contents of the student record.
6. Any party shall have the right to appeal the decision of the local hearing officer to the Regional Superintendent within 20 school days after such decision is transmitted. If the parent(s)/guardian(s) appeals, the parent(s)/guardian(s) shall so inform the school and within 10 school days, Harlem School District #122 shall forward a transcript of the hearing, a copy of the record entry in question and any other pertinent materials to the Regional Superintendent. Harlem School District #122 may initiate an appeal by the same procedures. Upon receipt of such documents, the Regional Superintendent shall examine the documents and records to determine whether Harlem School District #122's proposed action in regard to the student's record is in compliance with the Illinois School Student Records Act, make findings and issue a written decision to the parent(s)/guardian(s) and Harlem School District #122 within 20 school days of the receipt of the appeal documents. If the subject of the appeal involves the accuracy, relevance, or propriety of any entry in special education records, the Regional Superintendent should seek advice from special education personnel:
  - a. Who were not authors of the entry; and
  - b. Whose special education skills are relevant to the subject(s) of the entry in question.
7. Harlem School District #122 shall implement the decision of the Regional Superintendent.

8. If, as a result of the hearing, it is determined that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, Harlem School District #122 shall amend the information and of inform the parent(s)/guardian(s) in writing.
9. If, as a result of the hearing, it is determined that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, Harlem School District #122 shall inform the parent(s)/guardian(s) of his/her right to place in the record a statement commenting on the information or setting forth any reasons for disagreeing with the decision of Harlem School District #122.
10. Harlem School District #122 shall ensure that a statement placed in an education record as described above:
  - a. Is maintained by Harlem School District #122 as part of the record of the child as long as the record or contested portion is maintained by Harlem School District #122; and
  - b. Is disclosed by Harlem School District #122 to any party to whom the records of the child are disclosed.

G. Retention and Destruction of Records

1. Harlem School District #122 maintains two types of school student records: permanent and temporary.
  - a. The permanent record shall include:
    - (1) Basic identifying information;
    - (2) Academic transcripts;
    - (3) Attendance record;
    - (4) Accident and health reports;
    - (5) Scores received on the Prairie State Achievement Examination;
    - (6) Information pertaining to release of this record;
    - (7) Honors and awards, and;
    - (8) School-sponsored activities and athletics.

- b. No other information shall be placed in the permanent record. The permanent record shall be maintained for at least 60 years after the child graduated, withdrew, or transferred.
  - c. The temporary record may include:
    - (1) Family background;
    - (2) Intelligence and aptitude scores;
    - (3) Psychological reports;
    - (4) Achievement test results, including scores on the Illinois Standards Achievement Test;
    - (5) Participation in extracurricular activities;
    - (6) Honors and awards;
    - (7) Teacher anecdotal records;
    - (8) Disciplinary information, specifically including information regarding an expulsion, suspension, or other punishment for misconduct involving drugs, weapons, or bodily harm to another;
    - (9) Special education files;
    - (10) Verified reports or information from non-educational persons, agencies or organizations;
    - (11) Other verified information of clear relevance to the student's education, and;
    - (12) Information pertaining to releases of the record.
  - d. Information in the temporary record will indicate authorship and date.
  - e. The District will maintain the student's temporary record for at least 5 years after the child transfers, graduates, or permanently withdraws.
3. Harlem School District #122's destruction of school student records, shall be pursuant to prior notice to the parent(s)/guardian(s) and in accordance with federal and State law, including the Local Records Act.

LEGAL REF.: 20 U.S.C. §§ 1232g (Family Educational Rights and Privacy Act), 20 U.S.C. §§ 1412 (State eligibility), 1413 (local educational agency eligibility).  
34 C.F.R. §§ 300.127, 300.560-576, 300.740.  
34 C.F.R. Part 99.  
105 ILCS 10/1 et seq.; 740 ILCS 110/1 et seq.; 50 ILCS § 205/1 et seq.  
23 Ill. Admin. Code Subpart K and §§ 226.50 (requirements for FAPE), 226.75 (definitions), 226.220 (factors in development of the IEP), 226.740 (records; confidentiality).  
23 Ill. Admin. Code Part 375 (student records).

**Section 4. Child Identification/Child Find**

- A. Harlem School District #122 shall conduct activities to create public awareness of special education and related services and advise the public of the rights of children with disabilities. All such public awareness activities shall ensure that information is made available in each of the major languages represented in Harlem School District #122 and in language that will be understandable to parent(s)/guardian(s). Harlem School District #122 shall maintain documentation of its public awareness activities.
- B. Methods which may be utilized by Harlem School District #122 to conduct public awareness activities include the following:
  - 1. Utilization of various local media resources including television, radio, and newspaper; and
  - 2. Development of communication links with various agencies that provide services to children with disabilities within the community and dissemination of child find materials to hospitals, clinics, pediatricians, pediatric nurses, and social service professionals involved in family or child services.
- C. Harlem School District #122's public awareness activities shall include:
  - 1. Annual notification to all parent(s)/guardian(s) in Harlem School District #122 regarding the special education services available in or through Harlem School District #122 and of their right to receive a copy of 23 Ill. Admin. Code Part 226; and
  - 2. Annual dissemination of information to the community served by Harlem School District #122 regarding the special education services available in or through Harlem School District #122 and the rights of children with disabilities.
- D. Harlem School District #122 shall locate, identify and evaluate all children from birth through 21 within Harlem School District #122 who may be eligible for special education and related services, including children who are not currently enrolled in the school's educational program, children in nonpublic

schools, and highly mobile children such as migrants and homeless children.

This process shall include:

1. Collecting, maintaining and reporting current and accurate data on all public awareness and child find activities;
2. Reviewing the overall success and effectiveness of Harlem School District #122's public awareness and child find activities;
3. Modifying Harlem School District #122's public awareness and child find activities, as necessary and appropriate; and
4. Utilizing data relative to Harlem School District #122's public awareness and child find activities to plan for the delivery of services to children with disabilities.

E. Harlem School District #122's child find activities shall further include:

1. Annual screening of children under age 5 to identify those who may need early intervention or special education and related services;
2. Hearing and vision screening at regular intervals during the child's school career and annually for all children who receive special education and related services;
3. Ongoing review of each child's performance and progress by teachers and other professional personnel, in order to refer those children who exhibit problems with their educational progress, interaction with others, and/or functioning or adjustment in the school environment and may be eligible for special education and related services;
4. Ongoing coordination with early intervention programs to identify children from birth through 2 years of age who have or are suspected of having disabilities, in order to ensure the timely provision of services; and
5. Coordination and consultation with nonpublic schools located within Harlem School District #122 that results in child find activities comparable to those activities undertaken for children in the public schools.

- F. Harlem School District #122's child find activities shall be performed by personnel who meet all relevant certification or other relevant licensing standards.
- G. When responsible School District personnel conclude that an individual evaluation of a child is warranted, the procedures for referral and evaluation set forth herein will be followed.
- H. When there is a reason to believe that a child may have a disability requiring special education and related services, the child shall be referred for a special education evaluation. Referrals may be made by any concerned person, including but not limited to School District personnel, the parent(s)/guardian(s) of the child, an employee of a community service agency, a professional having knowledge of a child's problems, a child, or an employee of the ISBE.
- I. A referral process shall be developed and implemented by the Director of Special Education and communicated annually to all professional personnel within Harlem School District #122 and to persons within the community. The referral procedures shall include:
  - 1. The steps to be taken in making a referral, including a direction that referrals are to be made in writing, signed, and dated;
  - 2. The person(s) to whom a referral may be made;
  - 3. The information that must be provided;
  - 4. Assistance, if needed, to enable persons making referrals to meet all referral requirements; and
  - 5. A process for providing the parent(s)/guardian(s) with notice of their rights with respect to procedural safeguards.
- J. Harlem School District #122 shall decide whether or not to conduct an evaluation and notify the parent(s)/guardian(s) and the referring party in writing of the decision and the basis on which the decision was reached.
- K. If Harlem School District #122 decides to conduct an evaluation, parental consent must be obtained.
- L. If Harlem School District #122 decides not to conduct an evaluation, the parent(s)/guardian(s) and, subject to the requirements of law, the referring

party, shall be notified in writing of the date of the referral, the reasons for which the evaluation was requested, the reasons that Harlem School District #122 decided not to conduct the evaluation and provided with notice of their rights with respect to procedural safeguards.

LEGAL REF.: 20 U.S.C. §§ 1412 (State eligibility), 1412 (a)(7), 1413 (local educational agency eligibility).  
34 C.F.R. § 300.125.  
105 ILCS 5/14-8.02(b).  
23 Ill. Admin. Code §§ 226.50 (requirements for FAPE), 226.75 (definitions), 226.100 (child find responsibility), 226.110 (referral).



## **Section 5. Evaluation and Determination of Eligibility**

### **A. Definitions**

1. **Date of Referral:** The date on which written parental consent to complete an evaluation is obtained or provided.
2. **Domain:** An aspect of a child's functioning or performance that must be considered in the cause of designing a case study evaluation. The domains are health, vision, hearing, social-emotional status, general intelligence, academic performance, communication status and motor abilities.

### **B. Procedures Upon Receipt of Referral**

1. Upon receipt of a referral for a special education evaluation, Harlem School District #122 shall:
  - a. Obtain any required parent/guardian consent for evaluation;
  - b. Determine whether and to what extent, further evaluation data is needed in each of the relevant domains and from what sources that information should be obtained;
  - c. Advise evaluation team members of the referral and the anticipated completion date of all evaluation components; and
  - d. Coordinate a meeting to consider the results of the completed evaluation(s).

### **C. Identification of Needed Assessments**

1. An evaluation shall cover all domains, which are relevant to the individual child under consideration.
2. The following procedures shall be used for an evaluation:
  - a. The IEP Team members shall review and evaluate existing information about the child, including the following if available:
    - (1) Information from a variety of formal and informal sources, including information provided by the child's parent(s)/guardian(s);
    - (2) Current classroom-based assessments and observations;
    - (3) Observations by teachers and providers of related services;

- (4) Information, if any, provided by the child; and
  - (5) Information from specialized evaluations such as those performed by independent evaluators, medical evaluators, behavioral intervention specialists, bilingual specialists, etc.
- b. The team may conduct its review without a meeting.
- c. After review of the information described above, the IEP Team members shall determine whether additional evaluation data is needed in any relevant domain and from what source(s) to determine:
  - (1) Whether the child has, or continues to have, one or more disabling conditions;
  - (2) The present levels of performance and educational needs of the child;
  - (3) Whether the disability is adversely affecting the child's educational performance;
  - (4) Whether the child needs or continues to need, special education and related services; and
  - (5) Whether any additions or modifications to the child's special education and related services are needed to enable the child to meet the goals and objectives of his/her IEP and to participate appropriately in the general curriculum.
- d. If evaluation data is needed, consent shall be obtained prior to conducting the evaluation. After consent is obtained, the recommended assessments will be completed by qualified individuals. At the time of consent, the parent(s)/guardian(s) shall be provided a copy of the Notice of Procedural Safeguards.
- e. After determining that evaluation data is needed, Harlem School District #122 must administer or arrange for such tests and other evaluation procedures as must be necessary to produce the needed information.
- f. If additional evaluation data is not needed, Harlem School District #122 will provide written notice to the parent(s)/guardian(s) of:

- (1) The determination and reasons for such determination; and
  - (2) Advise the parent(s)/guardian(s) of their right to request an assessment for the sole purpose of determining whether the child is or continues to be eligible for special education services.
- g. Within 10 school days after a parent(s)/guardian(s) requests an assessment to determine whether the child is or continues to be eligible for special education as described in (C)(2)(f) above, Harlem School District #122 shall:
- (1) Notify the parent(s)/guardian(s) that it will conduct the assessment and make the necessary arrangements, or;
  - (2) Request a due process hearing or notify the parent(s)/guardian(s) of his/her right to request a due process hearing.
- D. Timeline for Convening Evaluation Review Meeting
1. Within 60 school days from the date of referral obtaining the written consent to conduct an evaluation, an IEP meeting will be convened to consider the evaluation information and, if the child is determined eligible, and an IEP must be developed.
  2. If there are fewer than 60 child attendance days remaining in the school year, the evaluation will be completed and a meeting to consider the evaluation data will be convened prior to the first day of the next school year. If the child is determined eligible, an IEP will also be developed prior to the first day of the next school year.
- E. Evaluation Requirements
1. Before a child is evaluated, Harlem School District #122 will determine the child's primary language or other mode of communication and general cultural identification, in accordance with the requirements of 23 Ill. Admin. Code § 226.140.
  2. Any recommended tests and other evaluation materials will be:
    - a. Selected and administered so as not to be discriminatory on a racial or cultural basis;

- b. Provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so;
  - c. Technically sound and designed to assess specific aspect(s) of the child's functioning;
  - d. Administered by trained and knowledgeable personnel and consistent with the instructions provided by their publishers;
  - e. Validated for the specific purposes for which it is used;
  - f. Selected and administered so as to best ensure that if such instrument is provided to a child with impaired sensory, manual, or speaking skills, that the test results accurately reflect the level of the child's achievement and/or aptitude.
- 3. No single procedure and no single individual shall be used as the sole criterion or evaluator to assess whether or not the child has a disability or in determining appropriate programming for the child. Tests and other evaluation materials shall be tailored to assess specific areas of educational need and may not be merely those that are designed to provide a single intelligence quotient.
  - 4. Harlem School District #122 shall use assessment tools and strategies that provide relevant information and are sufficiently comprehensive to assist in identifying all of the child's needs for special education and related services, whether commonly linked to the disability according to which the child has been classified.
  - 5. If the assessment is conducted under nonstandard conditions, a description of the extent to which the assessment varied from standard conditions shall be included in the evaluation report.
  - 6. Any individual conducting a component of an evaluation shall meet the requirements set forth in 23 Ill. Admin. Code § 226.840.
  - 7. If any portion of an evaluation cannot be completed due to lack of parental involvement, religious convictions of the family, or inability of the child to participate in an evaluation procedure, Harlem School

District #122 shall note missing portions in the evaluation report and state the reasons why such portions could not be completed.

F. Determination of Eligibility

1. No later than 60 school days following the date of obtaining consent to conduct an evaluation (or prior to the first day of the next school year if there are less than 60 school days remaining at the time consent is provided), an IEP meeting will be held to consider the results of the evaluation and, if the child is determined to be eligible for special education and related services to develop and IEP.
2. The IEP Team shall include the following individuals:
  - a. The parent(s)/guardian(s) of the child;
  - b. A regular education teacher if the child is or may participate in the regular education environment. For a child of less than school age, an individual qualified to teach preschool children;
  - c. A special education teacher;
  - d. A representative of Harlem School District #122 who:
    - (1) Is qualified to provide, to supervise the provision of, specially designed instruction to meet the needs of children with disabilities;
    - (2) Is knowledgeable about the general curriculum;
    - (3) Is knowledgeable about Harlem School District #122's resources; and
    - (4) Has the authority to make commitments for the provision of resources and is able to ensure that the services provided in the IEP are implemented.
  - e. An individual who is qualified to interpret the instructional implications of the evaluation results, who may be one of the individuals listed above;

- f. A representative of any other agency that is likely to be responsible for providing or paying for transition services, if the child is one for whom transition services are to be planned;
  - g. The child, if age 18 or older and/or if a purpose of the meeting is to plan for needed transition services.
  - h. Other individuals with knowledge or special expertise regarding the child, including providers of related services; and
  - i. An individual qualified to administer individual diagnostic evaluations of children if the child is suspected of having a learning disability.
- 3. The IEP Team, after considering the evaluation and other information available regarding the child, shall determine whether the child is or continues to be eligible for special education and related services as a child with a disability as defined by federal and state law. In making this determination, the IEP Team shall:
  - a. Draw upon information from a variety of sources, including aptitude and achievement tests, parental input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
  - b. Ensure that information obtained from all of these sources is documented and considered; and
  - c. Ensure that a psychological evaluation has been conducted and a recommendation for eligibility has been made by a school psychologist for all children determined mentally impaired.
- 4. A child may not be determined eligible if the determinant factor for that determination is lack of instruction in reading or math or limited English proficiency and the child does not otherwise meet Harlem School District #122's eligibility criteria.
- 5. A report of the IEP meeting will be prepared and contain the following:

- a. A description of the team's consideration of pre-existing information about the child, all new evaluation results obtained and any other information relevant to the decision about the child's eligibility;
    - b. The date of the meeting;
    - c. The names, positions and signatures of those in attendance at the meeting; and
    - d. Any separate written statement provided by a participant who wishes to be on record as disagreeing with the conclusions expressed in the team's report.
  6. A copy of the IEP Team's report, together with all documentation upon which it is based will be maintained in the child's temporary education record in accordance with confidentiality requirements.
  7. A copy of the completed document will be provided to the parent(s)/guardian(s). If requested, a copy of any evaluation reports will also be provided.
  8. No later than 10 school days following the IEP meeting, the parent(s)/guardian(s) will be provided a written notice of the determination of the team, in compliance with 23 Ill. Admin. Code § 226.520. A copy of the Procedural Safeguards Statement will also be provided to the parent(s)/guardian(s) no later than 10 school days following the meeting.
- G. Determination of a Learning Disability
1. A team may determine that a child has a specific learning disability if:
    - a. The child does not achieve commensurate with his/her age and ability levels in one of more of the areas listed in paragraph (a) (2) of this section, if provided with learning experiences appropriate for the child's age and ability levels; and
    - b. The team finds that a child has a severe discrepancy between achievement and intellectual ability in one or more of the following areas:
      - (1) Oral expression.

- (2) Listening comprehension.
  - (3) Written expression.
  - (4) Basic reading skill.
  - (5) Reading comprehension.
  - (6) Mathematics calculation.
  - (7) Mathematics reasoning.
2. The team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of:
- a. A visual, hearing or motor impairment;
  - b. Mental retardation;
  - c. Emotional disturbance; or
  - d. Environmental, cultural or economic disadvantage.
3. At least one team member other than the child's teacher must observe the child's academic performance in the regular classroom setting. In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.
4. For a child suspected of having a specific learning disability, the documentation of the team's determination of eligibility must include a statement of:
- a. Whether the child has a specific learning disability;
  - b. The basis for making the determination;
  - c. The relevant behavior noted during the observation of the child;
  - d. The relationship of that behavior to the child's academic functioning;
  - e. The educationally relevant medical findings, if any;
  - f. Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services; and
  - g. The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.



5. Each team member shall certify in writing whether the report reflects his/her conclusion. If it does not reflect his/her conclusion, the team member must submit a separate statement presenting his/her conclusions.

H. Reevaluations

1. Harlem School District #122 shall ensure that a reevaluation of each child with a disability is conducted if conditions warrant an evaluation, or if the child's parent(s)/guardian(s) or teacher requests a reevaluation, but at least one every three years.
2. Harlem School District #122 shall reevaluate an eligible child before determining that he/she is no longer eligible for special education and related Services.
3. A reevaluation shall be conducted in accordance with Sections B - F of this Section.

I. Consideration of Privately Obtained Evaluations

3. If the parent(s) advises Harlem School District #122 that it has recently had the child evaluated by an individual not employed by Harlem School District #122, Harlem School District #122 should:
  - a. Request a copy of the evaluation report, if available, for consideration by the IEP Team; and
  - b. Obtain consent for release of information from the private evaluator.
4. Upon receipt of an evaluation report or a request by a parent(s)/guardian(s) to convene an IEP meeting to consider an independent evaluation, Harlem School District #122 shall, within 10 days, send written notice of an IEP meeting.
5. At the IEP meeting, Harlem School District #122 shall consider the results of the evaluation in any decision made with respect to the child's free appropriate public education.

LEGAL REF.: 20 U.S.C. §§ 1412 (State eligibility), 1412 (a)(7), 1413 (local educational agency eligibility), 1413 (a)(1), 1414(a)(b)(c).  
34 C.F.R. §§ 300.126, 220, 320, 321, 530 – 536, 540, 542.  
105 ILCS 5/14-8.02  
23 Ill. Admin. Code §§ 226.75 (definitions), 226.110 (referral), 226.120 (identification of needed assessments), 226.130 (evaluation requirements), 226.160 (determination of eligibility), 226.170 (criteria for determining the existence of a specific learning disability), 226.180 (independent educational evaluation), 226.210 (IEP team), 226.520 (notification of district's proposal), 226.840 (qualifications of evaluators).

## **Section 6. Individualized Education Programs**

### **A. Development of IEP**

1. An IEP meeting will be conducted within 30 days (and no later than 60 school days from the date of referral) after a child is determined to be eligible. The child receiving special education and related services must have an IEP developed in compliance with these procedures and in effect at the beginning of each subsequent school year.
2. The specified group of persons responsible for the development of the IEP (IEP Team) includes:
  - a. A representative of Harlem School District #122 (other than the child's teacher) who is qualified to provide or supervise the provision of special education, is knowledgeable about the general curriculum, is knowledgeable about Harlem School District #122's resources and has the authority to make commitments for the provision of resources set forth in the IEP;
  - b. At least one of the child's special education teachers, or where appropriate, at least one special education provider of the child. If the child is receiving only speech and language services, the speech and language pathologist shall fulfill his/her role;
  - c. At least one regular education teacher of the child (if the child is, or may be, participating in regular education environment);
  - d. One or both of the child's parent(s)/guardian(s);
  - e. The child may be invited by either Harlem School District #122 or the parent(s)/guardian(s). Harlem School District #122 shall invite the child when the purpose of the IEP meeting is to consider and plan transition services or when the child has reached the age of 18. When the child does not attend the IEP meeting where transition services are discussed, Harlem School District #122 shall take other steps to ensure that the child's preferences and interests are considered;

- f. Other individuals, at the discretion of the parent(s)/guardian(s) or School District, who have knowledge or special expertise regarding the child, including related services personnel as appropriate;
  - g. An individual who is qualified to interpret the instructional implications of the evaluation results;
  - h. If appropriate, a qualified bilingual specialist or bilingual teacher (who may be one of the individuals listed above);
  - i. If appropriate, and in those cases where the child's behavior impedes his/her learning or the learning of others, a person knowledgeable about positive behavior strategies; and
  - j. If transition services will be discussed, Harlem School District #122 shall invite representative(s) of other agencies that are likely to be responsible for providing or paying for transition services.
- 3. Harlem School District #122 will take the following steps to encourage parental participation in the IEP process:
  - a. Harlem School District #122 will schedule each IEP meeting at a mutually agreed upon time and place, whenever possible;
  - b. Harlem School District #122 will notify parent(s)/guardian(s) at least 10 days prior to any IEP meeting of the purpose, time and location of the meeting, the titles of the persons who will be in attendance, and the parent(s)/guardian(s) right to invite other individuals with knowledge or special expertise regarding the child;
  - c. Harlem School District #122 may conduct an IEP meeting without a parent(s)/guardian(s) in attendance if Harlem School District #122 is unable to obtain parent(s)/guardian(s) participation;
  - d. If neither parent(s)/guardian(s) is present at an IEP meeting, Harlem School District #122 will maintain a record of attempts to secure parental participation such as:
    - (1) Records of telephone calls made or attempted and the results;
    - (2) Copies of correspondence and any responses received; and

- (3) Record of home visits and visits to place of employment and the results of those visits.
  - e. If neither parent(s)/guardian(s) can attend an IEP meeting in person, Harlem School District #122 will use other methods to ensure parental participation, including individual or conference telephone calls; and
  - f. Harlem School District #122 will take whatever action is necessary to ensure that the parent(s)/guardian(s) understand the proceedings of the IEP meeting, including the use of an interpreter for parent(s)/guardian(s) who are deaf or limited- or non-English speaking.
4. In developing a child's IEP, the IEP Team shall consider the strengths of the child, the concerns of the parent(s)/guardian(s) regarding the child's education, and the most recent valid evaluation and any available useful assessment. The IEP Team shall also consider the following factors and if the child needs a device or service to receive a FAPE, these must be documented in the IEP:
- a. If appropriate, positive behavior strategies, interventions, and supports for children with behavior that impedes their learning or that of others;
  - b. Language needs, for children with limited English proficiency;
  - c. Instruction in Braille and the use of Braille, unless the IEP Team determines it is not needed, for children who are blind or visually impaired;
  - d. Communication needs;
  - e. Assistive technology devices and services; and
  - f. For a child who is deaf or hard of hearing, the IEP Team must consider the child's language and communication needs, opportunities for direct communication with peers and professionals in the child's language and communication mode, academic level and

full range of needs, including opportunities for direct instruction in the child's language and communication mode.

5. The IEP shall include the following components:
  - a. A statement of the child's present levels of educational performance. This must include a statement of how the child's disability affects his/her involvement and progress in the general curriculum. For preschool children, as appropriate, the statement must describe how the disability affects the child's participation in appropriate activities.
  - b. A statement of measurable annual goals that reflect consideration of the State Goals for Learning and the Illinois Learning Standards as well as benchmarks or short-term objectives, related to the following:
    - (1) Meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum or for preschool children to participate in age appropriate activities; and
    - (2) Meeting each of the child's other educational needs that result from the child's disability.
  - c. A description of the specific special education and related services and supplementary aids and services and program modifications or supports that will be provided for the child to:
    - (1) Advance appropriately toward attaining the annual goals; and
    - (2) Be involved and progress in the general curriculum and participate in extracurricular and other nonacademic activities.
  - d. The projected beginning date for the services and modifications, and the amount, frequency, and anticipated duration of specific special education and related services to be provided.
  - e. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities.
  - f. A statement of any extended school year services to be provided to the child.

- g. A statement of the child's ability to participate in state and School District wide assessments. This statement must include any individual accommodations that are needed for the child to participate in the assessment. If the IEP Team determines that the child will not participate in a particular assessment of child achievement (or part of an assessment), a statement documenting why the assessment is not appropriate for the child and how the child will be assessed, including a description of alternative assessments, must be included in the IEP.
- h. A statement describing how the child's progress towards annual goals will be measured, and how the child's parent(s)/guardian(s) will be regularly informed (by such means as report cards), at least as often as parent(s)/guardian(s) are informed of their nondisabled children's progress of:
  - (1) The child's progress toward annual goals; and
  - (2) The extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.
- i. Beginning at age 14, the IEP shall contain a statement of any transition services needed, which focuses on the child's course of study.
- j. When the child reaches 14½, the IEP must include goals for employment, postsecondary education, or community living alternatives, and a description of transition supports or services, including, if appropriate, a statement of the interagency responsibilities or any needed linkages.
- k. The IEP for a child who has reached the age of 17 shall include documentation that the child has been informed of the rights under IDEA that will transfer to the child when he or she reaches the age of 18.
- l. The placement the IEP Team has determined to be appropriate for the child.

6. Before Harlem School District #122 places a child or refers a child to a private school or facility:
  - a. Harlem School District #122 will convene an IEP meeting with a representative of the private school in attendance or will use other methods to ensure participation by the private school or facility (including individual or conference telephone calls) in its development.
  - b. With respect to the annual review and revision of the IEP of a child with a disability placed or referred to a private school by a School District, Harlem School District #122 may permit the private school to initiate IEP meetings which will be conducted as described above, provided that the parent(s)/guardian(s) of the child and a representative of Harlem School District #122 are invited to participate in any decision about the child's IEP and agree to any proposed changes in the IEP.
7. Each initial IEP must be completed by the IEP Team no later than 30 days after the determination of eligibility and in no case later than 60 school days from the date of referral. When a child is referred for an evaluation with fewer than 60 days of pupil attendance left in the school year, the eligibility determination shall be made and, if the child is eligible, an IEP shall be in effect prior to the first day of the next school year.
8. No School District shall provide special education or related services to a child with a disability unless and until an IEP has been completed and a placement has been made pursuant to the requirements set forth by federal and State law.
9. Harlem School District #122 shall provide the parent(s)/guardian(s) with a copy of the IEP at no cost to the parent.
10. Once the child reaches the age of majority, Harlem School District #122 shall continue to provide written notices to the child's parent(s)/guardian(s).



- B. Determination of Related Services
  - 1. Participants in the IEP Team meetings held to develop, review, or revise the IEP shall determine what related services are necessary to assist a child in benefiting from his special education.
  - 2. If a related service is determined by the IEP Team to be a needed service, the IEP Team shall include the service in the IEP at no cost to the child or to the child's parent(s)/guardian(s).
- C. Implementation of the IEP
  - 1. Implementation of the IEP will occur within 10 days after the parent(s)/guardian(s) have been provided notice of the placement unless otherwise agreed by the IEP Team.
  - 2. The IEP must be accessible to all staff members who are responsible for implementing the IEP; each shall be informed of his/her specific responsibilities relating to the IEP and the specific accommodations, modifications and supports to be provided to the child in accordance with the IEP.
  - 3. Harlem School District #122 is not required by the IDEA to make FAPE available to a child with a disability who has been convicted as an adult under State law and incarcerated in an adult prison. The IEP Team may make modifications to the IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.
- D. Consent for Initial Placement Based upon the IEP
  - 1. As part of the IEP process, the IEP Team must determine the child's special education placement in the least restrictive environment.
  - 2. Written parental consent is required at least 10 days prior to the initiation of the recommended placement. Parent(s)/guardian(s) may waive the 10-calendar-day interval before placement.
- E. Review and Revision of the IEP
  - 1. The IEP of each child with a disability currently receiving special education and related services must be reviewed at least annually.

2. Harlem School District #122 must reconvene an IEP meeting upon notice that transition services described in the IEP are not being implemented as proposed to identify alternative strategies to meet the transition objectives set forth in the IEP.
3. A child's teacher or parent(s)/guardian(s) may request a review of the child's IEP at any time. Within 10 days after receipt of such request, Harlem School District #122 will either agree and notify the parent(s)/guardian(s) of the meeting, or notify the parent(s)/guardian(s) in writing of its refusal to meet. Notice of a refusal will include an explanation of the reason no meeting is necessary to ensure a FAPE to the child.

F. Transfer Children

1. If a child receiving special education transfers into Harlem School District #122, Harlem School District #122 will ensure FAPE by providing special education and related services in conformity with an IEP.
  - a. Harlem School District #122 shall immediately enroll and initiate education services.
  - b. Harlem School District #122 may adopt the former School District's IEP. Such adoption does not require an IEP meeting if a copy of the current IEP is available, the parent(s)/guardian(s) indicate satisfaction with the current IEP, and Harlem School District #122 determines that the current IEP is appropriate and can be implemented as written.
  - c. If Harlem School District #122 cannot fully implement an IEP from the child's former School District, the receiving School District shall note in the IEP the services to be provided and shall explain what is being done to secure the remaining services, resources, or other unfulfilled portions of the IEP and how long those actions are expected to take.
  - d. Harlem School District #122 may develop a new IEP for the child if Harlem School District #122 or the parent(s)/guardian(s) do not

believe the current IEP is appropriate. In such a case, Harlem School District #122 shall, within ten days after the date of the child's enrollment, initiate an IEP meeting for the purpose of developing the new IEP. While the new IEP is under development, Harlem School District #122 shall implement the IEP from the former School District.

2. If Harlem School District #122 does not receive a copy of the transfer child's IEP or verbal confirmation of requirements of the IEP from the former School District, the child will be enrolled and served in the setting that Harlem School District #122 believes will meet the child's needs until the current IEP is obtained or a new IEP is developed.

LEGAL REF.: 20 U.S.C. §§ 1400(c), 1412(a)(4), 1414(d).  
34 C.F.R. §§ 300.128, 300.340-350, (individualized education programs); 300.137, (performance goals and indicators); 300.138 (participation in assessments); 300.139 (reports relating to assessments).  
105 ILCS 5/2-3.64, 5/14-8.02.  
23 Ill. Admin. Code §§ 226.200 (general requirements), 226.210 (IEP team), 226.220 (factors in development of the IEP), 226.230 (content of the IEP), 226.240 (determination of placement), 226.250 (child aged 3 through 5), 226.260 (child reaching age 3), 226.300 (continuum of placement options), 226.310 (related services), 226.320 (service to students living in residential care facilities), 226.330 (placement by school district in state-operated or nonpublic special education facilities), 226.530 (parents' participation).

## **Section 7. Least Restrictive Environment**

### **A. Overview of Placement**

1. Harlem School District #122 supports the right of children with disabilities to be educated with nondisabled children to the maximum extent appropriate.
2. The child's placement shall be based on the child's IEP and shall be as close as possible to the child's home. Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he or she would attend if nondisabled. A placement determination based solely upon the category of a child's disability or on the current configuration of Harlem School District #122's service delivery system is prohibited. In selecting the least restrictive environment (LRE), consideration shall be given to any potential harmful effect on the child or on the quality of services received.
3. Children with disabilities must be allowed to participate to the maximum extent appropriate with nondisabled children in nonacademic and extracurricular activities (including meals, recess periods, athletics, clubs and recreational activities).
4. Parental participation shall be encouraged. Written parental consent is required only before initial special education placement. In cases in which written parental consent cannot be obtained, Harlem School District #122 may request a due process hearing to compel services/placement in special education.

### **B. Participation in Regular Education Programs**

1. Harlem School District #122 shall take steps to ensure that children with disabilities have equal access to the variety of educational programs and services available to nondisabled children.
2. Steps taken by Harlem School District #122 to ensure the availability of regular educational programs and services to children with disabilities may include, but not be limited to:

- a. Modification of instructional methodologies, staffing, materials and equipment to permit effective participation; and
  - b. Individualization of the instructional program including staffing, curriculum modifications, classroom accommodations, modified grading, assistive technology and instructional materials to permit the effective participation of children with disabilities.
- 3. The IEP must include a statement describing how the child's disability adversely affects the child's participation in, and progress toward general education curriculum objectives, including:
  - a. Participation in extracurricular and other nonacademic activities;
  - b. The extent to which the child will be educated and participate with nondisabled children;
  - c. An explanation of the extent, if any, to which the child will not participate with nondisabled children; and
  - d. A statement of any individual modifications in the administration of State or School District-wide assessments necessary in order for the child to participate in the assessments. If the IEP Team determines that the child cannot participate in State or School District-wide assessments, the IEP Team must explain why and describe how the child will be alternately assessed. (See Section 6, Individualized Education Programs.)

C. Continuum of Placement Options

- 1. Regular Education Classroom with Modifications - The child receives his/her education in a regular education classroom. A regular education classroom is one that is composed of children of whom at least 70 percent are without identified special education eligibility, that utilizes the general curriculum, that is taught by an instructor certified for regular education, and that is not designated as a general remedial classroom. However, in accordance with the child's IEP, the regular education instruction may be modified through:
  - a. Supportive services or specialized instruction;

- b. Consultation to and with special education personnel;
  - c. Provision of special equipment, materials and accommodations;
  - d. Modification of the instructional program or grades;
  - e. Modification of curriculum content or methodology; or
  - f. Other supplementary services, such as itinerant or resource services, in conjunction with the regular class placement.
2. Regular Classes with Resource Services or Related Services - The child receives his/her education in a regular classroom with the special education instructor for less than 50% of the school day. Resource classes and services for such children shall be subject to the following limitations:
- a. Enrollment shall be limited to the number of children who can effectively and appropriately receive assistance, up to a maximum of 20 children.
  - b. The teacher or service provider shall participate in determining the appropriate enrollment.
  - c. A School District may not increase the enrollment in a resource class or service when a noncertified assistant is provided.
3. Instructional Services - The child receives special education instruction for 50 percent of the school day or more. In accordance with a child's IEP, this may include:
- a. Inclusion in those areas of the standard program deemed appropriate; and
  - b. Provision of related services.
4. Special School - The child receives all of his/her special education instruction in a separate facility. In accordance with a child's IEP, this may include:
- a. Inclusion in those areas of the standard program deemed appropriate; and
  - b. Provision of related services.

5. Home/Hospital Services - The child is eligible for services at home or in a hospital because he/she is unable to attend school due to a medical condition that will cause an absence for two or more consecutive weeks of school or ongoing intermittent absences. Eligibility for home/hospital services shall be determined in accordance with 23 Ill. Admin. Code § 226.300(d).
6. State-Operated or Nonpublic Programs - The child's exceptional characteristics are so profound or complex that no special education program services offered by the public schools can adequately or appropriately meet his/her needs.

D. Determining Educational Placement

1. In determining any educational placement of a child, Harlem School District #122 shall ensure that:
  - a. The placement decision is made by a group of persons, including the parent(s)/guardian(s), and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and is made in conformity with the least restrictive environment requirements;
  - b. The child's placement is determined at least annually, is based on the child's IEP, and is as close as possible to the child's home;
  - c. Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school he/she would attend if nondisabled;
  - d. In selecting the LRE, consideration is given to any potentially harmful effect on the child or on the quality of services that the child needs; and
  - e. A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.
2. When making a placement determination, the IEP Team shall review the continuum of placement options set forth in Subsection C, Continuum of

Placement Options, in descending order and recommend the first placement option wherein the goals, objectives, benchmarks, accommodations, supportive services, aids and related services can be appropriately implemented.

3. When making a placement determination on behalf of a child with a disability between the ages of 3-5, Harlem School District #122 must provide a free appropriate public education (FAPE) in the least restrictive environment. The least restrictive environment alternatives may include:
  - a. Providing opportunities for the participation (even part-time) of preschool children with disabilities in other preschool programs operated by public agencies (such as Head Start);
  - b. Placing children with disabilities in private school programs for nondisabled preschool children or private preschool programs that integrate children with disabilities and nondisabled children; or
  - c. Locating classes for preschool children with disabilities in regular elementary schools.
4. In the event Harlem School District #122 must remove a special education child from his/her current program because of behavior believed to be dangerous to the child or to others or due to a weapons or drug violation, the IEP Team or school personnel shall identify an interim alternative educational setting (IAES). This setting will enable the child to continue to progress in the general curriculum and to receive those services and modifications as described in the child's current IEP.
5. Homebound instruction may be recommended by the IEP Team in accordance with subsection C of this Section and the eligibility requirements under 23 Ill. Admin. Code § 226.300(d).

E. Placements Outside the Regular Education Environment

1. All services and educational placements must be individually determined based upon the unique abilities and needs of each child. Before a child can be placed outside of the regular educational environment, the full range of supplementary aids and services that would facilitate the child's



placement in a regular environment must be considered. If a determination is made that the child's disability cannot be adequately accommodated in the regular education environment, even with the provision of appropriate supplementary aids and services, the child may then be considered for placement outside the regular education environment.

2. In all cases, placement decisions must be individually determined on the basis of each child's abilities and needs, and not based solely upon the category of the disability, significance of disability, availability of special education and related services, configuration of the service delivery system, availability of space, or administrative convenience. Rather, each child's IEP forms the basis for each placement decision.
3. In recommending a placement outside of the regular education environment, the IEP Team shall first consider placement in both chronologically age-appropriate classroom settings and chronologically age-appropriate schools. The age range of the children in any instructional group shall not exceed 4 years at the primary and intermediate levels or 6 years at the secondary level.

F. Placement in Nonpublic Programs

1. An IEP Team recommending placement of a child in a nonpublic special education program, including both day and residential programs, shall not make such recommendations unless no less restrictive setting on the continuum of alternative placements will meet a child's needs.
2. In recommending placement of a child in special education day programming, the IEP Team shall consider the transportation distance of such placement. Deference shall be given to appropriate programming that is within a reasonable distance from the child's residence and does not exceed one hour of travel each way.

G. Reconsideration of Educational Placement

1. The IEP of each child shall be reviewed at least annually to determine whether the goals for the child are being achieved.

2. The IEP Team may recommend a more restrictive placement as necessary. A more restrictive placement may be recommended if a significant number of the goals, objectives and benchmarks identified in the current IEP were not successfully achieved or it is determined that the curricula, instructional methodologies, staffing patterns and classroom organization identified in the current IEP cannot be adequately implemented in the current placement or setting.

H. Nonacademic and Extracurricular Services

1. The placement decision shall permit the child to participate, as appropriate, in nonacademic and extracurricular services and activities (e.g., meals, recess, recreational activities, and clubs sponsored by Harlem School District #122). According to the needs of the child, as articulated in his/her IEP, a School District may provide service(s) to a child in order to allow him/her to access participation in nonacademic or extracurricular activities (e.g., interpreter, transportation, behavioral contracting.)
2. A child with a disability may be excluded from participation in nonacademic and extracurricular activities for misconduct provided the exclusion is consistent with Harlem School District #122's disciplinary code, is applied to children without disabilities and takes into consideration the special needs of the child.

NOTE: Placement timelines for an IAES are more thoroughly and cohesively under covered Section 6, (Individualized Education Programs) or Section 13, (Behavior and Discipline) respectively herein. Section 9 (Responsibilities of IEP Team) was deleted, as it is more appropriately placed in the IEP Section.

LEGAL REF.: 20 U.S.C. § 1400 *et seq.* (Individuals with Disabilities Education Act). 20 U.S.C. §§ 1412 (State eligibility), 1412 (a)(7), 1413 (local educational agency eligibility).

34 C.F.R. §§ 300.305 (program options), 300.345 (parent(s)/guardian(s) participation), 300.346 (development review and revision of IEP), 300.347 (content of IEP), 300.350 (general LRE requirements), 300.551, (continuum of alternative placements), 300.552 (placements), 300.553 (nonacademic settings).

105 ILCS 5/14-1.02 (children with disabilities), 5/15-8.02 (identification, evaluation & placement of children).

23 Ill. Admin. Code. §§ 226.240 (determination of placement), 226.300 (continuum of placement options), 226.530 (parent(s)/guardian(s)' participation), 226.730 (case load/class size), 226.220 (factors in development of the IEP), 226.230 (content of the IEP).

## **Section 8. Transition Of Children From Part C To Preschool Programs**

### **A. Identification Prior to Age 3**

1. As provided for in Section 4, Child Identification, Harlem School District #122 shall actively seek out and identify all children from birth through age 21 years of age who are suspected of having a disability that adversely affects educational performance.
2. Harlem School District #122 shall have in effect at age 3 an IEP or IFSP for all eligible children.

### **B. Coordination between Part C and Part B Services**

1. The Director of Special Education shall be responsible for maintaining ongoing dialogue with the Early Intervention Program(s) serving infants and toddlers with disabilities for the purpose of:
  - a. Facilitating and coordinating child-find activities; and
  - b. Establishing a crosswalk between services for infants and toddlers and services for children with disabilities beginning at age 3.
2. Harlem School District #122 will participate in transition planning conferences arranged by the Early Intervention Program with reasonable notice. During each transition planning conference Harlem School District #122 will:
  - a. Review with the early intervention service providers and the family the procedural safeguards available to families and children with disabilities at age 3;
  - b. Prior to the child's third birthday arrange for a meeting with the family and those agencies providing IFSP services for the purpose of discussing the rights of parent(s)/guardian(s) and the services provided by Harlem School District #122. This meeting shall be arranged for any child who may be eligible for such preschool services;
  - c. Initiate a referral for a full and individual evaluation to determine eligibility for services under the Individuals with Disabilities Education Act Amendments of 1997 and in accordance with the

procedures found in Section 5, Evaluation and Determination of Eligibility; and

- d. Review with the family the difference between an IFSP and an IEP.

If the IFSP meets all the requirements of the IEP, and if the IEP Team determines to continue the IFSP at age 3, Harlem School District #122 must receive informed consent from the parent(s)/guardian(s) that documents that the differences between an IFSP and an IEP were explained to the family.

LEGAL REF.: 20 U.S.C. § 1400 et seq. 20 U.S.C. §§ 1412 (State eligibility), 1412 (a)(7), 1413 (local educational agency eligibility).  
34 C.F.R. §§ 300.125 (child find), 300.132 (transition of children from Part C to preschool programs), 300.148 (public participation), 300.342 (when IEPs must be in effect).  
105 ILCS 5/14-1.02 (children with disabilities), 5/14-8.02 (identification, evaluation & placement of children).  
23 Ill. Admin. Code §§ 226.100 (child find responsibility), 226.260 (child reaching age 3), 226.250 (child aged 3 through 5).

**Section 9. Procedures For Children In Nonpublic Special Education Programs/Facilities And Children In Private Schools**

**A. Placements by Harlem School District #122 in Nonpublic Special Education Programs/Facilities**

1. The IEP Team shall conduct a meeting(s) and complete an IEP before placing a child in a nonpublic special education program or facility.
  - a. Harlem School District #122 is responsible for arranging participation of a representative of the private school/facility in the IEP meeting.
  - b. Harlem School District #122 remains responsible for the development and implementation of the child's IEP.
2. Harlem School District #122 will determine, for those children placed in a nonpublic special education program or facility, that the provision contained in 23 Ill. Admin. Code § 226.330(c) are satisfied.

**B. Unilateral Placement of Children in Nonpublic Special Education Program or Facility by Their Parent(s)/Guardian(s)**

1. Harlem School District #122 is not responsible for educational costs, including special education and related services, of children placed in nonpublic special education program or facilities by their parent(s)/guardian(s) if Harlem School District #122 made or attempted to make FAPE available to the child and the parent(s)/guardian(s) elected to place the child in a nonpublic special education program or facility.
2. No child who is placed into a nonpublic facility by his/her parent(s)/guardian(s) without the consent or referral of Harlem School District #122 has an individual right to receive the special education and related services the child would receive if enrolled in Harlem School District #122.
3. Harlem School District #122 will notify the parent(s)/guardian(s) of the conditions under which reimbursement for the cost of a unilateral placement in a nonpublic special education program or facility may be reduced or denied. Those conditions include:

- a. Failure of the parent(s)/guardian(s) to inform the IEP Team of their dissatisfaction with the placement proposed by Harlem School District #122 and a statement of their concerns and their intent to enroll their child in a nonpublic special education program or facility at public expense at least 10 business days prior to the removal of the child from the public school; or
- b. If, prior to the parent(s)/guardian(s)' removal of the child from the public school, Harlem School District #122 informed the parent(s)/guardian(s), through the notice requirements of its intent to evaluate the child, but the parent(s)/guardian(s) did not make the child available for the evaluation; or
- c. Any judicial finding of unreasonableness with respect to the actions taken by the parent(s)/guardian(s).

C. Child Find For Children with Disabilities in Private Schools

- 1. Harlem School District #122 shall develop and implement a system to locate, identify and evaluate children with disabilities who reside in Harlem School District #122 and who attend private, including religiously affiliated, schools.
  - a. Harlem School District #122 is responsible for conducting child find activities for private school children with disabilities that are comparable to those for children with disabilities in public schools.
  - b. Harlem School District #122 shall consult with appropriate representatives of private schools on how to carry out private school child find activities.

D. Special Education and Related Services for Children with Disabilities in Private Schools

- 1. Upon initial evaluation and determination that a child is eligible for special education and related services, Harlem School District #122 will inform the parent(s)/guardian(s) that:

- a. Harlem School District #122 will provide the child a free and appropriate public education (FAPE) if the child is enrolled in the public school.
  - b. If the child remains in the private school and will receive services from Harlem School District #122, Harlem School District #122 will develop a services plan for the child.
  - c. Harlem School District #122 is not obligated to provide the special education and related services the child would receive if enrolled in a public school.
2. Harlem School District #122 shall consult annually with representatives from the private schools to determine:
  - a. Which children will receive services;
  - b. The special education and related services to be provided;
  - c. Where the services will be delivered;
  - d. How the services will be provided; and
  - e. How the services will be evaluated.
3. Harlem School District #122 shall make final decisions with respect to the services to be provided to eligible children who are enrolled in private schools. The services to be provided to such children are those services that Harlem School District #122 has determined, through the consultation process, it will make available.
4. Harlem School District #122 shall assure that the providers of services to private school children with disabilities meet the same standards as personnel providing services in the public school.
5. Harlem School District #122 shall be responsible for informing parent(s)/guardian(s) of a private school child, that they may request mediation, initiate a due process hearing or file a written complaint with the ISBE about matters relating to child find, evaluation and eligibility determinations including the right to an independent educational evaluation.



6. By December 1 of each year, Harlem School District #122 will conduct a census of the number of nonpublic school children eligible under IDEA, who may or may not be receiving special education and related services.

LEGAL REF.: 20 U.S.C. §§ 1412 (State eligibility), 1412 (a)(7), 1413 (local educational agency eligibility).  
34 C.F.R. §§ 300.349 (private school placement), 300.400 (applicability of §§ 300.400-300.402), 300.401 (responsibility of State educational agency), 300.403 (placement of children by parent(s)/guardian(s) if FAPE is at issue), 300.450 (definition of “private school children with disabilities), 300.451 (child find for private school children with disabilities), 300.455 (services provided), 300.457 (complaints).  
105 ILCS 5/29-4, 14-6.01, 14-7.02.  
23 Ill. Admin. Code §§ 226.330 (continuum of placement options), 226.310 (related services), 226.320 (service to students living in residential care facilities), 226.330 (placement by school district in state-operated or nonpublic special education facilities), 226.340 (nonpublic placements by parents), 226.350 (service to children in private schools).

## **Section 10. Administrative Procedure - Procedural Safeguards**

### **A. Procedural Safeguards Notice**

1. Written notification of the procedural safeguards available to the parent(s)/guardian(s) of a child with a disability shall be given to the parent(s)/guardian(s), at a minimum:
  - a. Upon a child's initial referral for evaluation;
  - b. With each notification of an IEP conference;
  - c. With each request for consent for reevaluation of a child; and
  - d. Upon receipt of a request for a due process hearing as described herein.
2. The procedural safeguards notice shall include a full explanation of all of the procedural safeguards relating to:
  - a. Independent educational evaluation;
  - b. Prior written notice;
  - c. Parental consent;
  - d. Access to educational records;
  - e. The filing of written complaints with the ISBE, including a description of how to file a complaint and the time line for doing so, as described herein;
  - f. Procedures for children who are subject to placement in an interim alternative educational setting;
  - g. Requirements for parent(s)/guardian(s)' unilateral placement of children in private schools at public expense;
  - h. Mediation;
  - i. Due process hearings, including requirements for disclosure of evaluation results and recommendations;
  - j. The child's placement during pendency of due process proceedings;
  - k. Civil actions; and
  - l. Attorney's fees.

B. Prior Notice by School District

1. Harlem School District #122 shall provide 10 days prior written notice to the parent(s)/guardian(s) before proposing or refusing to initiate or change the identification, evaluation, or educational placement of, or the provision of free, appropriate public education to, a child. If the notice is related to an action proposed by Harlem School District #122 that also requires parental consent, Harlem School District #122 may give notice at the same time as it requests consent.
2. The notice required by this Section shall include:
  - a. A description of the action proposed or refused by Harlem School District #122;
  - b. An explanation of why Harlem School District #122 proposes or refuses to take the action;
  - c. A description of any other options that Harlem School District #122 considered and the reason why those options were rejected;
  - d. A description of each evaluation procedure, test, record, or report Harlem School District #122 used as a basis for the proposed or refused action;
  - e. A description of any other factors that are relevant to Harlem School District #122's proposal or refusal;
  - f. A statement that the parent(s)/guardian(s) of a child with a disability have protection under the procedural safeguards of the Individuals With Disabilities Education Act, Article 14 of the School Code of Illinois and their respective implementing regulations and an indication of the means by which a description of those procedural safeguards may be obtained;
  - g. Sources for parent(s)/guardian(s) to contact to obtain assistance and understanding of the provisions of the IDEA, Article 14, and their respective implementing regulations; and

- h. The availability, upon request, of a list of free or low-cost legal and other relevant services available locally to assist parent(s)/guardian(s) in initiating an impartial due process hearing.

C. Language of Notifications

- 1. The notices required under the “Procedural Safeguards Notice” and “Notice by School District” Sections above shall be written in language understandable to the general public and provided in the native language of the parent(s)/guardian(s) or other mode of communication used by the parent, unless it is clearly not feasible to do so.
- 2. If the native language or other mode of communication of the parent(s)/guardian(s) is not a written language, Harlem School District #122 shall take steps to insure and document that the notice is translated orally or by other means to the parent(s)/guardian(s) in his/her native language or other mode of communication and that the parent(s)/guardian(s) understands the content of the notice.

D. Opportunity to Examine Records; Parent(s)/guardian(s) Participation in Meetings

- 1. The parent(s)/guardian(s) of a child with a disability shall be afforded an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of and the provision of free, appropriate education to the child. Harlem School District #122 shall insure that parent(s)/guardian(s) of children with disabilities have the opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of, and the provision of free, appropriate public education to, the child. A meeting does not include informal or unscheduled conversations involving School District personnel or other routine communications or consultation between School District personnel, including preparatory activities that school personnel engage in to develop a proposal or a response to a parent’s proposal that will be discussed at an IEP meeting.

2. Whenever a meeting is to be held which a parent(s)/guardian(s) has a right to attend, the following requirements shall apply:
  - a. Harlem School District #122 shall notify in writing the parent(s)/guardian(s) at least ten days prior to the proposed date of the meeting of the purpose of the meeting, the proposed date, time, and place for the meeting, who will be in attendance, and the parent(s)/guardian(s)' right to invite other individuals with knowledge or special expertise regarding the child. If a parent(s)/guardian(s) indicates that the proposed date or time is inconvenient, Harlem School District #122 shall make reasonable efforts to accommodate the parent(s)/guardian(s)' schedule;
  - b. If neither parent(s)/guardian(s) can attend, Harlem School District #122 shall use other methods to attempt to secure at least one parent's participation;
  - c. A meeting may be conducted without a parent(s)/guardian(s) in attendance if Harlem School District #122 is unable to obtain the parent(s)/guardian(s)' participation. In this case, Harlem School District #122 shall maintain a record of its attempt to arrange a mutually agreed-upon time and place;
  - e. Harlem School District #122 shall take whatever action is necessary to facilitate the parent(s)/guardian(s)' understanding of and participation in the meeting; and
  - f. Any document generated during the meeting shall be provided to the parent(s)/guardian(s) upon request, unless applicable federal or State statute or federal regulation requires its automatic provision without a request.

E. Consent

1. Harlem School District #122 shall document that written parental consent is obtained prior to:
  - a. Conducting an initial evaluation;

- b. The initial provision of special education and related services to a child;
  - c. Conducting any reevaluation;
  - d. Using the parent's private insurance to pay for services required by the child's IEP;
  - e. Using an IFSP instead of an IEP; or
  - f. Disclosing personally identifiable information about a child, consistent with the requirements of federal and State law.
2. Consent for a proposed action is written agreement provided by a parent(s)/guardian(s) who has been fully informed of all information relevant to the activity in his/her native language or mode of communication and who understands that information and that the agreement is voluntary and may be revoked any time prior to the completion of the activity for which consent was given. Once the activity is completed and/or the placement is in effect, consent may be revoked by requesting a due process hearing. If consent is revoked after an evaluation has been completed, Harlem School District #122 may convene an IEP meeting to consider the results.
  3. Parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation or administering a test or evaluation that is administered to all children unless parental consent is required of all children taking the test.

F. Request for Impartial Due Process Hearing

1. A parent, a School District, or a child may request an impartial due process hearing for any reason relative to the identification, evaluation, or placement of, or the provision of free, appropriate public education, a child who is or may be eligible for special education and related services.
2. Harlem School District #122 shall provide the parent(s)/guardian(s) with a model due process request form designed by the ISBE in accordance with 34 C.F.R. § 300.507 (c)(1)(v)(3) or inform the parent(s)/guardian(s)

that the request for a hearing must be submitted in writing and include the following information:

- a. The name and address of the child;
  - b. The name of the school that the child attends;
  - c. A description of the nature of the problem, including facts relating to such problem;
  - d. The remedy being sought, if known and available to the parent(s)/guardian(s) at the time; and
  - e. If known, whether the parent(s)/guardian(s) will be represented by legal counsel or an advocate.
3. The Director of Special Education shall assist parent(s)/guardian(s) in taking whatever action is necessary to use the hearing process.
  4. If Harlem School District #122 initiates a hearing, the Superintendent shall file a written request with the ISBE and provide the parent(s)/guardian(s) with a copy of the request at the same time. Harlem School District #122's written request shall contain the same information as that required for a parent's request, as described in this Section.
  5. Harlem School District #122 shall not deny a request for a hearing that conforms with the requirements of this Section.
  6. Harlem School District #122 shall inform the parent(s)/guardian(s) in writing of the availability of mediation and of any free or low-cost legal services and other publicly-funded services available in the area if the parent(s)/guardian(s) requests the information or the parent(s)/guardian(s) or Harlem School District #122 initiates a hearing.
  7. Harlem School District #122 shall, within 5 days after its receipt of a request for a due process hearing, forward the request by certified mail or another means that provides written evidence of delivery to the ISBE, Center for Special Education. The information transmitted with the request for a due process hearing shall include:

- a. The name, address, and telephone number of the child and of the parent, and of the person making the request if other than the child or parent;
  - b. The date that Harlem School District #122 received the due process hearing request;
  - c. The nature of the controversy to be resolved;
  - d. The remedy being sought;
  - e. The primary language spoken by the parent(s)/guardian(s) and the child; and
  - f. A copy of the request.
8. Harlem School District #122 shall send to the parent(s)/guardian(s) by certified mail or another means providing written evidence of delivery, a copy of the request and all attachments sent to the ISBE.
9. During the pendency of any administrative or judicial proceeding initiated pursuant to this Section, except as provided below, unless Harlem School District #122 and the parent(s)/guardian(s) of the child agree otherwise, the child shall remain in his/her current educational placement. If the hearing involves the initial admission of the child to the public school, the child must be placed in the public school, with the parent's consent, until the completion of all the proceedings. If the decision of the hearing officer agrees with the parent(s)/guardian(s) that a change of placement is appropriate, that placement shall be treated as agreement between the State or School District and the parent(s)/guardian(s) for purposes of this Section.
10. School personnel have the authority to change the current educational placement of a child with a disability:
  - a. For not more than 10 consecutive school days for any violation of school rules, and additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of



placement as defined the IDEA and related federal and State regulations); and

- b. To an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 days, if:
  - c. The child carries a weapon to school or to a school function,
    - (1) The child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or at a school function, or
    - (2) Ordered by a hearing officer in accordance with the expedited hearing procedures set forth below.
- 11. Harlem School District #122 will fully cooperate with the timelines set forth by the hearing officer to ensure that the hearing process is completed within 45 days from the date the request for a hearing was received.
  - 12. The parent(s)/guardian(s) or Harlem School District #122 may appeal the due process hearing findings and decision, within 120 days from the date the decision was mailed to the parties, by commencing a civil action in any court of competent jurisdiction.
  - 13. Harlem School District #122 will arrange for an electronic verbatim record of the hearing to be made and, upon request, Harlem School District #122 will make available to the parent(s)/guardian(s), at no cost, a copy of the record of the hearing. Harlem School District #122 shall seek reimbursement from the ISBE for one-half the cost of providing these copies.

G. Expedited Due Process Hearings

- 1. Harlem School District #122 may request an expedited hearing if school personnel maintain that it is dangerous for the child to be in the current placement.

2. The parent(s)/guardian(s) or child if he or she is at least 18 years of age or emancipated may request an expedited hearing if there is disagreement with regard to:
  - a. Harlem School District #122's determination that a child's behavior was not a manifestation of his/her disability;
  - b. The decision of Harlem School District #122 to move the child to an interim alternative educational setting, or
  - c. The interim alternative educational setting selected.
3. When requesting an expedited hearing the requesting party must provide the following:
  - a. Name of legal counsel if the party is represented by counsel or intends to retain counsel;
  - b. Matters in dispute and specific relief sought;
  - c. Names of all witnesses to be called to testify at the hearing; and
  - d. Relevant documents.
4. No later than two days prior to the hearing, both parties involved in the expedited hearing must disclose to the hearing officer and to each other any evidence, which is intended to be submitted into the hearing record.

#### H. Mediation

1. The purpose of mediation is to attempt to informally resolve disputes regarding the identification, evaluation, or placement of, or the provision of free, appropriate public education to, a child. Harlem School District #122 shall inform parent(s)/guardian(s), at least whenever a due process hearing is requested, that the ISBE offers a process of mediation that may be used to resolve such disputes.
2. The ISBE's Special Education Unit shall appoint a trained impartial mediator upon the request of the parent(s)/guardian(s) or Harlem School District #122. Mediation sessions shall be scheduled in a timely manner and held in a location that is convenient to the parties.

3. Mediation is entirely voluntary. In no way shall mediation be used as a means to deny or delay a parent's right to a hearing or any other rights afforded under IDEA, Article 14, or their implementing regulations.
4. Any resolution reached as part of the mediation process shall be set forth in writing and be consistent with State and federal law.
5. Discussions that occur during mediation shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings.

I. Complaints

1. A parent, individual, organization, or advocate may file a signed, written complaint with the ISBE alleging that Harlem School District #122 has violated the rights of one or more children with disabilities. Such a complaint must include:
  - a. A statement that Harlem School District #122 has violated a requirement of the IDEA, Article 14, or their implementing regulations;
  - b. The facts on which the statement is based; and
  - c. The name(s) of the child(s) involved, if known.
2. Investigation of such complaints with the ISBE and orders for any required corrective action shall be in accordance with 34 C.F.R. § 300.661 and 23 Ill. Admin. Code § 226.570.

J. Surrogate Parent(s)/Guardian(s)

1. Harlem School District #122 shall ensure that the rights of a child with a disability are protected through the appointment of a qualified surrogate parent(s)/guardian(s) when:
  - a. The parent(s)/guardian(s) cannot be identified or located; or
  - b. The child is a ward of the State living in a residential facility.
2. Harlem School District #122 shall undertake reasonable efforts to identify and discover the whereabouts of the parent(s)/guardian(s) of the child with a known or suspected disability. Such reasonable efforts may include documented phone calls, letters, certified letters with return

receipts, visits to the home, and interviews with relatives and other individuals who may have knowledge of the whereabouts of the child's parent(s)/guardian(s).

3. If, after reasonable efforts have been made, the parent(s)/guardian(s) cannot be located, Harlem School District #122 shall take similar steps to establish contact with a relative, or an individual with whom the child resides and/or the individual or agency which is legally responsible for the child's care and education.
4. If, after reasonable efforts have also been made to identify a guardian of the child or a person acting as the parent(s)/guardian(s) of the child, no such person has been either identified or located, Harlem School District #122 shall make a written request to the ISBE to appoint a surrogate parent(s)/guardian(s) for the child in matters relating to the identification, evaluation, and educational placement of, and provision of free, appropriate public education to, him or her.
5. The written request to the ISBE shall include information on the racial, linguistic or cultural background of the child.

K. Independent Educational Evaluations

1. Parent(s)/guardian(s) have the right to obtain an independent educational evaluation of their child, subject to the provisions of federal and State law.
2. Harlem School District #122 shall provide to the parent(s)/guardian(s), upon their request, the list of independent educational evaluators developed by the ISBE.
3. If the parent(s)/guardian(s) disagree with Harlem School District #122's evaluation and wish to obtain an independent educational evaluation at public expense, they shall submit to the Superintendent a written request to that effect.
4. If Harlem School District #122 disagrees with the need for an independent educational evaluation, it shall initiate a due process hearing to demonstrate that its evaluation is appropriate. Such a hearing shall be

initiated by Harlem School District #122 within five days following receipt of a written parental request.

5. An independent educational evaluation at public expense shall be completed within 30 days after receipt of a parent's written request, unless Harlem School District #122 initiates a due process hearing or the parties agree that the 30-day period should be extended. If either party wishes such an extension and is unable to obtain the other party's agreement, Harlem School District #122 shall initiate a due process hearing within ten school days after the date on which the extension was proposed.
6. If the final decision of the hearing and review process is that Harlem School District #122's evaluation is appropriate, the parent(s)/guardian(s) shall have the right to an independent educational evaluation, but not at public expense.
7. If Harlem School District #122's evaluation is shown to be inappropriate, Harlem School District #122 shall pay for the independent educational evaluation or reimburse the parent(s)/guardian(s) for the cost of said evaluation.
8. If the parent(s)/guardian(s) is entitled to an independent educational evaluation at public expense, it shall be completed within 30 days after the decision is rendered, unless the parties agree that the 30-day period should be extended. If either party wishes such an extension and is unable to obtain the other party's agreement, Harlem School District #122 shall initiate a due process hearing within ten school days after the date on which the extension was proposed.
9. When an independent evaluation is obtained at public expense, the party chosen to perform the evaluation shall be either:
  - a. An individual whose name is included on the list provided by the ISBE with regard to the relevant type(s) of evaluation; or
  - b. Another individual possessing the credentials required by 23 Ill. Admin. Code § 226.840.

10. If the parent(s)/guardian(s) wishes an evaluator to have specific credentials in addition to those required by 23 Ill. Admin. Code § 226.840, the parent(s) and Harlem School District #122 shall agree on the qualifications of the examiner and the specific evaluation(s) to be completed prior to the initiation of an independent educational evaluation at public expense. If agreement cannot be reached, Harlem School District #122 shall initiate a due process hearing subject to the time constraints set forth in this Section.
11. The conditions under which an independent evaluation is obtained at public expense, including the location of the evaluation and the qualifications of the examiner, shall meet the criteria that Harlem School District #122 uses when it initiates an evaluation, to the extent that those criteria are consistent with the parent's right to an independent evaluation.
12. If the parent(s)/guardian(s) obtains an independent educational evaluation, the written result of that evaluation shall be considered by the IEP Team. Harlem School District #122 shall send the notice convening the IEP Team's meeting within ten days after receiving the evaluation report or after the parent(s)/guardian(s) requests a meeting to consider the results of an independent evaluation, and:
  - a. Harlem School District #122 shall consider the results in any decision made with respect to the provision of a free appropriate public education to the child;
  - b. The independent evaluation results may be presented as evidence at a hearing or review regarding the child under IDEA and Article 14.

L. Transfer of Parental Rights

1. All rights accorded to parent(s)/guardian(s) under the IDEA, Article 14, and their implementing regulations transfer to the child when he or she reaches 18 years of age or becomes an emancipated minor, unless a legal guardian has been appointed for the child. Harlem School District #122 shall notify the child and the parent(s)/guardian(s) of such transfer of

rights at least one year prior to the date that the child reaches the age of majority.

2. Harlem School District #122 shall provide any notice required by the IDEA, Article 14, and their implementing regulations to the child and the parent(s)/guardian(s).

LEGAL REF.: 20 U.S.C. §§ 1412 (State eligibility), 1412 (a)(7), 1413 (local educational agency eligibility), 20 U.S.C. §§1401 et seq.  
34 C.F.R. Part 300.  
105 ILCS 5/14-1.01 et seq.  
23 Ill. Admin. Code Part 226 (special education).

## **Section 11. Personnel Development**

### **A. Employment of Personnel**

1. Harlem School District #122, or the cooperative entity of which it is a member, shall employ sufficient professional and noncertificated personnel to deliver and supervise the full continuum of special education and related services required by the eligible children who reside within Harlem School District #122.
2. The number and type of personnel employed shall be based upon child needs, not administrative convenience.
3. Harlem School District #122 shall periodically submit to ISBE a roster of individuals who are employed or will be employed to provide special education or related services to the children of Harlem School District #122.
4. All personnel employed to deliver or supervise special education or related services to School District children shall hold the qualifications and certifications as provided in § 226.800 of the Illinois State Regulations, provided however, that personnel who have received special education teaching approval in accordance with § 226.810 or authorization for assignment in accordance with § 226.820 shall be deemed qualified under this Section.

### **B. Personnel Development Program**

1. Harlem School District #122 shall develop and implement a comprehensive personnel development program for all personnel involved with the education of children with disabilities.
2. Harlem School District #122 shall provide in-service presentations to all personnel working with children with disabilities to assist them in developing and maintaining skills and knowledge necessary to meet the needs of children and disabilities.
3. To the extent appropriate, Harlem School District #122 shall contribute to and use the comprehensive system of personnel development developed by the State.



LEGAL REF.: 20 U.S.C. §§ 1412 (State eligibility), 1412 (a)(7), 1412(a)(13), 1413  
(local educational agency eligibility) 1413(a)(1).  
34 C.F.R. §§ 300.220, 300.221, 300.380, 300.381, 300.382.  
23 Ill. Admin. Code §§ 226.800 (personnel required to be qualified),  
226.810 (special education teaching approval), 226.820  
(authorization for assignment).

**Section 12.      Supplementation of State, Local and Other Federal Funds; Maintenance of Efforts; Use of Part B; Excess Cost; Permissive Use of Funds; Treatment of Charter Schools**

**A.      Application and Use of Part B Flow Through Funds**

1.    The Director of Special Education is responsible for Harlem School District #122's application for IDEA Part B funds to the Illinois State Board of Education (ISBE), in accordance with the established requirements and timelines, including, but not limited to, the submission of certain information as required by IDEA's implementing regulations. The Superintendent and the Director of Special Education and/or their designees shall monitor expenditure and budgeting of IDEA Part B funds to ensure that they are expended in accordance with the requirements of the IDEA and the regulations of the ISBE. Any ISBE prescribed formulas and any financial records specified by the ISBE shall be compiled and maintained by Harlem School District #122 annually and shall be available for audit review.
2.    Should the ISBE make a decision to reduce or deny IDEA Part B funding to Harlem School District #122, the Superintendent or Director of Special Education may request a hearing from the ISBE regarding the State's decision to reduce or deny Harlem School District #122's application for Part B funds.

**B.      Use of Funds**

1.    Harlem School District #122 will only use IDEA funds to pay the "excess cost" of providing special education and related services.
2.    Harlem School District #122 will use IDEA funds to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of children with disabilities.
3.    Harlem School District #122 shall describe, in its application for Part B funds, how it will use the funds during the next school year.
4.    Harlem School District #122 may use funds received under Part B of IDEA for any fiscal year to carry out a school-wide program under

Section 1114 of the Elementary and Secondary Education Act of 1965 in accordance with the requirements set forth at 34 CFR 300.234.

5. Harlem School District #122 may use funds for the following in accordance with 34 CFR 300.235(b):
  - a. The costs of special education and related services and supplementary aids and services provided in a regular class or other education related setting to a child with a disability in accordance with the IEP of the child, even if one or more nondisabled children benefit from these services;
  - b. To develop and implement a fully integrated and coordinated services system in accordance with 34 CFR 300.244.

C. Use of Part B Funds for Charter Schools Within Harlem School District #122

1. The Superintendent and the Director of Special Education and their designees shall ensure that Harlem School District #122 serves children with disabilities attending public charter schools within their School District in the same manner as it serves children with disabilities in other School District schools if such charter school was approved by the Board of Education. IDEA Part B funds shall be provided to those charter schools approved by the Board of Education in the same manner as Harlem School District #122 provides those funds to its other schools.

D. The Use of Part B Funds for the Benefit of Children with Disabilities Placed in Private Schools

1. The Superintendent and the Director of Special Education or their designees shall be responsible to ensure that IDEA Part B funding is expended to provide services to IDEA eligible children enrolled in private schools in a manner consistent with the requirements of the IDEA, The School Code and ISBE's regulations. IDEA Part B funds may not be used for the following:
  - a. Classes that are organized separately on the basis of school enrollment or religion of the children if the classes are at the same

- site and the classes include children enrolled in public schools and children enrolled in private schools;
- b. To finance the existing level of instruction in a private school or to otherwise benefit the private school; and
  - c. To fund repairs, minor remodeling, or construction of private school facilities.
- 2. IDEA Part B funds may be used to make public school personnel available in other than public facilities to the extent necessary to provide services for private school children with disabilities if those services are not normally provided by the private school and only to the extent otherwise consistent with the law.
  - 3. IDEA Part B funds may be used to pay for the services of an employee of a private school to provide children with disabilities with services if the employee performs the services outside of his or her regular hours of duty and the employee performs the services under public supervision and control.
  - 4. Harlem School District #122 shall keep title to and exercise continuing administrative control of all property, equipment, and supplies Harlem School District #122 acquires with public funds, which may be used to support special education services provided to children enrolled in private schools. Any equipment and supplies placed in a private school shall be used only for purposes related to the provision of special education services to eligible children as delineated and in accordance with the IDEA and shall be placed in the private school only if the equipment can be removed from the private school without remodeling the private school facility. Any equipment placed in a private school shall be removed when no longer needed or if necessary to avoid unauthorized use of the equipment.

- LEGAL REF.      20 U.S.C. §§ 1412, 1413.
- 34 C.F.R. §§ 300.144 (hearing relating to LEA eligibility), 300.180 (condition of assistance), 300.184 (excess cost requirement), 300.185 (meeting the excess cost requirement), 300.220 (consistency with State policies), 300.221 (implementation of CSPO), 300.230 (use of amounts), 300.231 (maintenance of effort), 300.232 (exception to maintenance of effort), 300.233 (treatment of federal funds in certain fiscal years), 300.234 (school wide programs under Title 1 of the ESEA), 300.235 (permissive use of funds), 300.240 (information for SEA), 300.241 (treatment of charter schools and their students), 300.242 (public information), 300.244 (coordinated services system), 300.245 (school based improvement plan), 300.246 (plan requirements), 300.247 (responsibilities of the LEA), 300.248 (Limitation), 300.249 (additional requirements), 300.250 (extension of plan), 300.458 (separate classes prohibited), 300.459 (requirement that funds not benefit a private school), 300.460 (use of public school personnel), 300.461 (use of private school personnel), 300.462 (requirements concerning property, equipment, and supplies for the benefit of private school children with disabilities).
- 23 Ill. Admin. Code §§ 226.770 (fiscal provisions), 226.350 (services to children in private schools).

## **Section 13. Behavioral Intervention and Discipline**

### **A. Behavioral Interventions**

1. Behavioral interventions shall be used with children with disabilities to promote and strengthen desirable behaviors and reduce identified inappropriate behaviors.
2. A committee shall be established to develop and monitor procedures on the use of behavioral interventions for children with disabilities. The committee shall review the State Board of Education's guidelines on the use of behavioral interventions and use them as a non-binding reference. The behavioral intervention procedures shall be furnished to the parent(s)/guardian(s) of all children with individual education plans within 15 days after their adoption or amendment by, or presentation to, the Board or at the time an individual education plan is first implemented for a student; all children shall be informed annually of the existence of the procedures. At the annual individualized education plan review, a copy of the District's behavioral intervention policy and procedures shall be given and explained to parent(s)/guardian(s). A copy of the procedures shall be available at any time and provided upon request of the parent(s)/guardian(s).
3. A behavioral intervention plan shall be based on a functional behavior assessment and shall include positive behavioral intervention strategies, and supports to address the inappropriate behavior. A functional behavioral assessment shall be completed, if appropriate, in relationship to the development or modification of a student's behavioral intervention plan. A functional behavioral assessment is an assessment process for gathering information regarding a student's target behavior, its antecedents and consequences, controlling variables, the student's strengths, and the communicative and functional intent of the behavior, for use in developing behavioral interventions. The conduct of the functional behavioral assessment does not require parental consent unless the IEP Team decides to conduct individualized assessments that

go beyond the review of existing data and the administration of tests or other evaluations that are administered to all children.

B. Discipline of Children with Disabilities

1. Harlem School District #122 shall comply with the provisions of the Individuals With Disabilities Education Act (IDEA) when disciplining students. No special education student will be expelled if the student's particular act of gross disobedience or misconduct is a manifestation of his/her disability. Any special education student whose gross disobedience or misconduct is not a manifestation of his/her disability may be expelled pursuant to the expulsion procedures, except that such child shall continue to receive educational services as provided in the IDEA during the period of expulsion.
2. A special education student may be suspended for periods of no more than 10 consecutive school days each in response to separate incidents of gross disobedience or misconduct, regardless of whether the student's gross disobedience or misconduct is a manifestation of his/her disability, as long as the repeated removals do not constitute a pattern that amounts to a change in placement (considering factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another) and provided that such child receives educational services to the extent required by the IDEA during such removals.
3. Any special education student may be temporarily excluded from school by court order or by order of a duly appointed State of Illinois impartial due process hearing officer changing the student's placement to an appropriate interim alternative educational setting for up to 45 days, if Harlem School District #122 demonstrates that maintaining the child in his/her current placement is substantially likely to result in injury to the child or others.
4. A special education student who has carried a weapon to school or to a school function or who knowingly possesses or uses illegal drugs or sells

or solicits the sale of controlled substance while at school or a school function may be removed from his/her current placement. All such children shall be placed in an appropriate interim alternative educational setting for no more than 45 days in accordance with the IDEA. The length of time a child with a disability is placed in an alternative educational setting must be the same amount of time that a child without a disability would be subject to discipline.

C. Special Education Suspension Procedures

1. All suspension notices and suspension review procedures established by the School Code shall be followed when suspending a special education student. In addition, a special education student who is suspended from school for more than 10 school days in a school year shall receive educational services in accordance with the IDEA.
2. The first time a child is removed for more than 10 cumulative days during the school year, Harlem School District #122 shall, no later than 10 business days after the decision to suspend a child is made, convene an IEP meeting to review and, if appropriate, modify the student's behavior intervention plan, as necessary, to address the student's behavior. If no behavior intervention plan is in place, the IEP Team shall develop a plan for a functional behavioral assessment that must be used to develop a behavior intervention plan.
3. For all subsequent removals of the child that do not constitute a change in placement, the IEP Team members must review the behavior intervention plan and its implementation. If any team member indicates that the plan may need to be modified, the IEP Team must be convened to review the plan and revise it, if appropriate.
4. For all removals that exceed 10 cumulative days during one school year, Harlem School District #122 must provide services to the student. School personnel, in conjunction with the student's special education teacher, shall determine the services to be provided. Such services must



be designed to enable the child to progress in the general curriculum and advance toward his/her IEP goals.

D. Special Educational Expulsion Procedures

1. Harlem School District #122 shall promptly notify the student's parent(s)/guardian(s) of the gross disobedience or misconduct and whether the child shall be recommended for expulsion. All procedural protections pertaining to notice provided under Harlem School District #122's discipline policy shall apply to a notice of recommended expulsion in the case of a special education student. The parent(s)/guardian(s) shall also receive a copy of the procedural safeguard and written notification that:
  - a. An IEP conference shall be convened to determine whether the student's act of gross disobedience or misconduct is a manifestation of his/her disability. The IEP meeting shall take place as soon as possible, but no later than 10 school days after the decision to discipline the child is made.
  - b. The student's parent(s)/guardian(s) are requested to attend the IEP Team meeting at the date, time, and location specified in the notice.
2. For purposes of such manifestation determination review, the IEP Team shall include the members of the student's IEP Team and other qualified personnel including, but not limited to, the authorized administrator familiar with the act of misconduct.
3. In carrying out the manifestation determination review, the team shall consider, in terms of the behavior subject to the disciplinary action, all relevant information including:
  - a. Evaluation and diagnostic results, including relevant information supplied by the parent(s)/guardian(s);
  - b. Observations of the student; and
  - c. The student's IEP and placement.
4. The team may determine that the subject behavior was not a manifestation of the student's disability only if it is determined that:

- a. The student's IEP and placement were appropriate and special education, supplementary aids and services, and behavior intervention strategies were provided consistent with the student's IEP and placement;
  - b. The student's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to the disciplinary action; and
  - c. The student's disability did not impair the ability of the child to control the behavior subject to the disciplinary action.
- 5. If, at the manifestation determination review conference, it is determined that the behavior of the child was a manifestation of his/her disability, the authorized administrator shall not continue with his/her recommendation for expulsion. The authorized administrator may request a review of the appropriateness of the educational placement of the child in accordance with the federal and State law. During the period necessary to propose a new placement, the child will remain in his/her then-current placement unless:
  - a. The child has not served a full 10 school day suspension imposed for the gross disobedience or misconduct, in which case the child may be required to serve the remaining days of his/her suspension; or
  - b. The parent(s)/guardian(s) and Harlem School District #122 agree on an interim placement; or
  - c. Harlem School District #122 obtains an order from a court of competent jurisdiction or a State of Illinois impartial due process hearing officer changing the then-current placement or providing for other appropriate relief.
- 6. If, at the manifestation determination review conference, it is determined that the behavior of the child was not a manifestation of his/her disability, the authorized administrator may continue with his/her recommendation that the child be considered for expulsion by the School Board. In addition to issues regularly determined at an expulsion

hearing, the authorized administrator must present evidence that the manifestation determination review team met and concluded that the student's misconduct was not a manifestation of his/her disability, which shall be duly noted by the Board. The administration shall ensure that relevant special education and disciplinary records of the child are transmitted for consideration by the Board.

7. If a special education student is expelled from school in accordance with the procedures set forth above, Harlem School District #122 shall convene an IEP meeting to develop an educational program to deliver educational services to the child during such period of expulsion.

E. Weapon and Drug Offenses.

1. In accordance with the above procedures, Harlem School District #122 may take one or more of the following steps when a child with a disability carries a weapon to school or to a school function or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or at a school-related function:
  - a. Suspend the child from school for 10 school days or less.
  - b. Convene an IEP conference to: (a) determine placement in an interim alternative educational setting for up to 45 calendar days, (b) review and, if appropriate, modify the student's behavior intervention plan, as necessary, to address the student's behavior (if no behavior intervention plan is in place, the IEP Team shall develop a plan for a functional behavioral assessment that must be used to develop a behavior intervention plan), and (c) conduct a manifestation determination review.
    - (1) The child may be placed in an interim alternative educational setting even if the behavior is a manifestation of the student's disability.
    - (2) The interim alternative educational setting must:
      - (a) Enable the child to continue to progress in the general curriculum;

- (b) Enable the child to receive the services and modifications set forth in his/her IEP; and
    - (c) Include services and modifications designed to address the misconduct to prevent it from recurring.
  - 2. If the parent(s)/guardian(s) disagree with the interim alternative educational placement or with the District-proposed placement and initiate a due process hearing, the child must remain in the interim alternative educational setting during the authorized review proceedings, unless the parent(s)/guardian(s) and Harlem School District #122 agree on another placement.
- F. Change of Placement if Maintenance of Current Placement Is Likely to Result in Injury
- 1. In the event that maintenance of a student's current placement is substantially likely to result in injury to the child or to others, Harlem School District #122 may seek an order from a court of competent jurisdiction or a State of Illinois impartial due process hearing officer to change the student's placement to an appropriate interim alternative educational setting for one or more 45-day periods after convening an IEP meeting to:
    - a. Conduct a manifestation determination review following procedures described under sub-heading "Special Education Expulsion Procedures," above, and
    - b. Determine a proposed interim alternative educational setting that meets the requirements under sub-heading "Weapon and Drug Offenses," above.
  - 2. The length of time a child with a disability is placed in an alternative educational setting must be the same amount of time that a child without a disability would be subject to discipline.
- G. Disciplining Children Not Yet Eligible Under IDEA
- 1. Any child who has not been determined to be eligible for special education and related services and who engages in behavior that violates

Harlem School District #122's code of conduct shall be disciplined in accordance with the District's discipline policy for nondisabled students, unless Harlem School District #122 had knowledge that the child was a child with a disability.

2. Harlem School District #122 will be deemed as having knowledge that a child may be eligible for special education and related services prior to the disciplinary incident, if any one of the following conditions exists:
  - a. The parent(s)/guardian(s) of the child expressed concern in writing (or orally if the parent(s)/guardian(s) does not know how to write or has a disability that prevents a written statement) to school personnel that the child is in need of special education and related services;
  - b. The behavior or performance of the child demonstrates the need for special education and related services;
  - c. The parent(s)/guardian(s) of the child has requested an evaluation of the child; or
  - d. The child's teacher or other school personnel expressed concern in writing about behavior or performance of the child to the Director of Special Education or other personnel or in accordance with Harlem School District #122's child find activities or referral procedures.
3. Harlem School District #122 will not be deemed to have knowledge if documentation maintained in the school student records affirm that an evaluation to determine the presence of a disability was either conducted and the child was found not eligible for special educational and related services or the parent(s)/guardian(s) was provided with written notice that Harlem School District #122 had considered the need to conduct an evaluation and had determined that an evaluation was not warranted.
4. If, following the District's decision to discipline a child who has not been determined to be eligible for special education and related services, the child's parent(s)/guardian(s) request a full and individual evaluation, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the child shall remain in the educational

placement determined by Harlem School District #122, which may include suspension or expulsion without educational services.

- H. Referral to and Action by Law Enforcement and Judicial Authorities. Harlem School District #122 is not prohibited from reporting a crime committed by a child with a disability to appropriate authorities. Harlem School District #122 shall ensure that copies of special education and disciplinary records are also transmitted to the authorities in such instances, subject to the requirements of federal and State law.

LEGAL REF.: 20 U.S.C. §§ 1412 (State eligibility), 1413 (local educational agency eligibility), 1415 (Individuals with Disabilities Education Act).  
34 C.F.R. §§ 300.121, 300.346, 300.520, 300.519, 300.521, 300.522, 300.523, 300.524, 300.520.  
105 ILCS 5/10-22.6, 5/14-8.05.  
23 Ill. Admin. Code §§ 226.50 (requirements for FAPE), 226.75 (definitions), 226.220(factors in development of the IEP), 226.400 (disciplinary actions), 226.410 (manifestation determination review), 226.520 (notification of district's proposal), 226.655 (expedited due process hearing).

**Section 14. Extended School Year Services**

- A. Extended school year services are special education and related services, which are provided by Harlem School District #122 to an IDEA eligible child with a disability beyond Harlem School District #122's regular school year in accordance with the child's IEP at no cost to the child's parents)/guardian(s) and meet the standards of the SEA.
- B. Extended school year services shall be provided to each special education child whose unique needs require special education and related services in excess of the regular school year. Special education children who may require extended school year services are those whose IEP's specify an extended school year program and/or related services as determined by the child's IEP Team in accordance with the IDEA and ISBE standards and regulations. The child's IEP Team shall determine the type, amount, and/or duration of the services necessary as part of the child's extended school year program on an individualized basis.
- C. In no event may Harlem School District #122 or a child's IEP Team limit the provision of extended school year services to children with a particular category or categories of disability or unilaterally limit the type, amount, or duration of those services.

LEGAL REF.: 20 U.S.C. §§ 1412 (State eligibility), 1413 (local educational agency eligibility).  
34 C.F.R. § 300.309.  
23 Ill. Admin. Code § 226.75 (definitions).

## **Section 15. Policy and Procedures Development**

### **A. Policy**

1. The foregoing procedures implement the policy. “Education of Children with Disabilities.”
2. The policy will be adopted by the Board of Education. In order to allow for public input, the policy or its revisions will not be adopted at the Board meeting at which it is first introduced. It will be introduced at the September 24, 2001 Board meeting and approved at the October 9, 2001 Board meeting.

### **B. Procedures**

1. The foregoing procedures will be initially adopted by the Board of Education at the September 24, 2001 meeting.
2. In order to allow for public input, the procedures or will not be adopted at the Board meeting at which they are first introduced. They will be adopted at the October 9, 2001 Board meeting.
3. The Director of Special Education is authorized to revise these procedures, as needed, provided the revisions comply with State and federal law and the Director advises the Board of Education of such revisions in writing.

- C. All special education policies and procedures are public documents and are available at Harlem School District #122 administrative office.

LEGAL REF.: 20 U.S.C. §§ 1232g (Family Educational Rights and Privacy Act), 20 U.S.C. §§ 1412 (State eligibility), 1413 (local educational agency eligibility).  
34 C.F.R. §§ 300.148, 300.282, 300.283, 300.284.  
105 ILCS 10/1 et seq.  
23 Ill. Admin. Code §§ 226.50 (requirements for FAPE), 226.710 (policies and procedures).