

**CHAPTER 28**

**SPECIAL EDUCATION**

**Authority**

N.J.S.A. 18A:4-15, 18A:7A-1 et seq., 18A:7B-1 et seq., 18A:7C-1 et seq., 18A:40-4, 18A:46-1 et seq., 18A:46A-1 et seq., 18A:48-8, 39:1-1, U.S.P.L. 93-112, Sec. 504, 101-476, 102-119 and 99-457.

**Source and Effective Date**

R.1994 d.127, effective February 10, 1994.  
See: 25 N.J.R. 5734(a), 26 N.J.R. 1495(b).

**Chapter Expiration Date**

Pursuant to Executive Order No. 22(1994), Chapter 28, Special Education, expires on August 10, 2000. See: 26 N.J.R. 3783(a) and 3942(a).

**Chapter Historical Note**

Chapter 28, Special Education, was filed and became effective August 5, 1970 as R.1970 d.95. See: 2 N.J.R. 47(d), 2 N.J.R. 72(a). Revisions were filed and became effective September 22, 1972 as R.1972 d.185. See: 4 N.J.R. 156(a), 4 N.J.R. 262(a). Further revisions were filed and became effective August 18, 1975 as R.1975 d.253. See: 7 N.J.R. 248(a), 7 N.J.R. 407(c). Further amendments were filed and became effective March 17, 1976 as R.1976 d.88. See: 8 N.J.R. 174(b). Further amendments were filed and became effective April 21, 1976 as R.1976 d.120. See: 8 N.J.R. 220(a). Further amendments became effective November 10, 1977 as R.1977 d.464. See: 9 N.J.R. 507(a), 10 N.J.R. 6(a). Further revisions were filed and became effective on December 13, 1977 as R.1977 d.464. Further revisions were filed and became effective August 11, 1978 as R.1978 d.277. See: 10 N.J.R. 225(b), 10 N.J.R. 383(a). Further amendments were filed and became effective September 20, 1982 as R.1982 d.316. See: 14 N.J.R. 617(b), 14 N.J.R. 1054(a). This chapter was repealed and a new chapter was filed and became effective July 16, 1984 as R.1984 d.306. See: 15 N.J.R. 1981(a), 16 N.J.R. 1970(a). Subchapter 11, Special Education Pilot Project, was adopted as R.1988 d.148, effective April 4, 1988. See: 20 N.J.R. 14(a), 20 N.J.R. 796(a). Pursuant to Executive Order No. 66(1978), Chapter 28 was readopted as R.1989 d.239, effective April 10, 1989. See: 21 N.J.R. 239(a), 21 N.J.R. 1385(a).

Pursuant to Executive Order No. 66(1978), Chapter 28 was readopted as R.1994 d.127. See: Source and Effective Date. Subchapter 12, Outcomes-Based Innovative Project, was adopted as a part of R.1994 d.127, but effective April 4, 1994. See: 25 N.J.R. 5734(a), 26 N.J.R. 1495(b). See, also, section annotations.

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

- 6:28-1.1 General requirements
- 6:28-1.2 Plans for special education
- 6:28-1.3 Definitions
- 6:28-1.4 District board of education policies and procedures

**SUBCHAPTER 2. PROCEDURAL SAFEGUARDS**

- 6:28-2.1 General requirements
- 6:28-2.2 Surrogate parents
- 6:28-2.3 Parental notice, consent, participation and meetings
- 6:28-2.4 Native language
- 6:28-2.5 Protection in evaluation procedures
- 6:28-2.6 Mediation
- 6:28-2.7 Due process hearings
- 6:28-2.8 Disciplinary action

- 6:28-2.9 Pupil records
- 6:28-2.10 Least restrictive environment

**SUBCHAPTER 3. SERVICES**

- 6:28-3.1 Child study teams
- 6:28-3.2 Identification
- 6:28-3.3 (Reserved)
- 6:28-3.4 Evaluation
- 6:28-3.5 Determination of eligibility
- 6:28-3.6 Individualized education program
- 6:28-3.7 Reevaluation
- 6:28-3.8 Related services
- 6:28-3.9 Services to pupils in programs operated by the State of New Jersey

**SUBCHAPTER 4. PROGRAMS**

- 6:28-4.1 General requirements
- 6:28-4.2 Program options
- 6:28-4.3 Program criteria: supplementary instruction, speech-language services and resource center programs
- 6:28-4.4 Program criteria: special class programs, secondary, vocational and vocational rehabilitation
- 6:28-4.5 Program criteria: home instruction
- 6:28-4.6 Exceptions
- 6:28-4.7 Transition
- 6:28-4.8 Diplomas and graduation

**SUBCHAPTER 5. APPROVED CLINICS AND AGENCIES**

- 6:28-5.1 General requirements
- 6:28-5.2 Approval procedures

**SUBCHAPTER 6. SERVICES IN NONPUBLIC SCHOOLS**

- 6:28-6.1 General requirements for programs and services provided under N.J.S.A. 18A:46A-1 et seq. and 18A:46-19.1 et seq.
- 6:28-6.2 Provision of programs and services provided under N.J.S.A. 18A:46-1 et seq. and 18A:46-19.1 et seq.
- 6:28-6.3 Fiscal management provided under N.J.S.A. 18A:46A-1 et seq. and 18A:46-19.1 et seq.
- 6:28-6.4 End of the year report provided under N.J.S.A. 18A:46A-1 et seq. and 18A:46-19.1 et seq.
- 6:28-6.5 Placement in accredited nonpublic schools which are not specifically approved for the education of educationally disabled pupils

**SUBCHAPTER 7. PROGRAMS BY EDUCATIONAL SERVICES COMMISSIONS, JOINTURE COMMISSIONS, REGIONAL DAY SCHOOLS, COUNTY SPECIAL SERVICES SCHOOL DISTRICTS, THE MARIE H. KATZENBACH SCHOOL FOR THE DEAF, PRIVATE SCHOOLS FOR THE HANDICAPPED AND PUBLIC COLLEGE OPERATED PROGRAMS FOR THE HANDICAPPED**

- 6:28-7.1 General requirements
- 6:28-7.2 Approval procedures to establish or change a program
- 6:28-7.3 Annual approval procedures
- 6:28-7.4 Responsibilities of district boards of education
- 6:28-7.5 Provision of programs
- 6:28-7.6 Termination or withdrawal from an educational program
- 6:28-7.7 Fiscal management
- 6:28-7.8 Records
- 6:28-7.9 Monitoring and corrective action

**SUBCHAPTER 8. PROGRAMS OPERATED BY THE DEPARTMENTS OF CORRECTIONS AND HUMAN SERVICES**

- 6:28-8.1 General requirements
- 6:28-8.2 Procedural safeguards
- 6:28-8.3 Provision of programs
- 6:28-8.4 through 6:28-8.5 (Reserved)

**SUBCHAPTER 9. MONITORING, CORRECTIVE ACTION AND COMPLAINT INVESTIGATION**

- 6:28-9.1 Monitoring and corrective action
- 6:28-9.2 Complaint investigation

**SUBCHAPTER 10. EARLY INTERVENTION PROGRAMS**

- 6:28-10.1 Early intervention programs serving children between birth and age three
- 6:28-10.2 General requirements when district boards of education contract with early intervention programs under contract with the Department of Health for pupils age three
- 6:28-10.3 (Reserved)

**SUBCHAPTER 11. SPECIAL EDUCATION PILOT PROJECT**

- 6:28-11.1 General provisions
- 6:28-11.2 Pupil assistance committees
- 6:28-11.3 Child study teams
- 6:28-11.4 Identification
- 6:28-11.5 (Reserved)
- 6:28-11.6 Comprehensive evaluation
- 6:28-11.7 Determination of eligibility
- 6:28-11.8 Eligibility criteria
- 6:28-11.9 Individualized education program
- 6:28-11.10 Provision of programs
- 6:28-11.11 Program options
- 6:28-11.12 Full-time class types
- 6:28-11.13 Program approval

**SUBCHAPTER 12. OUTCOMES-BASED INNOVATIVE PROJECT**

- 6:28-12.1 General provisions

**SUBCHAPTER 1. GENERAL PROVISIONS**

**6:28-1.1 General requirements**

(a) The rules in this chapter, adopted by the State Board of Education, supersede all existing rules pertaining to pupils with educational disabilities.

(b) The purpose of this chapter is to:

1. Ensure that all pupils with educational disabilities, as defined herein, have available to them a free, appropriate public education as that standard is set under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);
2. Ensure the provision of special education and/or related services;
3. Ensure that the rights of pupils with educational disabilities and their parents are protected;

4. Assist public and private agencies providing educational services to pupils with educational disabilities; and

5. Ensure the evaluation of the effectiveness of the education for these pupils.

(c) The rules in this chapter shall apply to all public and private agencies providing publicly funded educational programs and services to pupils with educational disabilities.

1. Programs and services shall be provided to pupils ages three through 21.

2. Programs and services may be provided by a district board of education at their option to pupils below the age of three and above the age of 21.

3. Each district board of education shall provide information regarding services available through other State, county and local agencies to parents of disabled children below the age of three.

(d) Each district board of education is responsible for providing a system of free, appropriate special education and/or related services to its elementary and secondary school pupils which shall:

1. Be provided a public expense, under public supervision and with no charge to the parent(s);
2. Be administered, supervised and provided by appropriately certified professional staff members;
3. Be located in approved facilities that are accessible to the disabled; and
4. Meet all requirements of this chapter.

(e) Each district board of education is responsible for providing a system of free, appropriate special education and related services to its preschool handicapped pupils which shall:

1. Be provided at public expense, under public supervision and with no charge to the parent(s);
2. Be administered, supervised and provided by appropriately certified professional staff members;
3. Be located in approved facilities that are accessible to the disabled or in early intervention programs approved according to N.J.A.C. 6:28-10.1; and
4. Meet all requirements of this chapter.

(f) Each district board of education, independently or through joint agreements, shall employ child study teams, 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.

(g) When a district board of education provides its educational programs through another New Jersey public school district, responsibility for the requirements of this chapter shall be according to the following:

1. In a sending-receiving relationship, when all the pupils of one or more grades of a district board of education attend school(s) operated by other district boards of education, the receiving district board of education shall be responsible for determining the eligibility of those pupils and developing and implementing their individualized education programs.

2. When individual pupils are placed in a school operated by another district board of education, a contractual agreement shall be made between district boards of education which specifies responsibility for providing instruction, related services and child study team services to pupils with educational disabilities.

(h) Each district board of education shall ensure that special classes, separate schooling or other removal of pupils with educational disabilities from the regular educational environment occurs only when the nature or severity of the educational disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(i) With the exception of pupils placed in nonpublic schools according to N.J.A.C. 6:28-6.5, all pupils with educational disabilities shall be placed in facilities or programs which have been approved by the Department of Education according to N.J.S.A. 18A:46-14 and 15.

(j) Each district board of education shall ensure that placement of pupils with educational disabilities is based on their individualized education programs.

(k) Each district board of education shall ensure that the hearing aids worn by deaf and/or hard of hearing children in school are functioning properly.

(l) All special education programs and services provided under this chapter shall be subject to review and approval by the Department of Education.

(m) All public and private agencies which provide educational programs and services to pupils with educational disabilities shall maintain documentation demonstrating compliance with this chapter.

(n) Each district board of education shall provide mandated pupil records according to N.J.A.C. 6:3-6 to programs operated by the Departments of Human Services or Corrections when a pupil is placed in a State facility. The parent or adult pupil shall receive notice of release of these records to the facility. Permitted records according to N.J.A.C. 6:3-6 may be released only with consent.

Amended by R.1989 d.239, effective May 15, 1989.

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

Language added referencing Federal standards; at new (e) rule regarding provision of preschool education added and new subsections added, (i), (j), (k) and (n); recodification.

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

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

In (g)1, changed "at least one grade" to "one or more grades". In (i), added reference excepting pupils placed in nonpublic schools.

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

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

Amended to clarify that children attaining age three may receive their special education program in facilities that are approved by the State or in early intervention programs which are under contract with the Department of Education.

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".

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).

#### Law Review and Journal Commentaries

Substantive and Procedural Aspects of Special Education Litigation. Nathanya G. Simon, David L. Rosenberg, 154 N.J.Law. 31 (Mag.) (July 1993).

Tenure-Education-Educational Services Commissions. Judith Nalin, 137 N.J.L.J. No. 8, 57 (1994).

#### Case Notes

Appropriateness of individualized education program focuses on program offered and not on program that could have been provided. *Lascari v. Board of Educ. of Ramapo Indian Hills Regional High School Dist.*, 116 N.J. 30, 560 A.2d 1180 (1989).

Individualized program was not appropriate where goals could be objectively evaluated. *Lascari v. Board of Educ. of Ramapo Indian Hills Regional High School Dist.*, 116 N.J. 30, 560 A.2d 1180 (1989).

Standard in evaluating individualized education program is whether program allows child "to best achieve success in learning." *Lascari v. Board of Educ. of Ramapo Indian Hills Regional High School Dist.*, 116 N.J. 30, 560 A.2d 1180 (1989).

Discussion of former regulatory scheme for education of handicapped children. *Henderson v. Morristown Memorial Hospital*, 198 N.J.Super. 418, 487 A.2d 742 (App.Div.1985), certification denied 101 N.J. 250, 501 A.2d 922 (1985).

Contracting for speech correctionist services; tenured position abolished. *Impey v. Board of Education of Borough of Shrewsbury*, 92 N.J.A.R.2d (EDU) 197.

#### 6:28-1.2 Plans for special education

(a) Each district board of education, jointure commission, county special services school district, educational services commission, approved private school and State-operated program for the educationally disabled shall develop a written plan for special education. The plan shall conform with the State plan for the educationally disabled. Plans for special education shall be submitted for approval to the Department of Education through its county offices as set forth in this section.

(b) The development of the plan for special education shall provide reasonable opportunities for the participation of professional staff, parents, community members, disabled

individuals and groups representing the disabled population. Parts one and three of the written plan shall be presented at a public meeting prior to approval by the district board of education or governing board. Copies of the plan shall be made available upon request.

(c) If there are any changes to parts one or three of the plan they shall be prepared in accordance with the requirements of this section.

(d) Part one of the plan shall be submitted for a period not to exceed three years and shall include:

1. A description of the needs assessment procedures used to determine special education and related services program needs;
2. A list of the identified needs;
3. The goals and objectives selected to address the identified needs;
4. The activities planned to attain those goals and objectives; and
5. The procedures to be used to evaluate the operation and effectiveness of these activities.

(e) Part two of the plan shall be submitted annually and shall include:

1. A report of the numbers of pupils with educational disabilities according to their classification, age, racial-ethnic background, sex, placement and related services;
2. A report of the staff employed to identify, evaluate, determine eligibility, develop individualized education programs, provide related services and/or instruction to pupils with educational disabilities and the full-time equivalence of their assignments;
3. Any additional reports as required by the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and
4. Assurances that the district board of education:
  - i. Complies with N.J.A.C. 6:28;
  - ii. Develops and adopts written policies and procedures according to N.J.A.C. 6:28-1.4;
  - iii. Implements the plan;
  - iv. Prepares the plan according to the requirements of this subchapter; and
  - v. Implements effective procedures for acquiring and disseminating to teachers and administrators participating in each program, significant information from educational research, demonstrations, and similar projects and adopting, when appropriate, sound educational practices developed through these projects.

(f) Part three of the plan, a district-wide comprehensive system of personnel development, shall be submitted every three years with the exception of (f)1 below which shall be submitted annually and shall include:

1. A description of the personnel development completed during the previous year;
2. A description of the procedures used to determine personnel development needs, as well as the results of the procedures;
3. A description of the activities established to meet the identified needs; and
4. A description of the methods and procedures used to evaluate the operation and effectiveness of the personnel development activities.

(g) Upon request, additional reports shall be submitted to the Department of Education including, but not limited to, high school graduation requirements, and the numbers of pupils with educational disabilities exiting education, identified as potentially educationally disabled, classified, evaluated and receiving home instruction.

Amended by R.1989 d.239, effective May 15, 1989.

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

Added description of the process of submission of plan in three parts, changes in content requirements and new time frames.

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".

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

Free appropriate education. *Levine v. State Dept. of Institutions and Agencies*, 84 N.J. 234, 418 A.2d 229 (1980).

Department of Education had to approve change in special education plan reducing full-time learning disability teacher-consultant position to part-time. *Primka v. Jamesburg Borough Board of Education*, 93 N.J.A.R.2d (EDU) 91.

#### 6:28-1.3 Definitions

Words and terms, unless otherwise stated in these definitions, when used in this chapter, shall be defined in the same manner as those words and terms used in the Individuals with Disabilities Education Act.

"Adaptive behavior" means the ability to demonstrate personal independence and social responsibility according to age and sociocultural group expectations.

"Adult pupil" means an emancipated minor or a person age 18 through 21, who is or was enrolled in the public school and who is not under legal guardianship.

i. Evaluation, determination of eligibility for special education and/or related services, classification and the development of an individualized education program;

ii. Supplementary instruction, speech correction and home instruction for pupils determined eligible for such services; and

iii. English as a second language according to N.J.A.C. 6:31-1.4 and compensatory education according to N.J.A.C. 6:8-1 for pupils eligible for such services.

3. Medical clinics and agencies approved by the New Jersey Department of Health or appropriate State agencies outside of New Jersey may conduct diagnostic medical services. These agencies do not have to obtain Department of Education approval nor do district boards of education have to receive prior approval of the Department of Education to purchase diagnostic medical services.

(d) District boards of education may purchase services listed under (c)1 and 2 above from approved clinics and agencies with the prior written approval of the Department of Education through its county office according to the following:

1. A request for approval to purchase services shall include the proposed terms of the contract;

2. The district board of education shall be notified of approval or disapproval within 30 calendar days of the request; and

3. The approval shall be for one year.

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

Clarified "only" clinics and agencies approved by the Department can provide contracted services and added reference to "independent child study team evaluations . . ."

Amended by R.1990 d.450, effective September 4, 1990.  
See: 22 N.J.R. 1412(a), 22 N.J.R. 2683(b).

Amended to clarify that not only clinics and agencies may provide contracted services to districts.

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

Added home instruction to contracted services.

#### Case Notes

The Essex County educational services commission acted beyond the scope of its authority when it contracted with a private, profit-making corporation for the provision of auxiliary, diagnostic and therapeutic services to non-public school pupils, without seeking the review and approval of the State Board or the Commissioner. Atty.Gen.F.O.1981, No. 1.

#### 6:28-5.2 Approval procedures

(a) Annual approval of clinics and agencies shall require, but not be limited to, submission and evaluation of the following:

1. A valid certificate of incorporation or certificate of formation. Where appropriate, any licenses or permits

required by ordinances in effect within the state, county or municipality where the clinic or agency provides its services shall be provided;

2. A description of the scope and nature of services to be offered;

3. A list of professional staff who will provide services which indicates each individual's certification or license and the function he or she will fulfill;

i. All staff shall be appropriately certified or licensed;

ii. All educational certificates shall be recorded with the Department of Education through the county office in which the clinic or agency is located;

iii. Professional staff employed by a clinic or agency who work full time according to N.J.A.C. 6:3-1.13 for a district board of education shall not provide service for the clinic or agency during the hours of that individual's public school employment; and

iv. An employee of a district board of education shall not provide service as an employee of a clinic or agency to a pupil who is the responsibility of his or her employing district board of education;

4. A description of the facility or facilities in which services shall be provided including assurances that the facility meets applicable building and administrative code standards;

5. Fiscal information concerning the cost and method of payment for services;

6. Assurance of an adequate accounting system according to generally accepted accounting principles;

7. Assurance of a system for the collection, maintenance, confidentiality and access of pupil records which is according to N.J.A.C. 6:3-2; and

8. Assurance of the maintenance of a log, which includes but shall not be limited to, a list of services provided indicating the date, time, location and professional staff providing the service.

(b) Any clinic or agency denied approval by the Department of Education may appeal the annual approval decision to the Commissioner of Education for a hearing according to N.J.A.C. 6:24. Such hearing shall be governed by the provisions of the Administrative Procedure Act (see N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., as implemented by N.J.A.C. 1:1).

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

Reference added making approval on annual procedure.

Amended by R.1990 d.450, effective September 4, 1990.  
See: 22 N.J.R. 1412(a), 22 N.J.R. 2683(b).

Amended to improve the monitoring of clinics and agencies.

## SUBCHAPTER 6. SERVICES IN NONPUBLIC SCHOOLS

### 6:28-6.1 General requirements for programs and services provided under N.J.S.A. 18A:46A-1 et seq. and 18A:46-19.1 et seq.

(a) The district of residence, as required by Federal law and regulation, shall maintain responsibility for providing a free, appropriate public education for pupils enrolled in nonpublic schools.

(b) The district board of education in which the nonpublic school is located shall provide to nonpublic school pupils the programs and services required by this subchapter by itself, or through joint agreements with other district boards of education or through contracts with educational services commissions or with clinics and agencies approved under N.J.A.C. 6:28-5.

(c) Specifications for contracts to provide programs and services covered by this subchapter shall be approved by the county superintendent of schools.

Amended by R.1985 d.209, effective May 6, 1985.

See: 17 N.J.R. 345(a), 17 N.J.R. 1077(a).

(a) added text: "located within the district."

Amended by R.1989 d.239, effective May 15, 1989.

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

Reference to Statutory requirements and Federal law and regulation.

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

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

(a) deleted; amended to clarify the rule applies only to nonpublic school pupils placed under P.L. 1977, c.192 and c.193.

#### Case Notes

Tuition and transportation costs for out-of-district placement were reimbursable. *J.B. v. Hamilton Township*, 95 N.J.A.R.2d (EDS) 64.

Board liable for tuition and costs related to handicapped student's placement in private school. *J.E. v. Montgomery Township Board of Education*, 94 N.J.A.R.2d (EDS) 191.

Parents entitled to reimbursement for educationally disabled student's placement at private school. *M.P. v. Summit Board of Education*, 94 N.J.A.R.2d (EDS) 156.

Inappropriate behaviors, indicating regression in present school environment, justified out-of-area residential placement. *T.M. v. Pleasantville*. 93 N.J.A.R.2d (EDS) 172.

Costs for disabled child's out-of-state placement were shared by school districts in which divorced parents with joint custody were domiciled. *J.K. v. West Milford and Roxbury*, 93 N.J.A.R.2d (EDS) 145.

Costs of private schooling for handicapped child whose communication difficulty was mild were not reimbursable. *A.M. v. Board of Education*, 93 N.J.A.R.2d (EDS) 133.

Full cost, rather than costs on a pro-rata basis, was amount parents were to be reimbursed for private school tuition. *M.Y., a Minor Child v. Fair Lawn*, 93 N.J.A.R.2d (EDS) 91.

Education requirements of special school must be complied with when parents seek placement of emotionally disturbed son. *J.T., a Minor Child v. Barnegat Township*, 93 N.J.A.R.2d (EDS) 89.

In-district placement of 15-year-old neurologically impaired student was appropriate; no reimbursement for unilateral placement out-of-district. *T.G. v. Middletown Township Board of Education*, 93 N.J.A.R.2d (EDS) 66.

Blind, multiply handicapped child with behavioral problems was shown to need 12-month residential placement. *L.P. v. Edison Board of Education*, 92 N.J.A.R.2d (EDS) 259.

Perceptually impaired student not provided with appropriate education; private school tuition reimbursement. *J.H. v. Bernardsville Board of Education*, 92 N.J.A.R.2d (EDS) 147.

Unilateral decision to place the child in a private school; no tuition reimbursement. *C.R. v. Delaware Valley Regional School District*, 92 N.J.A.R.2d (EDS) 31.

Parents not entitled to reimbursement for cost of sending fifth-grade student to private school. *M.R. v. Montville Board of Education*, 92 N.J.A.R.2d (EDS) 20.

Private schools required approval by Bureau of Special Education and Pupil Personnel under former N.J.A.C. 6:28-4.2. *A.N. v. Clark Bd. of Ed.*, 5 N.J.A.R. 152 (1983).

The Essex County educational services commission acted beyond the scope of its authority when it contracted with a private, profit-making corporation. *Atty.Gen.F.O.1981, No. 1*.

### 6:28-6.2 Provision of programs and services provided under N.J.S.A. 18A:46-1 et seq. and 18A:46-19.1 et seq.

(a) Identification, evaluation, determination of eligibility, development of individualized education programs and provision of speech and language services, home instruction and supplementary instruction shall be provided according to this chapter.

(b) English as a second language shall be provided according to N.J.A.C. 6:8-1.

(c) Compensatory education shall be provided according to N.J.A.C. 6:8-1.

(d) All programs and services required by this subchapter shall be provided only with parental consent.

(e) All procedural safeguards specified in N.J.A.C. 6:28-2 apply to nonpublic school pupils eligible for the services listed in (a) above.

(f) Personnel providing a program or service under this subchapter shall meet appropriate certification requirements. Personnel shall not be employed by the nonpublic school in which the pupil is enrolled with the exception of personnel providing the types of instruction listed in N.J.A.C. 6:28-5.1(c)2ii and iii.

(g) Programs and services for nonpublic school pupils shall be provided in facilities approved by the Department of Education through its county superintendent of schools according to N.J.S.A. 18A:46-5 and 18A:46-19.5.

(h) Public and nonpublic school pupils may be grouped for speech correction and the other instructional programs provided under this subchapter, when appropriate.