

WHERE ^{IN} THE
SPECIAL
EDUCATION
REGULATIONS?

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IEPs / Amendments / The IEP Team

1. What must be included in an IEP?

From NJAC 6A:14-3.7(e)

- (e) With the exception of an IEP for a student classified as eligible for speech-language services, the IEP shall include, but not be limited to:
1. A statement of the student's present levels of academic achievement and functional performance, including, but not limited to:
 - i. How the student's disability affects the student's involvement and progress in the general curriculum; or
 - ii. For preschool students, as appropriate, how the disability affects the student's participation in appropriate activities;
 2. Where appropriate, a statement of detailed measurable annual academic and functional goals that shall, as appropriate, be related to the core curriculum content standards through the general education curriculum unless otherwise required according to the student's educational needs, or appropriate, student specific, functional needs. For all students, the annual academic and functional goals shall be measurable and apprise parents and educational personnel providing special education and related services to the student of the expected level of achievement attendant to each goal.
 3. Such measurable annual goals shall include benchmarks or short-term objectives related to:
 - i. Meeting the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum; and
 - ii. Meeting each of the student's other educational needs that result from the student's disability;
 4. A statement of the special education and related services and supplementary aids and services that shall be provided for the student, or on behalf of the student. Such special education and related services and supplementary aides and services shall be based, to the extent practicable, on peer reviewed research. A statement of the program modifications or supports for school personnel that shall be provided for the student:
 - i. To advance appropriately toward attaining the measurable annual academic and functional goals;
 - ii. To be involved and progress in the general education curriculum according to (e)1 above and to participate in extracurricular and other nonacademic activities; and
 - iii. To be educated and participate with other students with disabilities and nondisabled students;
 5. A statement, as appropriate, of any integrated therapy services to be provided addressing the student's individualized needs in his or her educational setting.
 6. An explanation of the extent, if any, to which the student shall not participate with nondisabled students in the general education class and in extracurricular and nonacademic activities;
 7. A statement of any individual modifications in the administration of Statewide or districtwide assessments of student achievement needed for the student to participate in such assessment. If the IEP team determines that the student shall not participate in a particular general Statewide or districtwide assessment of student achievement (or part of such an assessment), a statement of why that assessment is

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- not appropriate for the student according to NJAC 6A:14-4.10 and a statement of how that student shall be assessed and which assessment methodology is appropriate for the student;
8. A statement which specifies the projected date for the beginning of the services and modifications described in (e)4 above, and the anticipated frequency, location, and duration of those services and modifications;
 9. Beginning at age 14, a statement of the State and local graduation requirements that the student shall be expected to meet. The statement shall be reviewed annually. If a student with a disability is exempted from, or there is a modification to, local or State high school graduation requirements, the statement shall include:
 - i. A rationale for the exemption or modification based on the student's educational needs which shall be consistent with NJAC 6A:14-4.11; and
 - ii. A description of the alternate proficiencies to be achieved by the student to qualify for a State endorsed diploma.
 10. A statement of student's transition from an elementary program to the secondary program which shall be determined by factors including number of years in school; social, academic and vocational development; and chronological age;
 11. Beginning with the IEP in place for the school year when the student will turn age 14, or younger if determined appropriate by the IEP team, and updated annually:
 - i. A statement of the student's strengths, interests and preferences;
 - ii. Identification of a course of study and related strategies and/or activities that:
 - (1) Are consistent with the student's strengths, interests, and preferences; and
 - (2) Are intended to assist the student in developing or attaining postsecondary goals related to training, education, employment and, if appropriate, independent living;
 - iii. As appropriate, a description of the need for consultation from other agencies that provide services for individuals with disabilities including, but not limited to, the Division of Vocational Rehabilitation Services in the Department of Labor; and
 - iv. As appropriate, a statement of any needed interagency linkages and responsibilities;
 12. Beginning with the IEP in place for the school year when the student will turn age 16, or younger if deemed appropriate by the IEP team, a statement consisting of those elements set forth in (e)11 above and appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and, if appropriate, independent living and the transition services including a course of study needed to assist the child in reaching those goals.
 - i. The transition services as defined in IDEA shall consist of a coordinated set of activities for a student with a disability that is designed within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation, and be based on the individual student's needs, taking into account the

student's strengths, preferences and interests. In addition to the above, transition services shall include:

- (1) Instruction;
 - (2) Related services;
 - (3) Community experiences;
 - (4) The development of employment and other post-school adult living objectives; and
 - (5) If appropriate, acquisition of daily living skills and functional vocational evaluation;
13. The person(s) responsible to serve as a liaison to postsecondary resources and make referrals to the resources as appropriate. If the student with disabilities does not attend the IEP meeting where transition services are discussed, the district board of education or public agency shall take other steps to ensure that the student's preferences and interests are considered;
 14. Beginning at least three years before the student reaches age 18, a statement that the student and the parent have been informed of the rights under this chapter that will transfer to the student on reaching the age of majority;
 15. A statement of how the student's progress toward the annual goals described in (e)2 above will be measured;
 16. A statement of how the student's parents will be regularly informed of their student's progress toward the annual goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year. The parents of a student with a disability shall be informed of the progress of their child at least as often as parents of a nondisabled student are informed of their child's progress; and
 17. For students in an out-of-district placement, the IEP shall set forth

how the student will participate with nondisabled peers in extracurricular and nonacademic activities, and delineate the means to achieve such participation, including, if necessary, returning the student to the district in order to effectuate such participation.

2. May an IEP be amended?

From NJAC 6A:14-3.7(d)

- (d) The IEP may be amended without a meeting of the IEP team as follows:
 1. The IEP may be amended if the parent makes a written request to the district board of education for a specific amendment to a provision or provisions of the IEP and the district agrees;
 2. The school district provides the parent a written proposal to amend a provision or provisions of the IEP and, within 15 days from the date the written proposal is provided to the parent, the parent consents in writing to the proposed amendment;
 3. All amendments pursuant to (d)1 and 2 above shall be incorporated in an amended IEP or an addendum to the IEP, and a copy of the amended IEP or addendum shall be provided to the parent within 15 days of receipt of parental consent by the school district; and
 4. If an IEP is amended pursuant to this subsection, such amendment shall not affect the requirement in 6a:14-3.7(i) that the IEP team review the IEP at a meeting annually, or more often if necessary.

3. How is a case manager selected?

From NJAC 6A:14 - 3.2(a)

- (a) A case manager shall be assigned to a student when it is determined that an initial evaluation shall be conducted. Child study team members or speech-language specialists when they act as members of the child study team

shall be designated and serve as the case manager for each student with a disability.

4. What are the case manager's responsibilities?

From NJAC 6A:14 - 3.2(b) and (c)

- (b) The case manager shall coordinate the development, monitoring and evaluation of the effectiveness of the IEP. The case manager shall facilitate communication between home and school and shall coordinate the annual review and reevaluation process.
- (c) The case manager shall:
1. Be knowledgeable about the student's educational needs and program;
 2. Be knowledgeable about special education procedures and procedural safeguards;
 3. Have an apportioned amount of time for case management responsibilities; and
 4. Be responsible for transition planning.

5. Who is required to participate in the initial eligibility meeting? Can the referring teacher attend the initial eligibility meeting?

From NJAC 6A:14 - 2.3(k)1.

1. Any eligibility meeting for students classified according to NJAC 6A:14-3.5(c) shall include the following participants:
 - i. The parent;
 - ii. A teacher who is knowledgeable about the student's educational performance or, if there is no teacher who is knowledgeable about the student's educational performance, a teacher who is knowledgeable about the district's programs;
 - iii. The student, where appropriate;
 - iv. At least one child study team member who participated in the evaluation;

- v. The case manager;
- vi. Other appropriate individuals at the discretion of the parent or school district; and
- vii. For an initial eligibility meeting, certified school personnel referring the student as potentially having a disability, or the school principal or designee if they choose to participate.

6. What happens if a team member disagrees with the finding of the team?

From NJAC 6A:14-3.4(h)5

5. Additionally each team member shall certify in writing whether his or her report is in accordance with the conclusion of eligibility of the student. If his or her report does not reflect the conclusion of eligibility, the team member must submit a separate statement presenting his or her conclusions.

7. Who is required to participate in an IEP meeting?

From NJAC 6A:14-2.3(k)2

2. Meetings of the IEP team shall include the following participants:
 - i. The parent;
 - ii. Not less than one general education teacher of the student, if the student is or may be participating in the general education classroom;
 - (1) If the student has no general education teacher, a general education teacher who is knowledgeable about the district's programs shall participate;
 - (2) The general education teacher as a member of the IEP team must, to the extent appropriate, participate in the development, review, and revision of the student's IEP;

- (3) The general education teacher shall assist in the determination of appropriate positive behavioral interventions and strategies; and
 - (4) The general education teacher shall assist in the determination of supplementary aids and services, program modifications or supports for school personnel that will be provided for the student;
 - iii. Not less than one special education teacher of the student or, where appropriate, not less than one special education provider of the student;
 - (1) If there is no special education teacher or special education provider of the student, a special education teacher or provider who is knowledgeable about the district's programs shall participate;
 - iv. At least one child study team member who can interpret the instructional implications of evaluation results;
 - v. The case manager;
 - vi. A representative of the responsible district who:
 - (1) Is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities;
 - (2) Is knowledgeable about the general education curriculum;
 - (3) Is knowledgeable about the availability of resources of the district board of education; and
 - (4) Shall be the child study team member or other appropriate school personnel including the special education administrator or principal;
 - vii. At the discretion of the parent or school district, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate;
 - (1) The determination of the special knowledge or expertise shall be made by the party (parent or school district) who invited the individual;
 - viii. The student where appropriate;
 - ix. At the request of the parent, the Part C Service Coordinator for a student transitioning from Part C to Part B; and
 - x. If a purpose of the meeting is to consider transition services, the student with disabilities and a representative of any other agency that is likely to be responsible for providing or paying for transition services shall be invited to attend the IEP meeting.
- 8. What general education teacher is the appropriate person to attend the initial eligibility meeting or meetings to develop or review the IEP?**
From NJAC 6A:14 -2.3(k)1.ii, vii and 2.3 (k)2.ii
- Initial Meeting (From NJAC 6A:14 -2.3(k)1.ii, vii)**
- ii. A teacher who is knowledgeable about the student's educational performance or, if there is no teacher who is knowledgeable about the student's educational performance, a teacher who is knowledgeable about the district's programs.
 - vii. For an initial eligibility meeting, certified school personnel referring the student as potentially having a disability or the school principal or designee if they choose to participate.

Meeting to develop or review the IEP (From NJAC 6A:14 -2.3(k)2.ii)

- ii. Not less than one general education teacher, of the student, if the student is or may be participating in the general education classroom.
 - (1) If the student has no general education teacher, a general education teacher who is knowledgeable about the district's programs shall participate;
 - (2) The general education teacher as a member of the IEP team must, to the extent appropriate, participate in the development, review, and revision of the student's IEP;
 - (3) The general education teacher shall assist in the determination of appropriate positive behavioral interventions and strategies; and
 - (4) The general education teacher shall assist in the determination of supplementary aids and services, program modifications or supports for school personnel that will be provided for the student;

9. Who can tape an IEP meeting?

From NJAC 6A:14 - 2.3(k)8

- 8. Participants at the IEP meeting shall be allowed to use an audio tape recorder during the meeting provided notice is given to the other participants prior to the start of the meeting that such a device is being utilized.

10. When must an IEP be in effect?

From NJAC 6A:14 - 3.7(a)

- (a) A meeting to develop the IEP shall be held within 30 calendar days of a determination that a student is eligible for special education and related

services or eligible for speech-language services. An IEP shall be in effect before special education and related services are provided to a student with a disability and such IEP shall be implemented as soon as possible following the IEP meeting.

- 1. At the beginning of each school year, the district board of education shall have in effect an IEP for every student who is receiving special education and related services from the district.
- 2. Every student's IEP shall be accessible to each regular education teacher, special education teacher, related services provider, and other service provider who is responsible for its implementation;
- 3. The district board of education shall inform each teacher and provider described in (a)2 above of his or her specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports to be provided for the student in accordance with the IEP. The district board of education shall maintain documentation that the teacher and provider, as applicable, has been informed of his or her specific responsibilities related to implementing the student's IEP; and.
- 4. The district board of education shall ensure that there is no delay in implementing a student's IEP including any case in which the payment source for providing or paying for special education and related services is being determined.

11. How is the IEP reviewed or revised during the school year?

From NJAC 6A:14 - 3.7(i)

- (i) Annually, or more often if necessary, the IEP team shall meet to review and revise the IEP and determine placement as specified in this subchapter.
 - 1. The annual review of the IEP for a preschool student

with disabilities shall be completed by June 30 of the student's last year of eligibility for a preschool program.

2. The annual review of the IEP for an elementary school student with disabilities shall be completed by June 30 of the student's last year in the elementary school program. The annual review shall include input from the staff of the secondary school.

12. Are signatures required?

From NJAC 6A:14 - 3.7(l)

- (1) Signatures of those persons who participated in the meeting to develop the IEP shall be maintained and either a copy of the IEP or written notes setting forth agreements with respect to the IEP as determined by the IEP team shall be provided to the parents at the conclusion of the meeting.

13. Does the IEP indicate the educational program and placement for a student? Does the IEP consider supports necessary for school personnel to implement the IEP?

From NJAC 6A:14 - 3.7(e)4 & 8

- (e) With the exception of an IEP for a student classified as eligible for speech-language services, the IEP shall include, but not be limited to:
 4. A statement of the special education and related services and supplementary aids and services that shall be provided for the student, or on behalf of the student. Such special education and related services and supplementary aides and services shall be based, to the extent practicable, on peer reviewed research. A statement of the program modifications or supports for school personnel that shall be provided for the student:

- i. To advance appropriately toward attaining the measurable annual academic and functional goals;
- ii. To be involved and progress in the general education curriculum according to (e) 1 above and to participate in extracurricular and other nonacademic activities; and
- iii. To be educated and participate with other students with disabilities and nondisabled students;

8. A statement which specifies the projected date for the beginning of the services and modifications described, and the anticipated frequency, location, and duration of those services and modifications.

14. What information shall be provided to school personnel on behalf of the student?

From NJAC 6A:14 - 3.7(a)

- (a) A meeting to develop the IEP shall be held within 30 calendar days of a determination that a student is eligible for special education and related services or eligible for speech-language services. An IEP shall be in effect before special education and related services are provided to a student with a disability and such IEP shall be implemented as soon as possible following the IEP meeting.
 1. At the beginning of each school year, the district board of education shall have in effect an IEP for every student who is receiving special education and related services from the district;
 2. Every student's IEP shall be accessible to each regular education teacher, special education teacher, related services provider, and other service provider who is responsible for its implementation;
 3. The district board of education shall inform each teacher and provider described in (a) 2 above of his or

her specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports to be provided for the student in accordance with the IEP. The district board of education shall maintain documentation that the teacher and provider, as applicable, has been informed of his or her specific responsibilities related to implementing the student's IEP; and

4. The district board of education shall ensure that there is no delay in implementing a student's IEP including any case in which the payment source for providing or paying for special education and related services is being determined.

General / Special Education Teacher Responsibilities

15. What are the general education teachers' responsibilities to provide intervention?

From NJAC 6A:14 - 3.3(b) & 6A:14 - 3.3 (c)

- (b) Interventions in the general education setting shall be provided to students exhibiting academic difficulties and shall be utilized, as appropriate, prior to referring a student for an evaluation of eligibility for special education and related services.
 1. Within Abbott districts, the system of assessment and interventions within general education programs according to NJAC 6A:10A-3.1 shall be implemented for all students who have reading as their primary area of difficulty.
- (c) The staff of the general education program shall maintain written documentation, including data setting forth the type of interventions utilized, the frequency and duration of each intervention, and the effectiveness of each intervention.
 1. When it is determined through analysis of relevant documentation and data concerning each intervention utilized that interventions in the general education program have not adequately addressed the educational difficulties, and it is believed that the student may have a disability, the student shall be referred for

evaluation to determine eligibility for special education programs and services under this chapter.

2. A determination whether or not to conduct an evaluation shall be made in accordance with (e) below.

16. What are the roles and responsibilities of the general education teacher in relation to speech/language services?

From NJAC 6A:14 - 3.6(b)

- (b) The evaluation for a speech disorder shall be conducted according to NJAC 6A:14-3.4(g). Documentation of the educational impact of the speech problem shall be provided by the student's teacher. The speech disorder must meet the criteria in (b) 1, 2, and/or 3 below and require instruction by a speech-language specialist:
 1. Articulation/phonology: On a standardized articulation or phonology assessment, the student exhibits one or more sound production error patterns beyond the age at which 90 percent of the population has achieved mastery according to current developmental norms and misarticulates sounds consistently in a speech sample.
 2. Fluency: The student demonstrates at least a mild rating, or its equivalent, on a formal fluency rating scale

and in a speech sample, the student exhibits disfluency in five percent or more of the words spoken.

3. Voice: On a formal rating scale, the student performs below the normed level for voice quality, pitch, resonance, loudness or duration and the condition is evident on two separate occasions, three to four weeks apart, at different times.

17. Who has the primary instructional responsibility for the student in an in-class support or pull-out replacement resource program?

From NJAC 6A:4.6 (i), (j), & (l)

- (i) In an in-class resource program, the student shall be provided modifications to the instructional strategies or testing procedures or other specialized instruction to access the general education curriculum in accordance with the student's IEP. The primary instructional responsibility for the student in an in-class resource program shall be the general education teacher unless otherwise specified in the student's IEP. An in-class resource program shall be provided in the student's general education class at the same time as the rest of the class. A student receiving an in-class resource program or an in-class program of supplementary instruction shall be included in activities such as group discussion, special projects, field trips and other regular class activities as deemed appropriate in the student's IEP.
- (j) In a pull-out replacement resource program, the general education curriculum and the instructional strategies may be modified based on the student's IEP. The resource program teacher shall have primary instructional responsibility for the student in the replacement resource program and shall consult with the general classroom teacher as appropriate.
- (l) When organizing a pull-out replacement resource class, the district

board of education shall consider the commonality of the instructional needs for the subject area being taught according to the levels of academic achievement, learning characteristics and management needs of the students to be placed in the class. The resource program teacher shall provide the primary instruction for the students in the class.

18. How does a teacher report student progress?

From NJAC 6A:14-3.7(e)16

- (e) With the exception of an IEP for a student classified as eligible for speech-language services, the IEP shall include, but not be limited to:
 16. A statement of how the student's parents will be regularly informed of their student's progress toward the annual goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year. The parents of a student with a disability shall be informed of the progress of their child at least as often as parents of a nondisabled student are informed of their child's progress; and

19. What is the appropriate certification for supplementary instruction?

From NJAC 6A:14 - 4.6(c)

- (c) A teacher providing supplementary instruction shall be appropriately certified either for the subject or the level in which instruction is given.

20. What is the appropriate certification for resource program?

From NJAC 6A:14 - 4.6(d) & (f)

- (d) In class resource programs and pull-out replacement resource programs are programs of specialized instruction organized around a single subject and

are provided to students with disabilities by an appropriately certified teacher of students with disabilities. Instruction in more than one subject may be provided in a pull-out resource program.

- (f) If the resource program solely serves students with a visual impairment, the teacher shall be certified as a teacher of blind or partially sighted. If the resource program solely serves students with an auditory impairment, the teacher shall be certified with the appropriate teacher of the deaf and/or hard of hearing certificate.

21. What is supplementary instruction?

From NJAC 6A:14 – 4.6 (a) & (b)

- (a) Supplementary instruction is provided to students with disabilities in addition to the primary instruction for the subject being taught. The program of supplementary instruction shall be specified in the student's IEP.
- (b) Supplementary instruction in (a) above shall be provided individually or in groups according to the chart below. Supplementary instruction may be provided in a general education class or in a pull-out classroom that meets the requirements of NJAC 6A:26-6. Instruction in more than one subject may be provided in a pull-out program of supplemental instruction.

22. What are resource programs?

From NJAC 6A:14 – 4.6

- (d) In class resource programs and pull-out replacement resource programs are programs of specialized instruction organized around a single subject and are provided to students with disabilities by an appropriately certified teacher of students with disabilities. Instruction in more than one subject may be provided in a pull-out resource program.
- (e) Resource programs shall offer individual and small group instruction to students with disabilities. Resource programs may be provided in a general education

class or in a pull-out classroom that meets the requirements of NJAC 6A:26-6. When a resource program is provided, it shall be specified in the student's IEP. Resource programs shall provide instruction as defined in (i) and (j) below. In class resource teachers may provide support and replacement instruction at the same time in accordance with the group size limits for in-class support in (m) below. Pull-out support and pull-out replacement shall not be provided by the same teacher at the same time.

- (h) An in-class resource program or an in-class program of supplementary instruction may be provided up to the student's entire instructional day. At the elementary level, replacement pull-out resource classes may be provided for up to no more than three subject areas per day. At the secondary level, replacement pull-out resource classes may be provided for up to the entire instructional day.
- (i) In an in-class resource program, the student shall be provided modifications to the instructional strategies or testing procedures or other specialized instruction to access the general education curriculum in accordance with the student's IEP. The primary instructional responsibility for the student in an in-class resource program shall be the general education teacher unless otherwise specified in the student's IEP. An in-class resource program shall be provided in the student's general education class at the same time as the rest of the class. A student receiving an in-class resource program or an in-class program of supplementary instruction shall be included in activities such as group discussion, special projects, field trips and other regular class activities as deemed appropriate in the student's IEP.
- (j) In a pull-out replacement resource program, the general education curriculum and the instructional strategies may be modified based on the student's IEP. The resource program teacher shall have primary instructional

responsibility for the student in the replacement resource program and shall consult with the general classroom teacher as appropriate.

- (l) When organizing a pull-out replacement resource class, the district board of education shall consider the commonality of the instructional needs for the subject area being taught according to the levels of academic achievement, learning characteristics and management needs of the students to be placed in the class. The resource program teacher shall provide the primary instruction for the students in the class.

23. Do special education students always need to be instructed by a teacher certified in Special Education?

From NJAC 6A:14-4.6

- (c) A teacher providing supplementary instruction shall be appropriately certified either for the subject or the level in which instruction is given.
- (d) In-class resource programs and pull-out replacement resource programs are programs of specialized instruction organized around a single subject and are provided to students with disabilities by an appropriately certified teacher of students with disabilities. Instruction in more than one subject may be provided in a pull-out resource program.
- (f) If the resource program solely serves students with a visual impairment, the teacher shall be certified as a teacher of blind or partially sighted. If the resource program solely serves students with an auditory impairment, the teacher shall be certified with the appropriate teacher of the deaf and/or hard of hearing certificate.
- (i) In an in-class resource program, the student shall be provided modifications to the instructional strategies or testing procedures or other specialized instruction to access the general education curriculum in accordance with the student's IEP. The primary instructional responsibility for the

student in an in-class resource program shall be the general education teacher unless otherwise specified in the student's IEP. An in-class resource program shall be provided in the student's general education class at the same time as the rest of the class. A student receiving an in-class resource program or an in-class program of supplementary instruction shall be included in activities such as group discussion, special projects, field trips and other regular class activities as deemed appropriate in the student's IEP.

- (j) In a pull-out replacement resource program, the general education curriculum and the instructional strategies may be modified based on the student's IEP. The resource program teacher shall have primary instructional responsibility for the student in the replacement resource program and shall consult with the general classroom teacher as appropriate.

From NJAC 6A:14-4.7

- (a) A special class program shall serve students who have similar intensive educational, behavioral and other needs related to their disabilities in accordance with their individualized education programs. Placement in a special class program shall occur when the IEP team determines that the nature and severity of the student's disability is such that no other school-based program will meet the student's needs. Special class programs shall offer instruction in the core curriculum content standards unless the IEP specifies a modified curriculum due to the nature or severity of the student's disability. The regular education curriculum and the instructional strategies may be modified based on the student's IEP. Special class programs shall meet the following criteria:
 1. Depending on the disabilities of the students assigned to the special class program, the special class teacher shall hold certification as a teacher of students with disabilities, teacher

- of blind or partially sighted, and/or teacher possessing the appropriate teacher of the deaf or hard of hearing certificate;
2. The age span in special class programs shall not exceed three years in elementary programs, and shall not exceed four years in secondary programs;
 - i. The provisions of this paragraph with respect to elementary programs shall become effective on July 1, 2007 for the 2007-2008 school year and beyond. For the 2006-2007 school year, the age range in elementary programs shall not exceed four years. However, school districts may, at their discretion, adhere to the provisions of this paragraph prior to July 1, 2007; and
 3. A kindergarten shall not be approved as a special class program.
- (b) Special class programs for students with auditory impairments shall be instructed by a teacher possessing the appropriate teacher of the deaf or hard of hearing certificate.
- (f) In addition to the requirements for instructional size for special class programs according to (e) above, instruction may be provided in the secondary setting of a class organized around a single content area consisting
- solely of students with disabilities instructed by a general education teacher where an adapted general education curriculum is used shall have a maximum instructional size of 12. The instructional size may be increased with the addition of a classroom aide up to 16 students.

From NJAC 6A:14 -4.8 (a) 3 & 4

- (a) A student with a disability shall have his or her IEP implemented through one to one instruction at home or in another appropriate setting when it can be documented that all other less restrictive program options have been considered and have been determined inappropriate.
3. A written record of the student's home instruction, including dates and times during which home instruction is provided, shall be maintained, and the teacher providing instruction shall be appropriately certified as teacher of students with disabilities or for the subject or level in which the instruction is given.
4. Instruction shall be provided for no fewer than 10 hours per week. The 10 hours of instruction per week shall be accomplished in no fewer than three visits by a certified teacher or teachers on at least three separate days.

District & Child Study Team Responsibilities

24. What is the district's responsibility to employ enough staff to provide educational and related services as indicated in NJAC 6A:14 and in students' IEPs?

From NJAC 6A:14 - 5.1(a)

- (a) Each district board of education, independently or through joint agreements, shall employ or contract
- with child study teams as set forth in NJAC 6A:14-3.1(b), speech correctionists or speech-language specialists and other school personnel in numbers sufficient to ensure provision of required programs and services pursuant to this chapter.
1. Joint agreements for child study team services may be entered into with local education agencies including other local school districts,

educational services commissions, jointure commissions and county special services school districts.

2. A district board of education may supplement child study team services with additional teams through contracts or joint agreements.
3. If a vacancy occurs on a child study team(s) because of an absence of a member or members of the team(s) for an identified period of time, the district may, for the duration of any such vacancy, contract with a clinic or agency, an individual or another district board of education for those services that were provided by the absent team member(s).

25. What is the district's requirement to employ unit members to perform child study team services?

From NJAC 6A:14 - 3.1(a), (b), & (c)

- (a) Child study team members, specialists in the area of disabilities, school personnel and parents as required by this subchapter shall be responsible for identification, evaluation, determination of eligibility, development and review of the individualized education program, and placement.
- (b) Child study team members shall include a school psychologist, a learning disabilities teacher-consultant and a school social worker. All child study team members shall be employees of a district board of education, have an identifiable, apportioned time commitment to the local school district and shall be available to provide all needed services during the hours students are in attendance.
 1. Each member of the child study team shall perform only those functions that are within the scope of their professional license (where applicable) and certification issued by the New Jersey Department of Education.

- (c) Specialists in the area of disability include, but are not be limited to, child study team members, as well as speech-language specialists, occupational therapists, physical therapists, audiologists, school nurses, advance practice nurses and physicians who are appropriately certified and/or licensed to carry out activities under this chapter. Where an educational certificate and a license are required to carry out activities under this chapter, the professional shall be appropriately certified and licensed.

26. Can a district contract with private clinics and agencies?

From NJAC 6A:14 - 5.1(c)

- (c) For the services listed below, district boards of education may contract with private clinics and agencies approved by the Department of Education, private professional practitioners who are certified and licensed according to State statutes and rules, and agencies or programs that are certified, approved or licensed by the Department of Human Services or by the Department of Health and Senior Services to provide counseling or mental health services. For the related services listed in (c)1iii and v below, approved private schools for students with disabilities may contract with private clinics and agencies approved by the Department of Education, private professional practitioners who are certified and licensed according to State statutes and rules, and agencies or programs that are certified, approved or licensed by the Department of Human Services or by the Department of Health and Senior Services to provide counseling or mental health services. All instructional, child study team and related services personnel provided by approved clinics and agencies and private professional practitioners shall be fully certified. No instructional, child study team and related services personnel provided by approved clinics and agencies, or private professional practitioners, may, if a certification is required for

the discipline under which they are providing services, provide services under this subsection if certified through the emergency certification process.

1. For public school students:
 - i. Independent child study team evaluations according to NJAC 6A:14-2.5;
 - ii. Child study team services to supplement existing local district services;
 - iii. Related services;
 - (1) Certified occupational therapy assistants and others employed in a supportive role to licensed and, where applicable, certified providers of related services, shall work under the supervision of an appropriately licensed and, where applicable, certified provider of such services.
 - (2) Physical therapy assistants shall work in the presence and under the supervision of a certified physical therapist.
 - (3) Specialists in behavior modification or other disciplines for which there is no license or certification shall hold, at a minimum, a bachelors degree in education, psychology or a related field from an accredited institute of higher education and shall work under the supervision of certified district board of education personnel;
 - iv. Home Instruction; and
 - v. Speech-language services provided by a speech-language specialist when a district or private school for students with disabilities is unable to hire sufficient staff to provide the service.

27. How long can a district wait after receiving a written request to decide whether or not a student needs to be evaluated? Who attends the meeting at which the decision is made?

From NJAC 6A:14-3.3(e)

- (e) When a preschool age or school age student is referred for an initial evaluation to determine eligibility for special education programs and services under this chapter, a meeting of the child study team, the parent and the regular education teacher of the student who is knowledgeable about the student's educational performance or, if there is no teacher of the student, a teacher who is knowledgeable about the district's programs, shall be convened within 20 calendar days (excluding school holidays, but not summer vacation) of receipt of the written request. This group shall determine whether an evaluation is warranted and, if warranted, shall determine the nature and scope of the evaluation, according to NJAC 6A:14-3.4(a). The team may also determine that an evaluation is not warranted and, if so, determine other appropriate action. The parent shall be provided written notice of the determination(s), which includes a request for consent to evaluate, if an evaluation will be conducted, according to NJAC 6A:14-2.3.

28. How long does a district have to complete an initial evaluation?

From NJAC 6A:14 - 3.4(e)

- (e) After parental consent for initial evaluation of a preschool age or school age student has been received, the evaluation, determination of eligibility for services under this chapter, and, if eligible, development and implementation of the IEP for the student shall be completed within 90 calendar days.

1. If the parent repeatedly fails or refuses to produce the child for the evaluation, the time period above shall not apply.
2. If a child enrolls in the school of a district board of education after an initial evaluation was undertaken by another district board of education, but before it was completed, and the district is making progress so as to ensure a prompt completion of the evaluation, and the district and parent agree to a specific modified timeframe for completing the evaluation, the agreed-upon timeframe for completing the evaluation shall be applied.
3. If initial evaluation of a preschool age child is warranted, the district board of education shall take steps to ensure that consent to evaluate is obtained without delay.

29. How often must a district reevaluate a student with a disability?

From NJAC 6A:14 - 3.8(a)

- (a) Within three years of the previous classification, a multi-disciplinary reevaluation shall be completed to determine whether the student continues to be a student with a disability. Reevaluation shall be conducted sooner if conditions warrant or if the student's parent or teacher requests the reevaluation. However, a reevaluation shall not be conducted prior to the expiration of one year from the date the parent is provided written notice of the determination with respect to eligibility in the most recent evaluation or reevaluation, unless the parent and district both agree that a reevaluation prior to the expiration of one year as set forth above is warranted. When a reevaluation is conducted sooner than three years from the previous evaluation as set forth above, the reevaluation shall be completed in accordance with the timeframes in (e) below.

1. If a parent provides written consent and the district board of education agrees that a reevaluation is unnecessary, the reevaluation may be waived. If a reevaluation is waived, the date of the parent's written consent shall constitute the date upon which the next three-year period for conducting a reevaluation shall commence.

30. What is consent and when is parent consent required?

From NJAC 6A:14-1.3

"Consent" means agreement in writing that is required by this chapter. Consent shall be obtained from the parent having legal responsibility for educational decision making. The district board of education shall ensure that the parent:

1. Has been fully informed of all information relevant to the activity for which consent is being sought, in his or her native language or other mode of communication;
2. Understands and agrees in writing to the implementation of the activity for which consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom;
3. Understands that the granting of consent is voluntary and may be revoked at any time; and
4. If the parent revokes consent, that revocation is not retroactive (that is, it does not negate an action that has occurred after the consent was given and before the consent was revoked).

From NJAC 6A:14-2.3

- (a) Consent shall be obtained:
 1. Prior to conducting any assessment as part of an initial evaluation;
 2. Prior to implementation of the initial IEP resulting from (a)1 above;
 3. Prior to conducting any assessment as part of a reevaluation, except that such consent is not required if

- the district board of education can demonstrate that it had taken reasonable measures, consistent with (k)7 below, to obtain such consent and the parent failed to respond;
4. Prior to the release of student records according to NJAC 6A:32;
 5. Each time a district board of education seeks to access private insurance covering a student with a disability;
 6. Prior to the first time a district board of education seeks to access a child's or parent's public benefits or insurance covering a student with a disability in accordance with 34 CFR 154(d);
 7. Whenever a member of the IEP team is excused from participating in a meeting pursuant to (k) below;
 8. Whenever an IEP is amended without a meeting pursuant to NJAC 6A:14-3.7(d); and
 9. Whenever a parent and district board of education agree to waive a reevaluation pursuant to NJAC 6A:14-3.8(a).

From NJAC 6A:14-2.3(k)

- (k) Meetings to determine eligibility and develop an IEP shall, if feasible, be combined as long as the requirements for notice of a meeting according to (g)7ii above and (k)3 through 5 below are met.
9. For a member of the IEP team whose area of the curriculum or related services is not being modified or discussed, such IEP team member may be excused from participation in the meeting, in whole or in part, provided the parent and district board of education agree that the IEP team member need not attend the meeting and the parent consents to such excusal in writing.
 - i. All requests for consent for excusal of an IEP team member shall be included with the notice of the meeting date and

participants to ensure sufficient time for the parent to review and consider the request.

10. For a member of the IEP team whose area of the curriculum or related services is being modified or discussed, such IEP team member may be excused from participation in the meeting, in whole or in part, provided the parent and district board of education agree that the IEP team member need not attend the meeting and the parent consents to such excusal in writing.
 - i. If there is a request to excuse a team member from the meeting, such member shall provide written input with respect to their area of the curriculum or related services. The written input shall be provided to the parent with the notice of the IEP meeting date and participants to ensure sufficient time for the parent to review and consider the request.
 - ii. All requests for consent for excusal of IEP team member shall be included with the notice of the meeting date and participants to ensure sufficient time for the parent to review and consider the request.

From NJAC 6A:14-3.7(d)2

- (d) The IEP may be amended without a meeting of the IEP team as follows:
2. The school district provides the parent a written proposal to amend a provision or provisions of the IEP and, within 15 days from the date the written proposal is provided to the parent, the parent consents in writing to the proposed amendment;

From NJAC 6A:14-3.8(a)1

1. If a parent provides written consent and the district board of education agrees that a reevaluation is unnecessary, the reevaluation may be

waived. If a reevaluation is waived, the date of the parent's written consent shall constitute the date upon which the next three-year period for conducting a reevaluation shall commence.

31. What can the district do if the parent refuses to give consent?

From NJAC 6A:14-2.3(e)

- (e) Written consent may be revoked by the parent, in writing, at any time.
 - 1. Revocation of consent shall not be retroactive, and such revocation shall not negate any action that occurred after consent was provided and before consent was revoked.
 - 2. If consent for services is revoked by the parent, the district board of education may file for a due process hearing or otherwise institute any legal proceeding seeking to overturn the parent's determination.

From NJAC 6A:14-2.3(c)

- (c) When a parent refuses to provide consent for implementation of the initial IEP, no IEP shall be finalized and the district board of education may not seek to compel consent through a due process hearing. However, if a parent refuses special education and related services on behalf of a student, the district board of education shall not be determined to have denied the student a free, appropriate public education because the student failed to receive necessary special education and related services nor shall the district board of education be determined in violation of its child-find obligation solely because it failed to provide special education or related services to a student whose parents refused to provide consent for implementation of the initial IEP. For those areas set forth in NJAC 6A:14-2.3(a)1, 3 and 4, if a parent refuses to provide consent and the district and the parent have not agreed to other action, the district may request a due process hearing according to NJAC 6A:14-2.7(b) to obtain consent.

From NJAC 6A:14-2.7

- (b) In addition to the issues specified in (a) above, the district board of education or public agency responsible for the development of the student's IEP may request a due process hearing when it is unable to obtain required consent to conduct an initial evaluation or a reevaluation, or to release student records. The district board of education shall request a due process hearing when it denies a written parental request for an independent evaluation in accordance with NJAC 6A:14-2.5(c).

32. Must a district schedule time for consultation between a resource program teacher and the general education teaching staff?

From NJAC 6A:14 - 4.6(g)

- (g) A teacher of supplementary instruction and a resource program teacher shall be provided time on a regular basis for consultation with appropriate general education teaching staff.

33. What is the district's responsibility to train staff?

From NJAC 6A:14 - 1.2(b)14

- (b) Each district board of education shall have policies, procedures and programs approved by the Department of Education through the county office of education that are in effect to ensure the following:
 - 14. The in-service training needs for professional and paraprofessional staff who provide special education, general education or related services are identified and that appropriate in-service training is provided.
 - 1. The district board of education shall maintain information to demonstrate its efforts to
 - (1) Prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities.

- (2) Enhance the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of students with disabilities that impedes the learning of students with disabilities and others;
- (3) Acquire and disseminate to teachers, administrators, school board members, and related services personnel, significant knowledge derived from educational research and other sources and how the district will, if appropriate, adopt promising practices, materials and technology;
- (4) Insure that the in-service training is integrated to the maximum extent possible with other professional development activities; and,
- (5) Provide for joint training activities of parents and special education, related services and general education personnel.

34. What are districts' transportation requirements?

From NJAC 6A:14 - 3.9(a)7

- (a) Related services including, but not limited to, counseling, occupational therapy, physical therapy, school nurse services, recreation, social work services, medical services and speech-language services shall be provided to a student with a disability when required for the student to benefit from the educational program. Related services shall be provided by appropriately certified and/or licensed professionals as specified in the student's IEP and according to the following:
 7. Transportation shall be provided in accordance with 6A:27-5.

From NJAC 6A:27 - 5.1(a)

- (a) Students with special needs shall be provided with transportation in accordance with NJSA 18A:39-1 et seq. and in accordance with their Individualized Education Program (IEP).
 1. The district board of education shall provide transportation as required in the IEP. Such services may include, but are not limited to, special transportation equipment, transportation aides and special arrangements for other assistance to and from the school
 3. When an out-of-district placement for educational reasons is made by a resident district board of education, transportation shall be provided consistent with the school calendar of the receiving school. A copy of the school calendar shall be submitted to the resident school district by May 15 preceding the year in which transportation is required, or at the time of placement if it occurs after May 15.
 4. When necessary, the student's case manager shall provide the transportation coordinator and the bus driver with specific information including safety concerns, mode of communication, and health and behavioral characteristics of a student for whom transportation services are to be provided.
 5. Students with disabilities below the age of five shall be transported in vehicles equipped with safety belts or other child restraint systems.

35. Who is responsible to provide programs and related services indicated in the IEP?

From NJAC 6A:14 - 4.1(a)

- (a) Each district board of education shall provide educational programs

and related services for students with disabilities required by the individualized education programs of those students for whom the district board of education is responsible.

36. What can be done if the district does not implement the regulations appropriately?

From NJAC 6A:14 - 9.2(b)

- (b) An organization or individual may request a complaint investigation by simultaneously submitting a written signed request to the State Director of the Office of Special Education Programs and to the educational agency against which the complaint is directed. The complaint shall include:
1. A statement that a public or private education agency has violated the requirements of State and/or Federal statute and/or regulation for the provision of special education and related services;
 2. The facts on which the statement is based; and
 3. The time period when the alleged violation occurred.
 - i. The complainant shall allege a violation that occurred not more than one year prior to the date that the complaint is received.

37. Who conducts the evaluation of a pupil?

From NJAC 6A:14 - 2.5(b)6.

- (b) Each district board of education shall ensure:
6. The evaluation is conducted by a multi-disciplinary team of professionals consisting of a minimum of two members of the child study team, and, where appropriate, other

specialists who shall conduct the evaluation in accordance with the procedures in NJAC 6A:14-3. A minimum of one evaluator shall be knowledgeable in the area of the suspected disability.

From NJAC 6A:14 - 3.4(a)3.

- (a) The child study team, the parent and the regular education teacher of the student who has knowledge of the student's educational performance or if there is no teacher of the student, a teacher who is knowledgeable about the district's programs shall:
3. Determine which child study team members and/or specialists shall conduct each assessment that is part of the evaluation.

38. What services may the CST provide to general education staff?

From NJAC 6A:14-3.1(d)3, 5 & 6

- (d) Child study team members and, to the extent appropriate, specialists in the area of disability:
3. May provide services to the educational staff with regard to techniques, materials and programs. Services include, but are not limited to, the following:
 - i. Consultation with school staff and parents;
 - ii. Training of school staff; and
 - iii. The design, implementation and evaluation of techniques addressing academic and behavioral difficulties.
 5. May provide preventive and support services to nondisabled students; and
 6. May participate on Intervention and Referral Services teams pursuant to NJAC 6A:16-8.

Curriculum/Assessment/Transition/Graduation

39. What are the core curriculum requirements for students with disabilities?

From NJAC 6A:14 - 3.7(e)2 and 3

2. Where appropriate, a statement of detailed measurable annual academic and functional goals that shall, as appropriate, be related to the New Jersey Student Learning Standards through the general education curriculum unless otherwise required according to the student's educational needs, or appropriate, student specific, functional needs. For all students, the annual academic and functional goals shall be measurable and apprise parents and educational personnel providing special education and related services to the student of the expected level of achievement attendant to each goal.
3. Such measurable annual goals shall include benchmarks or short-term objectives related to:
 - i. Meeting the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum; and
 - ii. Meeting each of the student's other educational needs that result from the student's disability.

40. What are the statewide assessment requirements for students with disabilities?

From NJAC 6A:14 - 4.10(a)

- (a) Students with disabilities shall participate in the Statewide assessment system according to the following:
 1. Except as provided in (a) 2 below, students with disabilities shall participate in each content area of the general Statewide assessment for their grade. Accommodations

and modifications approved by the Department of Education shall be provided when determined necessary by the IEP team to students with disabilities who participate in the general Statewide assessments.

2. Students with disabilities shall participate in the Alternate Proficiency Assessment (APA) in each content area where the nature of the student's disability is so severe that the student is not receiving instruction in any of the knowledge and skills measured by the general Statewide assessment and the student cannot complete any of the types of questions on the assessment in the content area(s) even with accommodations and modifications.
3. Following the 11th grade, students with disabilities who are required to pass the HSPA for graduation and have not done so shall participate in the SRA in accordance with NJAC 6A:8. If a student is participating in the SRA as determined by the IEP team, the student shall not be required to again participate in the HSPA and pass that assessment.

41. What are the graduation requirements for students with disabilities?

From NJAC 6A:14 - 3.7(e)9

- (e) With the exception of an IEP for a student classified as eligible for speech-language services, the IEP shall include but not be limited to:
 9. Beginning at age 14, a statement of the State and local graduation requirements that the student shall be expected to meet. The statement shall be reviewed annually. If a student with a disability is exempted from, or there is a modification to, local or State high school graduation requirements, the statement shall include:

- i. A rationale for the exemption or modification based on the student's educational needs which shall be consistent with NJAC 6A:14-4.11; and
- ii. A description of the alternate proficiencies to be achieved by the student to qualify for a State endorsed diploma.

From NJAC 6A:14 - 4.11(a)

- (a) The IEP of a student with a disability who enters a high school program shall specifically address the graduation requirements. The student shall meet the high school graduation requirements according to NJAC 6A:8-5.1(c), except as specified in the student's IEP. The IEP shall specify which requirements would qualify the student with a disability for the State endorsed diploma issued by the school district responsible for his or her education.

42. What are a district's transition responsibilities?

From NJAC 6A:14-3.7(e) 10 – 13

- (e) With the exception of an IEP for a student classified as eligible for speech-language services, the IEP shall include, but not be limited to:
 - 10. A statement of student's transition from an elementary program to the secondary program which shall be determined by factors including number of years in school; social, academic and vocational development; and chronological age;
 - 11. Beginning with the IEP in place for the school year when the student will turn age 14, or younger if determined appropriate by the IEP team, and updated annually:
 - i. A statement of the student's strengths, interests and preferences;
 - ii. Identification of a course of study and related strategies and/or activities that:

- (1) Are consistent with the student's strengths, interests, and preferences; and
- (2) Are intended to assist the student in developing or attaining postsecondary goals related to training, education, employment and, if appropriate, independent living;

- iii. As appropriate, a description of the need for consultation from other agencies that provide services for individuals with disabilities including, but not limited to, the Division of Vocational Rehabilitation Services in the Department of Labor and Workforce Development; and
 - iv. As appropriate, a statement of any needed interagency linkages and responsibilities;
12. Beginning with the IEP in place for the school year when the student will turn age 16, or younger if deemed appropriate by the IEP team, a statement consisting of those elements set forth in (e)11 above and appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and, if appropriate, independent living and the transition services including a course of study needed to assist the child in reaching those goals.
- i. The transition services as defined in IDEA shall consist of a coordinated set of activities for a student with a disability that is designed within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and

adult education, adult services, independent living, or community participation, and be based on the individual student's needs, taking into account the student's strengths, preferences and interests. In addition to the above, transition services shall include:

- (1) Instruction;
- (2) Related services;
- (3) The development of employment and other post-school adult living objectives; and
- (4) Community experiences;

- (5) If appropriate, acquisition of daily living skills and functional vocational evaluation;

13. The person(s) responsible to serve as a liaison to postsecondary resources and make referrals to the resources as appropriate. If the student with disabilities does not attend the IEP meeting where transition services are discussed, the district board of education or public agency shall take other steps to ensure that the student's preferences and interests are considered.

Behavior/Discipline

43. What behavior requirements must be considered when developing the IEP?

From NJAC 6A:14 - 3.7(c)4

- (c) When developing the IEP, the IEP team shall:

4. In the case of a student whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions and supports to address that behavior.

44. What is the district's educational responsibility to a student with a disability who has been suspended or expelled?

From NJAC 6A:14-1.1(b)1

- (b) The purpose of this chapter is to:

1. Ensure that all students with disabilities as defined in this chapter, including students with disabilities who have been suspended or expelled from school, have available to them a free, appropriate public education as that standard is set un-

der the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400 et seq.);

45. Can a student with a disability be suspended?

From NJAC 6A:14-2.8(a)

- (a) For disciplinary reasons, school officials may order the removal of a student with a disability from his or her current educational placement to an interim alternative educational setting, another setting, or a suspension for up to 10 consecutive or cumulative school days in a school year. Such suspensions are subject to the same district board of education procedures as nondisabled students. However, at the time of removal, the principal shall forward written notification and a description of the reasons for such action to the case manager and the student's parent(s).

1. Notwithstanding (a) above, pre-school students with disabilities shall not be suspended, long-term or short-term, and shall not be expelled.

2. The district board of education is not required by 20 U.S.C. §§1400 et seq. or this chapter to provide services during periods of removal to a student with a disability who has been removed from his or her current placement for 10 school days or less in that school year, provided that if services are provided to general education students for removals of 10 or fewer days duration, students with disabilities shall be provided services in the same manner as students without disabilities during such time periods for removals of 10 or fewer days.
- (e) In the case of a student with a disability who has been removed from his or her current placement for more than 10 cumulative or consecutive school days in the school year, the district board of education shall provide services to the extent necessary to enable the student to progress appropriately in the general education curriculum and advance appropriately toward achieving the goals set out in the student's IEP.
 1. When it is determined that a series of short-term removals is not a change of placement, school officials, in consultation with the student's special education teacher and case manager shall determine the extent to which services are necessary to enable the student to progress appropriately in the general curriculum and advance appropriately toward achieving the goals set out in the student's IEP.
 2. When a removal constitutes a change of placement, and it is determined that the behavior is not a manifestation of the student's disability, the student's IEP team shall determine the extent to which services are necessary to enable the student to progress appropriately in the general curriculum and advance appropriately toward achieving the goals set out in the student's IEP.

46. When does the removal of a student with a disability for disciplinary reasons constitute a change in placement?

From NJAC 6A:14-2.8(b), 6A:14-2.8(c):14-2.8(e)

- (b) School district personnel may, on a case-by-case basis, consider any unique circumstances when determining whether or not to impose a disciplinary sanction or order a change of placement for a student with a disability who violates a school code of conduct.
- (c) Removals of a student with a disability from the student's current educational placement for disciplinary reasons constitute a change in placement if:
 1. The removal is for more than 10 consecutive school days; or
 2. The student is subjected to a series of short-term removals that constitute a pattern because they cumulate to more than 10 school days in a school year and because of factors such as the length of each removal, the total amount of time the student is removed and the proximity of the removals to one another.
 - i. School officials in consultation with the student's case manager shall determine whether a series of short-term removals constitutes a pattern that creates a change of placement.

47. Can a student with a disability be suspended for more than 10 school days?

From NJAC 6A:14-2.8(d)

- (d) Disciplinary action initiated by a district board of education which involves removal to an interim alternative educational setting, suspension for more than 10 school days in a school year or expulsion of a student with a disability shall be in accordance with 20 U.S.C. § 1415(k), as amended and supplemented. (See chapter Appendix A.) However, the period of removal to an interim alternative educational setting of a student with a disability in accordance with 20 U.S.C. § 1415(k) shall be for

a period of no more than 45 calendar days.

48. What services must be provided to a student with a disability who is suspended for more than 10 days?

From NJAC 6A:14-2.8 (e)

- (e) In the case of a student with a disability who has been removed from his or her current placement for more than 10 cumulative or consecutive school days in the school year, the district board of education shall provide services to the extent necessary to enable the student to progress appropriately in the general education curriculum and advance appropriately toward achieving the goals set out in the student's IEP.

49. What if the student's disciplinary problem constitutes a change in placement but is not a manifestation of his/her disability?

From NJAC 6A:14-2.8(e)2

2. When a removal constitutes a change in placement, and it is determined that the behavior is not a manifestation of the student's disability, the student's IEP team shall determine the extent to which services are necessary to enable the student to progress appropriately in the general curriculum and advance appropriately toward achieving the goals set out in the student's IEP.

50. What happens when the removal is for drug or weapon offenses?

From NJAC 6A:14-2.8(f)

- (f) In the case of a removal for drug or weapons offenses, or because the student caused a serious bodily injury under 20 U.S.C. §1415(k) and its implementing regulations at 34 CFR §§ 300.1 et seq., or a removal by an administrative law judge for dangerousness consistent with 20 U.S.C. §1415(k) and its implementing regulations at 34 CFR §§ 300.1 et seq., the district board of education shall provide services to the student with a disability consistent with 20 U.S.C. §1415(k) and its implementing regulations at 34 CFR §§ 300.1 et seq., incorporated herein by reference. However, the period of removal to an interim alternative educational setting of a student with a disability in accordance with 20 U.S.C. §1415(k) shall be for a period of no more than 45 calendar days. Note: The New Jersey Department of Education has attached U.S.C. §1415(k) as an appendix to the Regulations on Special Education. The United States Department of Education has issued regulations to the Individuals with Disabilities Education Act. They have prepared a user-friendly package designed to help parents, teachers and school administrators understand the federal expectations for educating children with disabilities, as set forth in the law.

Definitions & Program Parameters

51. Who is covered under the definition “other health impaired?”

From NJAC 6A:14 - 3.5(c)9

9. “Other health impaired” corresponds to “chronically ill” and means a disability characterized by having limited strength, vitality or alertness, including a heightened alertness with respect to the educational environment, due to chronic or acute health problems, such as attention deficit disorder or attention deficit hyperactivity disorder, a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes or any other medical condition, such as Tourette Syndrome, that adversely affects a student’s educational performance. A medical assessment documenting the health problem is required.

52. What are related services?

From 34 U.S.C. § 3 00.34 - IDEA

- (a) General. Related Services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

From NJAC 6A:14 - 3.9(a)

- (a) Related services including, but not limited to, counseling, occupational therapy, physical therapy, school nurse services, recreation, social work services, medical services and speech-language services shall be provided to a student with a disability when required for the student to benefit from the educational program. Related services shall be provided by appropriately certified and/or licensed professionals as specified in the student’s IEP and according to the following
 1. Counseling services that are provided by school district personnel shall be provided by certified school psychologists, social workers or guidance counselors.
 2. Counseling and/or training services for parents shall be provided to assist them in understanding the special educational needs of their child.
 3. Speech and language services may be provided as a related service to a student who is classified as “eligible for special education and related services.” Assessment by a speech-language specialist is required. The student shall meet the eligibility criteria for the classification of “eligible for speech-language services” but shall not be classified as such.
 4. Occupational therapy and physical therapy may be provided by therapy assistants under the direction of the certified and, where required, licensed therapist in accordance with all applicable State statutes and rules.
 - i. Prior to the provision of occupational therapy, assessment by a certified (and, where required, licensed) occupational therapist and development of an IEP are required.

- ii. Prior to the provision of physical therapy, assessment by a certified and licensed physical therapist and development of an IEP are required.
5. A district board of education or approved private school for students with disabilities may contract for the provision of speech-language services, counseling services, occupational therapy, and/or physical therapy in accordance with NJAC 6A:14-5.
6. Recreation shall be provided by certified school personnel.
7. Transportation shall be provided in accordance with NJAC 6A:27-5.
8. Nursing services shall be provided as a related service only to the extent such services are designed to enable a child with a disability to receive a free, appropriate public education as described in the individualized education program of the child.
9. Medical services shall be provided as a related service for diagnostic and evaluation purposes only.
10. Therapy services may be integrated into the context of ongoing activities or routines and provided by personnel as set forth in the student's IEP.
11. When related services are provided by non-certified personnel because there is no certification required, such services shall be provided under the supervision of certified district board of education personnel.
12. Other related services shall be provided as specified in the student's IEP.

53. What is "assistive technology"?
From 34 U.S.C. § 300.5 and 34 U.S.C. § 300.6 – IDEA

"Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized,

that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device. "Assistive technology service" means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device.

From NJAC 6A:14-1.3

"Assistive technology device" is defined in accordance with the definition of the term set forth in IDEA and its implementing regulations at 34 C.F.R. §§300.1 et seq., as amended and supplemented, incorporated by reference herein and reproduced at chapter Appendix F.

"Assistive technology service" is defined in accordance with the definition of the term set forth in IDEA and its implementing regulations at 34 C.F.R. §§300.1 et seq., as amended and supplemented, incorporated by reference herein and reproduced at chapter Appendix G.

54. How are modifications and related services determined?
From NJAC 6A:14 - 3.4(a)

- (a) The child study team, the parent and the regular education teacher of the student who has knowledge of the student's educational performance or if there is no teacher of the student, a teacher who is knowledgeable about the district's programs shall:
 1. Review existing evaluation data on the student including evaluations and information provided by the parents, current classroom-based assessments and observations, and the observations of teachers and related services providers and consider the need for any health appraisal or specialized medical evaluation;
 2. On the basis of the review in (a)1 above identify what additional data,

if any are needed to determine:

- i. Whether the student has a disability under this chapter;
- ii. The present levels of academic and functional achievement and related developmental needs, and educational needs of the student;
- iii. Whether the student needs special education and related services.

annual academic and functional goals;

- ii. To be involved and progress in the general education curriculum according to (e)1 above and to participate in extracurricular and other nonacademic activities; and
- iii. To be educated and participate with other students with disabilities and nondisabled students;

From NJAC 6A:14-3.7 (a), (b), (e)

- (a) A meeting to develop the IEP shall be held within 30 calendar days of a determination that a student is eligible for special education and related services or eligible for speech-language services. An IEP shall be in effect before special education and related services are provided to a student with a disability and such IEP shall be implemented as soon as possible following the IEP meeting.
- (b) The IEP shall be developed by the IEP team according to NJAC 6A:14- 2.3(k)2 for students classified eligible for special education and related services or according to NJAC 6A:14-3.6(d) for students classified eligible for speech-language services.
- (e) With the exception of an IEP for a student classified as eligible for speech-language services, the IEP shall include, but not be limited to:

4. A statement of the special education and related services and supplementary aids and services that shall be provided for the student, or on behalf of the student. Such special education and related services and supplementary aides and services shall be based, to the extent practicable, on peer reviewed research. A statement of the program modifications or supports for school personnel that shall be provided for the student:
 - i. To advance appropriately toward attaining the measurable

5. A statement, as appropriate, of any integrated therapy services to be provided addressing the student's individualized needs in his or her educational setting.
7. A statement of any individual modifications in the administration of Statewide or districtwide assessments of student achievement needed for the student to participate in such assessment.
 - i. If the IEP team determines that the student shall not participate in a particular general Statewide or districtwide assessment of student achievement (or part of such an assessment), a statement of why that assessment is not appropriate for the student according to NJAC 6A:14-4.10 and a statement of how that student shall be assessed and which assessment methodology is appropriate for the student.

55. When is an extended school year provided?

From NJAC 6A:14 - 4.3(c)

- (c) The IEP team shall make an individual determination regarding the need for an extended school year program. An extended school year program provides for the extension of special education and related services beyond the regular school year. An extended school year program is provided in accordance with the student's IEP when an interruption in educational programming causes the student's performance to revert

to a lower level of functioning and recouplement cannot be expected in a reasonable length of time. The IEP team shall consider all relevant factors in determining the need for an extended school year program.

1. The district board of education shall not limit extended school year services to particular categories of disability or limit the type, amount, or duration of those services.

Placement & Least Restrictive Environment

56. When is placement in the students' general education class not appropriate?

From NJAC 6A:14 - 4.2(a)

- (a) Students with disabilities shall be educated in the least restrictive environment. Each district board of education shall ensure that:
 1. To the maximum extent appropriate, a student with a disability is educated with children who are not disabled;
 2. Special classes, separate schooling or other removal of a student with a disability from the student's general education class occurs only when the nature or severity of the educational disability is such that education in the student's general class with the use of appropriate supplementary aids and services cannot be achieved satisfactorily;
 3. A full continuum of alternative placements according to NJAC 6A:14-4.3 is available to meet the needs of students with disabilities for special education and related services;

57. What are the considerations for placement in the least restrictive environment?

From NJAC 6A:14 - 4.2(a)

- (a) Students with disabilities shall be educated in the least restrictive environment. Each district board of education shall ensure that:

8. Consideration is given to:
 - i. Whether the student can be educated satisfactorily in a regular classroom with supplementary aids and services;
 - ii. A comparison of the benefits provided in a regular class and the benefits provided in a special education class; and
 - iii. The potentially beneficial or harmful effects which a placement may have on the student with disabilities or the other students in the class.

58. What is the full continuum of alternative placements?

From NJAC 6A:14-4.3(a) & (b)

- (a) All students shall be considered for placement in the general education class with supplementary aids and services including, but not limited to, the following:
 1. Curricular or instructional modifications or specialized instructional strategies;
 2. Assistive technology devices and services as defined in NJAC 6A:14-1.3;
 3. Teacher aides;
 4. Related services;
 5. Integrated therapies;
 6. Consultation services; and
 7. In-class resource programs.
- (b) If it is determined that a student with a disability cannot remain in the general

education setting with supplementary aids and services for all or a portion of the school day, a full continuum of alternative placements as set forth below shall be available to meet the needs of the student. Alternative educational program options include placement in the following:

1. Single subject resource programs outside the general education class;
2. A special class program in the student's local school district;
3. A special education program in another local school district;
4. A special education program in a vocational and technical school;
5. A special education program in the following settings:
 - i. A county special services school district;
 - ii. An educational services commission;
 - iii. A jointure commission; and
 - iv. A New Jersey approved private school for students with disabilities or an out-of-State school for students with disabilities in the continental United States approved by the department of education in the state where the school is located;

6. A program operated by a department of New Jersey State government;
7. A community rehabilitation program;
8. A program in a hospital, convalescent center or other medical institution;
9. Individual instruction at home or in other appropriate facilities, with the prior written notice to the Department of Education through its county office;
10. An accredited nonpublic school which is not specifically approved for the education of students with disabilities according to NJAC 6A:14-6.5;
11. Instruction in other appropriate settings according to NJAC 6A:14-1.1(d); and
12. An early intervention program (which is under contract with the Department of Health and Senior Services) in which the child has been enrolled for the balance of the school year in which the child turns age three.

Exceptions

59. When can the requirement to provide pre-referral interventions be waived?

From NJAC 6A:14 - 3.3(d)

- (d) A direct referral to the child study team may be made when it can be documented that the nature of the student's educational problem(s) is such that evaluation to determine eligibility for special education services under this chapter is warranted without delay.
1. The parent may make a written request for an evaluation to determine eligibility for services under

this chapter. Such a request shall be considered a referral and shall be forwarded without delay to the child study team for consideration.

60. How does a district obtain an exception to age range and/or class size?

From NJAC 6A:14 - 4.9(a)

- (a) Exceptions for the age range and group sizes specified in NJAC 6A:14-4.4 through 4.7 shall be granted

1. On an individual basis;
2. Only with prior written approval of the Department of Education through its county office; and
3. For a period not to exceed the balance of the school year.

61. Does the district have to inform the other parents if a waiver has been granted that increases class size or age range?

From NJAC 6A:14-4.9(d) & (e)

- (d) The parent of a student with a disability, for whom the exception is requested, and the parents of the students who are affected by the request for an exception shall be informed by the district board

of education that such a request is being submitted to the county office of education.

- (e) Upon approval of the exception by the county office, the district board of education or the appropriate education agency shall inform the parents of the students with disabilities who are affected by the exception.

62. Where is the regulation eliminating waivers and equivalencies?

From NJAC 6A:14 - 4.9(f)

- (f) As of July 6, 1998, no waivers or equivalencies pursuant to NJAC 6:3A shall be granted to this chapter.

Class & Program Size Requirements

63. What is the maximum class size for speech/language service?

From NJAC 6A:14 - 4.4(a)

- (a) Speech-language services provided to a student with a disability shall be in addition to the regular instructional program and shall meet the following criteria:
1. Speech-language services shall be given individually or in groups.
 - i. The size and composition of the group shall be determined by the IEP team in accordance with the speech-language needs of the student(s) with educational disabilities and shall not exceed five students.

64. What is the class size for supplemental instruction and resource programs? When is a teaching assistant required?

From NJAC 6A:14-4.6(m), (n), (o), & (p)

- (m) Group sizes for supplementary instruction and resource programs shall not exceed the limits listed below. Group size may be increased with the addition of an instructional aide, except where noted, according to the following:
- (n) The maximum number of students with disabilities that shall receive an in-class resource program shall be eight at the preschool or elementary level, and ten

at the secondary level. The option to increase the group size of an in-class program of supplementary instruction in accordance with NJAC 6A:14-4.9 shall be prohibited.

- (o) Pull-out support and pull-out replacement resource programs shall not be provided at the same time by the same teacher. The group size of a pull-out replacement resource program may be accordance with NJAC 6A:14-

4.9. The option to increase the group size for multiple subject supplementary instruction according to NJAC 6A:14-4.9 shall be prohibited.

- (p) Secondary programs shall be in schools in which any combination of grades six through 12 are contained and where the organizational structure is departmentalized for general education students.

**WHERE IN THE
SPECIAL
EDUCATION
REGULATIONS?**

**Preschool/
Elementary**

Secondary

Support Resource & Supplementary Instruction	Preschool/ Elementary		Secondary	
	No Aide	Aide Required	No Aide	Aide Required
In-Class	8	-	10	-
Pull-out Support & Supplemental Instruction				
Single Subject	6	7 to 9	9	10 to 12
Multiple Subject	6	7 to 9	6	7 to 9
Replacement Resource				
Pull-out Single Subject	6	7 to 9	9	10 to 12

65. What is the class size for special class programs? When is a teaching assistant required?

From NJAC 6A:14-4.7(e), (f), (g), & (h)

- (e) Instructional group sizes for preschool, elementary and secondary special class programs shall not exceed the limits listed below. The instructional group size may be increased with the addition of a classroom aide according to the numbers listed in Column III as set forth below. When determining whether a classroom aide is required, students with a personal aide shall not be included in the student count:
- (f) Secondary special class programs are defined as programs which are located in schools in which there is any combination of grades six through 12 and where the organizational structure is departmentalized for general education students.
- (g) In addition to the requirements for instructional size for special class programs according to (e) above, instruction may be provided in the secondary setting of a class organized around a single content area consisting solely of students with disabilities instructed by a general education teacher where an adapted general education curriculum is used shall have a maximum instructional size of 12. The instructional size may be increased with the addition of a classroom aide up to 16 students.
- (h) Vocational education programs shall meet the following criteria:
 - 2. In vocational shop and related academic programs, class sizes shall be as follows:
 - i. For a class consisting of students with disabilities, the maximum class size with an aide shall not exceed 15. Class size shall not exceed 10 without the addition of an aide unless prior written approval of the Department of Education through its county office is granted according to NJAC 6A:14-4.9. Requests for approval of a class size which exceeds 10 without an aide shall include, but not be limited to, a description of the following student needs and instructional considerations:
 - (1) The nature and degree of the student's educationally disabling condition;
 - (2) The interests, aptitudes and abilities of the student;
 - (3) The functional level of the student;
 - (4) The employment potential of the student;
 - (5) The type of occupational area;
 - (6) Instructional strategies;
 - (7) Safety factors; and
 - (8) Physical facility requirements.

I – Program	II – Instructional Size <i>no classroom aide required</i>	III – Instructional Size <i>classroom aide required</i>
Auditory Impairments	8	9 to 12
Autism ¹	3	4 to 6 7 to 9 (2 aides required Secondary ONLY)
Behavioral Disabilities	9	10 to 12
Cognitive ²		
Mild	12	13 to 16
Moderate	10	11 to 13
Severe	3	4 to 6 7 to 9 (2 aides required)
Learning and/or Language Disabilities		
Mild to Moderate	10	11 to 16
Severe	8	9 to 12
Multiple Disabilities	8	9 to 12
Preschool Disabilities ³	---	1 to 8 9 to 12 (2 aides required)
Visual Impairments	8	9 to 12

¹ A program for students with autism shall maintain a student to staff ratio of three to one. For a secondary program, two classroom aides are required when the class size exceeds six students.

² A program for students with severe to profound cognitive disabilities shall maintain a three to one student to staff ratio.

³ A classroom aide is required for preschool classroom. Two aides are required when class size exceeds eight students.

WHERE IN THE
SPECIAL
EDUCATION
REGULATIONS?



Professional Development
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3017-9/2017