

1. If at the most recent IEP meeting that the parents attended prior to the removal of the student from the public school, the parents did not inform the IEP team that they were rejecting the IEP proposed by the district;

2. At least 10 business days (including any holidays that occur on a business day) prior to the removal of the student from the public school, the parents did not give written notice to the district board of education of their concerns or intent to enroll their child in a nonpublic school;

3. If prior to the parents' removal of the student from the public school, the district proposed a reevaluation of the student and provided notice according to N.J.A.C. 6A:14-2.3(e) and (f) but the parents did not make the student available for such evaluation; or

4. Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

(d) The cost of the reimbursement for enrollment in a nonpublic school may not be reduced or denied if the parents failed to provide the required notice described in (c)1 and 2 above if:

1. The parent is illiterate and cannot write in English;

2. Compliance with the notice requirement in (c)1 and 2 above would likely result in physical or serious emotional harm to the student;

3. The school prevented the parent from providing such notice; or

4. The parent had not received written notice according to N.J.A.C. 6A:14-2.3(e) and (f) of the notice requirement that is specified in (c)1 and 2 above.

### SUBCHAPTER 3. SERVICES

#### 6A:14-3.1 General requirements

(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 during the hours students are in attendance.

(c) Specialists in the area of disability may include, but 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 certified and licensed.

(d) Child study team members and, to the extent appropriate, specialists in the area of disability:

1. Shall participate in the evaluation of students who may need special education programs and services according to N.J.A.C. 6A:14-3.3 and 3.4;

2. Shall participate in the determination of eligibility of students for special education programs and services according to N.J.A.C. 6A:14-3.5;

3. May deliver appropriate related services to students with disabilities;

4. May provide preventive and support services to non-disabled students; and

5. May provide services to the general education staff regarding techniques, materials and programs for students experiencing difficulties in learning. Services include, but are not limited to, the following:

i. Consultation with school staff and parents; and

ii. The design, implementation and evaluation of techniques to prevent and/or remediate educational difficulties.

#### Case Notes

Modifying individualized educational program without consulting child study team was not improper. *Fuhrmann on Behalf of Fuhrmann v. East Hanover Bd. of Educ.*, C.A.3 (N.J.)1993, 993 F.2d 1031, rehearing denied.

Child study team evaluation requested by one parent was not required for progressing student in joint custody after divorce when opposed by other parent. *R.F. v. Saddle Brook Board*, 95 N.J.A.R.2d (EDS) 187.

School district did not improperly abolish Child Study Team. *Mullin v. Boonton Town Board of Education*, 94 N.J.A.R.2d (EDU) 583.

Parent must allow child with reading disabilities to be evaluated by child study team. *Board of Educ. of Voorhees Tp. v. S.W.*, 93 N.J.A.R.2d (EDS) 107.

A guidance counsellor is not automatically a member of the child study team, which consists of the school psychologist, social worker and a learning disabilities teacher-consultant (citing former N.J.A.C. 6:28-1.3). *Childs v. Union Twp. Bd. of Ed.*, 3 N.J.A.R. 163 (1980), affirmed per curiam Dkt. No. A-3603-80 (App.Div.1982).

#### 6A:14-3.2 Case manager

(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.

(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.

### 6A:14-3.3 Location, referral and identification

(a) Each district board of education shall develop written procedures for students age three through 21, including students attending nonpublic schools, who reside within the local school district to:

1. Locate students who may be disabled; and
2. Refer students who may be experiencing physical, sensory, emotional, communication, cognitive or social difficulties. The procedures shall include referral for:
  - i. Interventions in the general education program according to N.J.A.C. 6:26;
  - ii. Evaluation to determine eligibility for special education and related services; and/or
  - iii. Other educational action, as appropriate.

(b) The procedures shall provide for referral by instructional, administrative and other professional staff of the local school district, parents and agencies concerned with the welfare of students.

(c) Interventions in the general education program to alleviate educational problems shall be provided to a student unless the student's educational problem(s) is such that direct referral to the child study team is required according to (d) below.

1. The staff of the general education program shall maintain written documentation of the implementation and effectiveness of the interventions.
2. When it is determined that interventions in the general education program have not adequately addressed the educational difficulties and it is believed that the student may be disabled, the student shall be referred for evaluation to determine eligibility for special education programs and services under this chapter.
3. A determination whether or not to conduct an evaluation shall be made in accordance with (e) below.

(d) Interventions in the regular education program are not a prerequisite to an evaluation for services under this chapter when:

1. It can be documented that the nature of the student's educational problem(s) is such that evaluation to determine eligibility for services under this chapter is warranted without delay; or
2. The parent or adult student makes 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.

(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 who is knowledgeable about the student's educational performance or the district's programs shall be convened within 20 calendar days of receipt of the written request to determine whether an evaluation is warranted and, if warranted, the child study team, the parent and the regular education teacher who is knowledgeable about the student's educational performance or the district's programs shall determine the nature and scope of the evaluation, according to N.J.A.C. 6A:14-3.4(a). 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 N.J.A.C. 6A:14-2.3(a).

1. To facilitate the transition from early intervention to preschool, a child study team member of the district board of education shall participate in the preschool transition planning conference arranged by the Department of Health and Senior Services.
2. Preschoolers with disabilities shall have their IEPs implemented no later than age three. To assure that preschoolers with disabilities have their initial IEPs implemented no later than age three, a written request for initial evaluation shall be forwarded to the district at least 120 days prior to the preschooler attaining age three.
3. When a preschool age child is referred for an initial evaluation, a speech-language specialist shall participate as a member of the child study team in the meeting to determine whether to evaluate and the nature and scope of the evaluation.
4. For students ages five to 21, when the suspected disability includes a language disorder, the child study team, the parent, a speech-language specialist and the regular education teacher who has knowledge of the student's educational performance or the district's programs shall participate in the meeting to decide whether to evaluate and the nature and scope of the evaluation.