

*Existing policy with modification base on P.A. 21-144.*

## **Instruction**

### **Individualized Education Program/Special Education Program**

The school district shall comply with all state and federal laws concerning the provision of a free appropriate public education to students with disabilities.

### **Referral**

The school district is responsible for identifying children with disabilities and for determining whether such children are eligible for special education services. Any child who is a resident of the Town, whether a student of the school district, of pre-school age, or between the ages of three and 21 years of age, inclusive, but not attending district schools, who is identified as potentially being in need of special education shall be referred to a “Special Education Planning and Placement Team” (PPT) which shall make an evaluative study to determine whether special education is required and to establish the scope of the special education services.

Students receiving special education services under the Individuals with Disabilities Act (IDEA) remain eligible for such services up until their 22<sup>nd</sup> birthday or until they graduate from high school with a regular high school diploma. In accordance with state and federal guidelines, the Planning and Placement Team (PPT) determines whether the student, upon completion of high school graduation requirements, requires transition-only services.

Prior to the referring of a student for special education, the pre-referral process should be completed. This process assures that strategies in the regular education setting have been developed, implemented and evaluated. If it is determined that the alternative strategies have been attempted and that significant progress towards meeting the student’s identified needs has not been made, then the student shall be referred to the Planning and Placement Team in order to determine eligibility for special education.

Each child who has been suspended repeatedly or whose behavior, attendance or progress in school is considered unsatisfactory or at a marginal level of acceptance shall be referred to the Planning and Placement Team for consideration of eligibility for special education services.

A parent, physician, social worker, or other outside agency may refer a student directly for special education services. During these situations the alternative strategies process may be bypassed.

### **Planning and Placement Team or Individualized Education Program Team**

The Planning and Placement Team (PPT) for any identified student shall consist of at least the following:

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#### **Planning and Placement Team or Individualized Education Program Team** (continued)

1. A representative of the District other than the individual's teacher, who is qualified to provide, or supervise, the provision of special education and who is knowledgeable about the general education curriculum and about the availability of resources of the District;
2. Not less than one special education teacher of the child, or if appropriate, not less than one special education provider of the child;
3. Not less than one regular education teacher (if the child is, or may be, participating in the regular education environment);
4. One or both of the student's parents, a surrogate parent, and/or a representative chosen by the parent;
5. The student, where appropriate;
6. For a student who is being evaluated for the first time, a member of the assessment team shall be present, and at least one of the persons present shall be knowledgeable about the assessment procedures;
7. The school paraprofessional assigned to the student if requested by the parent, and
8. At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate.

In addition to the above, the special education specialist, school psychologist, school nurse, school social worker, counselor, or other student service worker who has conducted an assessment of the student shall participate whenever the results or recommendations based on such assessment are significant to the development of the student's individualized education program and placement.

Where the student is limited or non-English speaking, a district representative who is fluent in the student's primary language and who is knowledgeable about the process of second-language acquisition and competent in the assessment of limited English and non-English speaking individuals should be included.

Any member of the PPT employed by the Board of Education who discusses or makes recommendations concerning the provisions of special education and related services during a PPT meeting shall not be disciplined, suspended, or otherwise punished for such recommendations.

A PPT team member is not required to attend all or part of a PPT meeting if the parents and District agree the team member's participation is not necessary because the member's area of curriculum or related services is not being modified or discussed at the meeting.

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#### **Planning and Placement Team or Individualized Education Program Team (continued)**

If the PPT meeting does involve a modification or discussion of the member's area of the curriculum or related services, parents/guardians and the District may agree to excuse the member from attending all or part of the meeting if the member submits written input to the PPT and parent prior to the meeting. Parental consent, in writing is required in either case.

If the purpose of a PPT meeting is the consideration of transition services for a student, the District shall invite the student and a representative of any other agency that is likely to be responsible for providing or paying for transition services.

In the event of a meeting to review or revise the individualized education program of a child in an out-of-district or a private placement, a representative of the out-of-district or private facility shall also be invited. In addition, a representative of the outside facility shall contribute to the development of the individual educational program.

#### **Parental Participation**

The parent/guardian or surrogate parent shall be given at least five (5) school days prior notice of any PPT meeting and shall have the right to be present and participate in all portions of such meetings at which an educational program for their child is developed, reviewed or revised. In addition, parents/guardians or surrogate parents have the right to be present at and participate in all portions of the PPT meeting at which an educational program for their child is developed, reviewed or revised. In addition, the parent/guardian/surrogate may have advisors and the child's assigned paraprofessional, if any, be present at and participate in all portions of the PPT meeting in which the child's educational program is developed, reviewed or revised.

Upon parental/guardian request, a member of the PPT designated by the District will offer a meeting with the parent/guardian after their child has been assessed for possible placement in special education and before the PPT meets. The sole purpose of this meeting will be to discuss the PPT process and any concerns the parent/guardian has about the students. In addition, if requested, by the parent/guardian, the District will provide the results of the assessments and evaluations used in the determination of eligibility for special education of a student at least three (3) school days before the referral PPT meeting at which such results of the assessment and evaluations will be discussed for the first time.

The Board of Education shall take steps to ensure that one or both of the child's parents are afforded the opportunity to participate in each meeting to develop, review or revise the individualized education program for that child. Every effort shall be made to schedule meetings at a mutually agreed-upon time and place. Parents/Guardians and the District may agree to conduct IEP meetings and other meetings through alternative means, such as, including but not limited to, video conferences or conference calls. Steps to ensure parental participation shall be taken in accordance with the following:

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#### **Parental Participation** (continued)

1. The District will provide parents/guardians a procedural safeguards notice, at least annually, except that a copy also shall be given, upon initial referral or parental/guardian request for evaluation, upon the first filing of a due process complaint or upon parental/guardian request advising them in writing, in their dominant language, of their rights with respect to the provision of a free appropriate education for children with disabilities.
2. The District will place a current copy of the Procedural Safeguards notice on the District Website.
3. Written prior notice to the parents/guardian of a child for which the District is proposing or refusing to initiate or change the identification, evaluation or educational placement of the child, shall also specify the purpose, time and location of the meeting and who has been invited.
4. If neither parent/guardian can attend, reasonable efforts shall be made to secure parental/guardian participation by other means such as conference calls or home visits.
5. A meeting may be conducted without a parent/guardian in attendance if the Board of Education is unable to secure parental/guardian attendance. In this event, the Board of Education shall have a detailed record of its attempts to arrange parent participation.
6. The Board of Education shall take any and all actions necessary to ensure that the parents/guardians understand the proceedings at the meeting. This shall include, but not be limited to, providing an interpreter for the parents/guardians who are in need of such services.
7. A full written explanation of all due process procedures available to parents/guardians shall be provided upon parental/guardian request unless as specified in #1 above.
8. The parent/guardian of a child with a disability may elect to receive notices under IDEA by electronic mail, if the District makes such an option available.

#### **Planning and Placement Team Description**

The Planning and Placement Team is required to convene in the following situations:

1. to develop an evaluation plan for a student referred for eligibility determination, as well as for students already identified but requiring further evaluation;
2. to review the results of the evaluations and to identify the student as disabled, if indicated;
3. to develop an individualized educational program (IEP), based upon evaluation results and to determine the proper placement;
4. to review the special education program for a child periodically, but not less frequently than annually or more frequently if deemed necessary and to make the necessary IEP modifications, adjustments or program changes.
5. to exit a student from special education and/or related services, if evaluation results warrant.

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### **Individualized Education Program/Special Education Program**

#### **Evaluations**

Each child who has been referred and who may require special education and related services shall be evaluated in order to determine whether special education is required. Each child receiving special education and related services shall be re-evaluated in accordance with IDEA procedures if the District determines that the education or related service needs including improved academic achievement and functional performance of the child warrant a reevaluation. In addition, a re-evaluation shall be conducted upon the request of the parent or personnel working with the child. A reevaluation shall occur not more frequently than once a year unless the parent and district agrees otherwise, and at least once every three years.

A comprehensive initial evaluation shall be conducted for each child referred who may require special education and related services. The evaluation shall include reports concerning the child's educational progress, structured observation, and such psychological, medical, developmental and social evaluations as may be appropriate in determining the nature and scope of the child's exceptionality. Such reports may include information concerning the child's physical condition, socio-cultural background and adaptive behavior in home and in school. All sources of information shall be documented. If the child is dominant in a language other than English, the evaluation study shall also include systematic teacher observation of the specific areas of concern. Detailed information about the child's performance at home and in the community and any prescriptive or diagnostic teaching which has taken place shall be included.

The evaluation procedures, instruments and techniques shall be non-discriminatory and be validated for the specific purpose for which they have been designed. All such evaluation procedures, instruments, and techniques shall be administered by appropriately certified and/or licensed personnel in accordance with procedures recommended by the test publisher.

1. All evaluation procedures, instruments and techniques shall be administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally, unless it is not feasible to so provide or administer.
2. More than one evaluation measure or assessment shall be used as the basis for placement. The results of standardized or local tests of ability, aptitude, affect, achievement and aspiration shall not be exclusively used as the basis for placement.
3. Tests shall be selected and administered so as best to ensure that when a test is administered to a child with impaired sensory, manual, or speaking skills the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual or speaking skills (except where those skills are the factors which the test purports to measure.)
4. Evaluation procedures, instruments and techniques shall include those designed to assess specific areas of educational need and, where appropriate, language dominance, and shall not be limited to those which are designed to provide a general intelligence quotient.

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### **Individualized Education Program/Special Education Program**

#### **Evaluations (continued)**

5. In making a determination of eligibility, a child shall not be determined to be a child with a disability if the dominant factor for such determination is the lack of appropriate instruction in reading, including the essential components of reading instruction and/or math and/or limited English proficiency or a student's disciplinary actions or record. Further, the District is not required to take into consideration whether a child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation or mathematical reasoning.
6. In determining whether a child has a specific learning disability, the District may use a process that determines if the child responds to scientific research based intervention, as part of the evaluation procedures.

#### **Independent Evaluation**

Parents have the right to obtain an independent evaluation, conducted by an appropriately certified and/or licensed examiner who is not employed by the responsible Board of Education, of their child. The PPT shall provide to parents/guardians, on request, information about where an independent evaluation may be obtained.

Parents have the right to an independent evaluation at public expense if the parents disagree with an evaluation obtained by the Board of Education. However, the Board of Education may initiate a due process hearing, to be conducted by the State Department of Education, to show that its evaluation is appropriate. If there is a determination by the State Department of Education Hearing Officer that the evaluation of the school district was appropriate, the parents still have the right to an independent evaluation, but not at public expense. For purposes of this policy, "at public expense" means that the evaluation is provided at no cost to the parents.

If the parents obtain an independent evaluation at private expense, the results of the evaluation must be considered by the PPT in any decision concerning the provision of a free appropriate public education to the child and may be presented as evidence at a due process hearing conducted pursuant to the State Department of Education.

Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria which the school district uses when it initiates an evaluation.

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#### **Individualized Education Program (IEP)**

The individualized education program shall be based upon the diagnostic findings of the evaluation. The Planning and Placement Team shall base recommendations for any changes in a child's individualized education program upon the child's current individualized education program and any information relating to the child's current educational performance.

Each Planning and Placement Team shall develop, or revise, whichever is appropriate, the individualized education program for each child requiring special education and related services annually. In the case of a student enrolled after the last day of the previous school year, this process will commence on the first day of the school year.

The individualized education program shall be a written statement developed by the PPT which shall include the following:

1. A statement of the child's present levels of academic achievement and functional performance, including, where appropriate, academic achievement, social adaptation, prevocational and vocational skills, psychomotor skills and self-help skills;
2. A statement of annual educational goals for the school year "reasonably calculated to enable the child to make progress appropriate in light of the child's circumstances," under the child's individualized educational program;
3. A statement of how the child's progress toward meeting the annual goals will be measured and when periodic reports will be available on the progress the child is making toward meeting the annual goals. (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) The child's educational program must be appropriately ambitious in light of his/her circumstances and provide the opportunity to meet challenging objectives.
4. A statement of specific educational services needed by the child, including a description of special education, related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, which are needed to meet the needs of the child. Such description shall include the type of transportation necessary and a statement of the recommended instructional settings;
5. The date when those services will begin and length of time the services will be given with the length of the school day and school year needed to meet the child's special education needs, including criteria to determine when services will no longer be needed;
6. A description of the extent to which the child will be involved in and make progress in the general education curriculum defined as the same curricula for nondisabled children. This shall include a description of how the regular education program will be modified to meet the child's needs;

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### Individualized Education Program/Special Education Program (continued)

#### Individualized Education Program (IEP) (continued)

7. A list of the individuals who shall implement the individualized program; and
8. In the case of a residential placement, whether such placement is being recommended because of the need for services other than educational services.
9. If it is determined that the child will take an alternate assessment on a State or District assessment of student achievement, the IEP must contain in a statement of why the child cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the child.
10. Pursuant to state statute, transition services are required beginning not later than the first individualized education program (IEP) to be in effect when the child turns 14 ~~and (with the diagnosis of Autism) and beginning not later than the first IEP to be in effect when the child turns 16, or~~ younger if determined appropriate by the planning and placement **team**, ~~(for all other disability categories)~~, and updated annually thereafter. ~~The IEP shall contain appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and the transition services, including courses of study, needed to assist the students in reaching those goals.~~
11. Beginning not later than one year before the student reaches the age of majority (18), a statement informing the student of his/her rights under IDEA.
12. For a child identified as deaf or hearing impaired, the IEP which includes a language and communications plan shall address:
  - (i) the child's primary language or mode of communication;
  - (ii) opportunities for direct communication between the child and his/her peers and professional personnel in the primary child's language or mode of communication;
  - (iii) educational options available to the child;
  - (iv) the qualifications of teachers and other professional personnel administering the plan for the child, including their proficiency in the child's primary language or mode of communication;
  - (v) the accessibility of academic instruction, school services and extracurricular activities to the child;
  - (vi) Assistive devices and services for the child; and
  - (vii) Communication and physical environment accommodations for the child.

The school district shall use a standardized individualized education program form that shall be subject to the approval of the State Board of Education.



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### **Individualized Education Program/Special Education Program (continued)**

#### **Timelines**

Special education and related services shall be provided as soon as possible after the planning and placement team meeting held to review, revise or develop the child's individualized education program, but in any event not later than the following timelines.

In the case of a referral made during the academic year, the timelines shall be as follows:

1. The individualized education program shall be implemented within forty-five school days of referral or notice, exclusive of the time required to obtain parental consent.
2. In the case of a child whose individualized education program calls for out-of-district or private placement, the individualized education program shall be implemented within sixty school days of referral or notice, exclusive of the time required to obtain parental/guardian consent. If difficulty of placement is such as to occasion a delay beyond this period, the Board of Education shall submit to the State Board of Education written documentation of its efforts to obtain placement in a timely manner.
3. Where necessary, parental/guardian consent shall be given within ten school days of the date of notice, or, where appropriate, of the date of the Planning and Placement Team meeting in which the parents/guardians participated.
4. A full copy of the individualized education program shall be sent to the parents within five school days after the Planning and Placement Team meeting to develop, review or revise the individualized education program.

In the case of a referral made in between school years, the effective date of the referral may be deemed to be the first school day of the next school year.

#### **Placement**

Educational placements are made in accordance with the requirements set forth in the IEP of each child requiring special education and related services. The least restrictive environment is considered for each student based on the IEP. In selecting the least restrictive environment, consideration is given to any potentially harmful effect on the child or on the quality of services the child needs. To the maximum extent appropriate, students with disabilities, including children in public or private institutions or other care facilities, are educated with their peers in regular education environments.

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### **Individualized Education Program/Special Education Program (continued)**

#### **Placement (continued)**

Special classes, separate schooling, or other removal of disabled children from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. Each child with disabilities shall participate to the maximum extent appropriate with non-disabled age appropriate peers in non-academic and extra-curricular services and activities, including meals and recess periods.

Interpreting evaluation data and in making placement decision, the PPT shall:

1. Draw upon information from a variety of sources, including attitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
2. Ensure information obtained from all of these sources is documented and carefully considered;
3. Ensure that the placement decision is made by a group of persons including person's knowledge about the child, the meaning of the evaluation data, and the placement options; and
4. Make the placement decision in conformity with the least restrictive environment considerations.

When the PPT meeting makes the determination of which placement is most appropriate to deliver education in the least restrictive environment, a continuum of services shall be used to guide the placement selection. This is done at no cost to the parents/guardians of the child. This continuum shall consider programs ranging from regular education programs with students who are not disabled to special education programs with students who are the most severely disabled. The PPT shall also consider homebound placements, hospitalized instruction, diagnostic placements and private school placements where such placements are considered necessary by the PPT in order for a student to receive a free appropriate public education.

Prior to the enrollment of a District student in a technical education and career school, the District will convene a PPT in order to address such student's transition to the technical education and career school and ensure that such student's IEP reflects the current supports and services the student requires in order to access a Free and Appropriate Public Education (FAPE) in the least restrictive environment. A representative from the technical education and career school shall be invited to the PPT meeting.

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### **Individualized Education Program/Special Education Program (continued)**

#### **Notice**

The PPT shall notify parents/guardians of students requiring special education and related services five days before proposing to, or refusing to, initiate or change the child's identification, evaluation or placement. Written notice shall be sent to the parents no later than five days after date of referral. In addition, written parental/guardian consent shall be obtained prior to pre-placement evaluation, initial placement or private placement of a child who requires or may require special education and related services. If the student is considered an emancipated minor or eighteen years of age or older, such notification shall be to the student.

The notice shall include the following information:

1. The reason of the notice. In the event of a referral, the notice shall include the source and date of the referral;
2. A description of the general evaluation procedure to be used;
3. A statement of parental/guardian rights to review and obtain copies of all records used as a basis for the referral, to be fully informed of all evaluation results, and to obtain an independent educational evaluation as part of the evaluation process; and
4. A full explanation of all due process procedures available to parents/guardians, upon initial referral or parental/guardian request for evaluation, upon the first filing of a due process complaint or upon parental request.

Where parental/guardian consent is required, notice shall include the above requirements and the following information:

1. A statement of parental/guardian rights to refuse consent and that, if consent is given, it may be revoked at any time;
2. A statement that parental/guardian failure to respond, within ten school days from the date of the notice, shall be construed as refusal of consent; and
3. A statement that, if contested, the child's current educational placement will not change until due process procedures have been completed.

The District will provide parents/guardians with State Department of Education information and resources relating to IEPs as soon as a child identified as requiring special education.

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### **Individualized Education Program/Special Education Program**

Legal Reference: Connecticut General Statutes  
10-76a Definitions (as amended by PA 06-18)  
10-76b State supervision of special education programs and services. Regulations. (as amended by PA 12-173)  
10-76d Duties and powers of boards of education to provide special education programs and services. (as amended by June Special Session PA 15-5, Section 277, **PA 19-49 and PA 21-46 and PA 21-144**)  
10-76g State aid for special education.  
10-76ff Procedures for determining if a child requires special education (as amended by PA 06-18)  
10-76h Special education hearing and review procedure.  
10-76jj Language and communication plan as part of individualized education program for child identified as deaf or hard of hearing (as amended by PA 19-184)  
PA 06-18 An Act Concerning Special Education  
State Board of Education Regulations  
34 C.F.R. 300 et seq. Assistance to States for Education of Handicapped Children.  
300.14 Special education definitions.  
300.340-349 Individualized education programs.  
300.503 Independent educational assessment.  
300.533 Placement procedures.  
300.550-556 Least restrictive environment.  
P.L. 108-446 The Individuals with Disabilities Education Improvement Act of 2004  
PA 12-173 An Act Concerning Individualized Education Programs and Other Issues Relating to Special Education  
*Rowley v. Board of Education*, 485 U.S.-176 (1982)  
*Endrew F. v. Douglas County School District RE-1*, 15-827 U.S. (2017)  
*A.M. v. N.Y. City Department of Education*, 845F.3d 523, 541 (2d Cir.1997)  
*Mrs. B., v. Milford Board of Education* 103 F. 3d 1114, 1121 (2d Cir. 1997)  
*A.R. v. Connecticut State Board of Education*, 3:16-CV-01197 (CSH D. Conn. June 10, 2020)

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NEW FAIRFIELD PUBLIC SCHOOLS  
New Fairfield, Connecticut