

6:28-3.7 Reevaluation

(a) A reevaluation and, if the pupil will remain classified, an individualized education program shall be completed within three years of the date of the previous classification. Reevaluation shall be conducted sooner if conditions warrant or if the pupil's parent(s) or teacher request the reevaluation.

1. The child study team shall determine which child study team members and/or specialists will conduct the evaluations based upon demonstrated pupil progress in meeting the goals and objectives of the individualized education program. The reevaluation shall include assessment by at least two members of the child study team.

i. For pupils who are auditorily handicapped, in addition to the two required evaluations provided by the child study team, an audiological evaluation and a speech and language assessment according to N.J.A.C. 6:28-3.5(d)1 shall be required.

ii. For pupils who are autistic, in addition to the two required evaluations provided by the child study team, a speech and language assessment and neurodevelopmental assessment according to N.J.A.C. 6:28-3.5(d)2 shall be required.

2. Reevaluation shall be conducted according to N.J.A.C. 6:28-3.4(c) and (h). Individual child study team assessment shall be conducted according to N.J.A.C. 6:28-3.4(d)1 through 6.

3. Reevaluation shall be conducted when a change in classification or significant change in placement is being considered.

4. When the reevaluation is completed those members of the district board of education child study team who have participated in the reevaluation shall attend a meeting according to N.J.A.C. 6:28-2.3(h) to determine eligibility and if the pupil remains eligible for special education and/or related services, the basic plan of the individualized education program shall be developed.

New Rule, R.1989 d.239, effective May 15, 1989.

See: 21 N.J.R. 239(a), 21 N.J.R. 1385(a).

Amended by R.1990 d.450, effective September 4, 1990.

See: 22 N.J.R. 1412(a), 22 N.J.R. 2683(b).

Clarification that an IEP must be developed if a pupil is classified and who shall participate in IEP meetings following a pupil's reevaluation.

Amended by R.1991 d.337, effective July 1, 1991.

See: 23 N.J.R. 1053(b), 23 N.J.R. 2032(b).

Added required assessments for autistic pupils.

Amended by R.1992 d.280, effective July 6, 1992.

See: 24 N.J.R. 1150(a), 24 N.J.R. 2434(a).

Corrected internal cites.

Amended by R.1993 d.393, effective August 2, 1993.

See: 25 N.J.R. 1318(a), 25 N.J.R. 3515(a).

Amended by R.1994 d.127, effective April 4, 1994.

See: 25 N.J.R. 5734(a), 26 N.J.R. 1495(b).

Case Notes

Parents do have right to question whether program in settlement agreement meets requirements of statute if there has been change in circumstances. D.R. by M.R. v. East Brunswick Bd. of Educ., D.N.J. 1993, 838 F.Supp. 184, on remand 94 N.J.A.R.2d(EDS) 145.

Settlement agreement was unambiguous. D.R. by M.R. v. East Brunswick Bd. of Educ., D.N.J.1993, 838 F.Supp. 184, on remand 94 N.J.A.R.2d(EDS) 145.

There was no significant change in student's placement; board of education was not obligated to secure new placement and develop new individualized education plan upon student's expulsion. Field v. Haddonfield Bd. of Educ., D.N.J.1991, 769 F.Supp. 1313.

School board's current out-of-district dayschool placement, rather than residential placement requested by parents, was most appropriate placement for neurologically impaired student with aggressive and disruptive behavior. K.J. v. Runnemede Board of Education, 95 N.J.A.R.2d (EDS) 257.

School board's current out-of-district dayschool placement, rather than residential placement requested by parents, was most appropriate placement for neurologically impaired student with aggressive and disruptive behavior. B.C. v. Flemington-Raritan Board, 95 N.J.A.R.2d (EDS) 255.

Student suspended for posing threat to others could not return without reevaluation. Englewood Board v. C.M., 95 N.J.A.R.2d (EDS) 112.

Nosebleeds did not pose serious enough problem to warrant emergent relief in form of home instruction. Mount Laurel Board v. C.S., 95 N.J.A.R.2d (EDS) 110.

Student with aggressive behavior was withdrawn from school pending re-evaluation in order to protect fellow students. Brick Township v. P.M., 95 N.J.A.R.2d (EDS) 83.

Scores and assessments established need to change student's classification to multiply handicapped. L.R. v. North Plainfield, 95 N.J.A.R.2d (EDS) 72.

Current placement in public school system, rather than residential placement, was more appropriate for multiply handicapped child. J.M. v. Board of Education, 95 N.J.A.R.2d (EDS) 10.

Reevaluation of disabled child was proper. P.B. v. Wayne Board of Education, 94 N.J.A.R.2d (EDS) 69.

Reclassification of multiply handicapped child as eligible for day training was improper. A.V. v. Branchburg Board of Education, 94 N.J.A.R.2d (EDS) 62.

Returning child to mainstream school was appropriate. D.F. v. Carteret Board of Education, 94 N.J.A.R.2d (EDS) 19.

Returning child to mainstream school; child was no longer multiply handicapped. D.F. v. Carteret Board of Education, 94 N.J.A.R.2d (EDS) 19.

Classification of neurologically impaired student changed to emotionally disturbed. D.I. v. Teaneck, 93 N.J.A.R.2d (EDS) 237.

6:28-3.8 Related services

(a) Related services shall be provided to a pupil with an educational disability according to his or her individualized education program and may include one or more of the following:

1. Counseling services shall be provided in the following manner:

i. Counseling services for a pupil with an educational disability shall be provided within the public schools

during the school day by certified school psychologists, social workers or guidance counselors; and

ii. Counseling and/or training services for parents shall be provided to assist them in understanding the special educational needs of their child.

2. Occupational and physical therapy shall be provided in the following manner:

i. Occupational and/or physical therapy shall be provided by educationally certified therapists; and

ii. A district board of education may contract with approved clinics and agencies for the provision of occupational and/or physical therapy.

3. Recreation shall be provided by certified school personnel.

4. Speech and language services for a pupil classified as other than "eligible for speech-language services", may be provided as a related service. Additional classification as "eligible for speech-language services" is not required.

5. Transportation shall be provided in the following manner:

i. The district board of education shall provide transportation as required in the individualized education program or as prescribed by the school physician. Such services shall include special transportation equipment, transportation aides and special arrangements for other assistance to and from and in and around the school;

ii. When out-of-district placement for educational reasons is made by a district board of education, transportation shall be provided consistent with the school calendar of the receiving school;

iii. When necessary, the case manager shall provide the transportation coordinator and the bus driver with specific information including safety concerns, mode of communication, health and behavioral characteristics of a pupil assigned; and

iv. For handicapped pupils below the age of five, safety belts or restraint systems are required; and

6. Other related services as specified in the pupil's individualized education program.

(b) School personnel may give advice to parents regarding additional services which are not required by this chapter. Such advice places no obligation on the district board of education to provide or fund such services.

Amended by R.1989 d.239, effective May 15, 1989.
See: 21 N.J.R. 239(a), 21 N.J.R. 1385(a).

Recodified from N.J.A.C. 6:28-3.7, added references to "speech-language services".

Amended by R.1992 d.280, effective July 6, 1992.
See: 24 N.J.R. 1150(a), 24 N.J.R. 2434(a).

Term "educationally handicapped pupil" replaced by "pupil with an educational disability".

Case Notes

School board was not required to provide nurse to change student's tracheotomy tube during school as related service under Individuals with Disabilities Education Act (IDEA), as that service fell within Act's medical services exclusion. *A.F. v. Toms River Board of Education*, 96 N.J.A.R.2d (EDS) 116.

Availability of comparable services at public school precludes school district's financial support of sign language interpreter at private school attended by auditory handicapped student. *M.S. v. Washington Township Board of Education*, 96 N.J.A.R.2d (EDS) 28.

Neighborhood school with separated first grade classes was most appropriate placement for perceptually impaired student whose attention was easily distracted. *I.M. v. Atlantic City Board*, 95 N.J.A.R.2d (EDS) 250.

School district was under continued obligation to provide transportation as a related service to handicapped student even though costs had escalated. *D.P. v. Mantua Township Board*, 95 N.J.A.R.2d (EDS) 218.

Free and appropriate education in public school precluded tuition and transportation for non-approved private school. *A.S. v. Hasbrouck Heights*, 95 N.J.A.R.2d (EDS) 162.

Student with breathing difficulties in cold weather not entitled to transportation during winter months. *A.G. v. Glen Ridge Board*, 95 N.J.A.R.2d (EDS) 144.

Transportation from home to private sectarian school which disabled students attended by parental choice was not available. *A.K. v. Teaneck Board*, 95 N.J.A.R.2d (EDS) 116.

School aide not necessary for neurologically impaired student. *N.B. v. West Orange Board of Education*, 94 N.J.A.R.2d (EDS) 205.

Demand that the Board of Education pay the cost of one-to-one aides for a 20-year old student with cerebral palsy and mental retardation was dismissed. *D.R. v. East Brunswick Board of Education*, 94 N.J.A.R.2d (EDS) 145.

Private nursing care; not a related service under the Individuals with Disabilities Act. *L.M. v. East Brunswick Township Board of Education*, 94 N.J.A.R.2d (EDS) 79.

"Repositioning" following surgery was "related service" for 6-year-old child suffering from cerebral palsy. *M.S. v. Barnegat Township Board of Education*, 93 N.J.A.R.2d (EDS) 16.

Summer placement at private school was necessary related service for 18-year-old student. *C.M. v. Cherry Hill Board of Education*, 92 N.J.A.R.2d (EDS) 156.

Board of education not required to provide outside psychotherapy; counseling could be provided within school during school day. *Clifton Board of Education v. M.L.*, 92 N.J.A.R.2d (EDS) 60.

6:28-3.9 Services to pupils in programs operated by the State of New Jersey

(a) For a pupil classified as eligible for day training attending an approved day program, the district board of education shall provide the services according to N.J.A.C. 6:28-3.2 through 3.7.

(b) For a pupil in residence in a State facility, the responsible district board of education shall:

1. Maintain the educational records sent by the State facility according to N.J.A.C. 6:3-6; and

2. Facilitate the entry of the pupil into the local district program, as appropriate.