

2. To amend the location of its facilities, an approved private school for students with disabilities shall submit a copy of the valid health, fire, HVAC inspections, occupancy and, if applicable sewerage plant.

3. In accordance with N.J.A.C. 6A:23-4.3(a)1, if an approved private school for students with disabilities seeks to expand the school and its program by opening an additional location, the school must submit an application for approval as a new private school for students with disabilities in accordance with this subchapter and receive such approval prior to operating an approved private school in the new location.

(b) When a professional staff member leaves or a new professional staff member is hired by an approved private school for students with disabilities, the approved private school shall provide written notification to the Department of Education through the county office within seven calendar days of the change.

Amended by R.2006 d.315, effective September 5, 2006.
See: 38 N.J.R. 2253(a), 38 N.J.R. 3530(b).

In (a)1iii, inserted “, that a criminal history review pursuant to N.J.S.A. 18A:6-7.1 has been completed for the individual”; in (a)2, substituted “students with disabilities” for “the disabled” and “HVAC” for “boiler”; added (a)3; in (b), substituted “students with disabilities” for “the disabled”.

6A:14-7.4 Annual procedures for private schools for students with disabilities

(a) Annually, each approved private school for students with disabilities shall submit fiscal information according to N.J.A.C. 6A:23 to the Office of Finance.

(b) Annually, each approved private school for students with disabilities shall obtain valid certificates of fire inspection and if applicable, health, HVAC inspections, and, if applicable, sewerage plant. Such certificates shall be maintained and shall be available upon request for review by the Department of Education through the county office of education.

Amended by R.2003 d.387, effective October 6, 2003.

See: 35 N.J.R. 1991(a), 35 N.J.R. 4714(c).

In (a), amended NJAC reference.

Amended by R.2006 d.315, effective September 5, 2006.

See: 38 N.J.R. 2253(a), 38 N.J.R. 3530(b).

Section was "Annual procedures for private schools for the disabled". Substituted "students with disabilities" for "the disabled" throughout; in (b), substituted "HVAC inspections," for "boiler inspections, occupancy".

Case Notes

Action to require local school board to pay residential costs and tuition retroactively, for out-of-state placement in a private residential school for neurologically impaired child, denied. *M.B. Through His Parents, R.B. and J.B. v. Bernards Twp. Bd. of Educ.*, 9 N.J.A.R. 179 (1985).

School board's failure to follow proper placement procedures deprived parents of free choice in making decision for non-public cost placement under former N.J.A.C. 6:28-4.8. *A.N. v. Clark Bd. of Ed.*, 5 N.J.A.R. 152 (1983).

6A:14-7.5 Responsibilities of district boards of education

(a) The educational program of a student with a disability provided through contractual agreements as described in N.J.A.C. 6A:14-7.1(a) shall be considered the educational program of the district board of education. The district board of education shall be responsible for the development and annual review of the IEP and the reevaluation of the student. At least annually, the district board of education shall monitor the implementation of the IEP.

1. For students with disabilities placed in programs described in N.J.A.C. 6A:14-7.1(a), representative(s) of the program and the district board of education shall participate in meeting(s) according to N.J.A.C. 6A:14-2.3(k)2.

(b) When a student with a disability is placed in a receiving school as described in N.J.A.C. 6A:14-7.1(a), the district board of education shall provide written notification to the Department of Education through the county office within 10 calendar days of the placement. Such notification shall include a copy of the student's IEP.

1. A district board of education shall place a student with a disability in a receiving school only when it can assure that the student's IEP can be implemented in that setting.

i. The IEP of a student placed in a receiving school shall only be amended by the IEP team of the district board of education.

2. Prior to placement in the receiving school, a representative of the district board of education and, if possible, the parent shall visit the school.

3. When a district board of education places a student with a disability in an approved residential private school in order to provide the student a free, appropriate public education, such placement shall be at no cost to the parent. The district board of education shall be responsible for special education costs, room and board.

4. Placement of a student with a disability in an approved residential private school by a public agency, other than the district board of education, shall be subject to the rules governing such agencies and to this chapter. The district board of education shall pay the nonresidential special education and related services costs. When the student has been placed by a public agency empowered to make such placement, the district board of education shall convene a meeting according to N.J.A.C. 6A:14-2.3(k) to revise the IEP as necessary to provide the student special education and related services.

(c) If the approval of a private school for students with disabilities is removed, a district board of education having a student with a disability placed therein shall immediately begin seeking an alternative, appropriate placement for that student.

Amended by R.2000 d.230, effective June 5, 2000.

See: 32 N.J.R. 755(a), 32 N.J.R. 2052(a).

In (c), deleted a reference to each school year.

Amended by R.2006 d.315, effective September 5, 2006.

See: 38 N.J.R. 2253(a), 38 N.J.R. 3530(b).

In (a)1, updated the last N.J.A.C. reference; rewrote (b)1; in (b)4, updated the N.J.A.C. reference, inserted "and related services" and added "to provide the student special education and related services" at the end; deleted former (c) and recodified former (d) as new (c), substituting "students with disabilities" for "the disabled".

Case Notes

Jurisdiction to conduct "due process" hearing to determine financial responsibility for special education costs of blind, retarded child, was in Department of Education. *L.P. v. Edison Bd. of Educ.*, 265 N.J.Super. 266, 626 A.2d 473 (L.1993).

Disputes regarding proper residential placement of developmentally disabled citizens should be processed as "tested cases" under Administrative Procedure Act (APA). Superior Court, Law Division did not have jurisdiction. *L.P. v. Edison Bd. of Educ.*, 265 N.J.Super. 266, 626 A.2d 473 (L.1993).

State's unauthorized placement of child in private school may result in waiver of entitlement to reimbursement by school board. *Board of Education of Borough of Prospect Park v. New Jersey Department of Education, et al.*, 97 N.J.A.R.2d (EDU) 134.

Parents failed to show that out-of-state placement would be less restrictive than current successful placement within district. *P.B. v. Caldwell-West Caldwell Board of Education*, 97 N.J.A.R.2d (EDS) 17.

Record supported contested classification and academic plan. South Brunswick Board of Education v. J.R., 97 N.J.A.R.2d (EDS) 1.

Request for summer camp placement for disabled student was denied where regression was unlikely and camp was primarily recreational. C.W. v. Washington Township Board of Education, 96 N.J.A.R.2d (EDS) 279.

Residential costs of impaired student in private placement pursuant to civil commitment were not responsibility of school board. M.M. v. Kinnelon Board, 95 N.J.A.R.2d (EDS) 120.

Proof; necessity that school district provide compensatory educational services for handicapped student beyond high-school level. J.G. v. Freehold Regional School District, 94 N.J.A.R.2d (EDS) 178.

6A:14-7.6 Provision of programs

(a) An educational program provided under this subchapter shall conform to the requirements of N.J.A.C. 6A:14-2.8, the applicable provisions of N.J.A.C. 6A:14-4, and to the student's IEP.

(b) When the parent or district board of education requests mediation or due process, the student with a disability shall remain in the current placement, according to N.J.A.C. 6A:14-2.6(d)10 or 2.7(u), as applicable.

(c) All personnel serving students with disabilities shall be highly qualified and appropriately certified and licensed, where a license is required, in accordance with State and Federal law.

(d) Each school shall have on staff a full-time non-teaching principal who shall be responsible for administration and supervision of the school.

1. In lieu of assigning a full-time non-teaching principal to a school, a plan to ensure adequate supervision of students and staff may be submitted to the county superintendent of schools for approval;

2. If the county superintendent of schools approves the plan, the school shall operate in accordance with the plan in lieu of having a full-time non-teaching principal on staff.

(e) Students with disabilities who are placed in receiving schools may be suspended for up to 10 consecutive or cumulative school days in a school year by the receiving school. Such suspensions are subject to the same procedures as nondisabled students as set forth at N.J.A.C. 6A:14-2.8. However, at the time of suspension, the principal of the receiving school shall forward written notification and a description of the reasons for such action to the district board of education's case manager.

(f) A receiving school shall not unilaterally implement disciplinary action involving removal to an interim alternative educational setting, suspension of more than 10 consecutive or cumulative school days in a school year or termination of placement. Such disciplinary action shall be implemented in conjunction with the sending district board of education according to N.J.A.C. 6A:14-2.8.

(g) Educational programs shall be open to observation at all times to the representatives of the sending district board of education and of the Department of Education.

(h) With prior written approval of the Department of Education, a school described in N.J.A.C. 6A:14-7.1(a) may operate an extended academic year program.

(i) A school day shall consist of not less than four hours of actual school work, which does not include nonacademic time such as lunch and recess periods, except that a special class program for preschoolers with disabilities operated in accordance with N.J.A.C. 6A:14-4.1 may be considered a full day program.

(j) A provider of programs under this subchapter shall notify the Department of Education a minimum of 90 calendar days prior to ceasing operation or a change in ownership.

Amended by R.2000, d.230, effective June 5, 2000.

See: 32 N.J.R. 755(a), 32 N.J.R. 2052(a).

In (d), inserted "consecutive or cumulative" preceding "school days"; and amended the N.J.A.C. reference in the last sentence.

Amended by R.2006 d.315, effective September 5, 2006.

See: 38 N.J.R. 2253(a), 38 N.J.R. 3530(b).

Rewrote the section.

6A:14-7.7 Termination or withdrawal from a receiving school

(a) When a receiving school is considering the termination of a student's placement prior to the end of the student's academic year, the receiving school shall immediately contact the district board of education. The district board of education shall convene an IEP meeting according to N.J.A.C. 6A:14-2.3(k). Such meeting shall occur within 10 school days of the date of the notification and shall include the participation of appropriate personnel from the receiving school, including a minimum of one person who participated in making the recommendation to terminate the placement.

1. At the IEP meeting, the IEP team shall review the current IEP and determine the student's new placement. Written notice of any changes to the IEP and the new placement shall be provided within 10 days of the date of the IEP meeting. The student may be terminated from the current placement after the district board of education has provided written notice to the parents according to N.J.A.C. 6A:14-2.3. Such termination shall be in accordance with the provisions of the contract between the receiving school and the district board of education.

(b) When the district board of education is considering the withdrawal of a student with a disability from a receiving school prior to the end of the student's academic year, the district board of education shall convene an IEP meeting according to N.J.A.C. 6A:14-2.3(k). Such meeting shall include appropriate personnel from the receiving school. At the IEP meeting, the IEP team shall review the current IEP and determine the student's new placement. Written notice of any changes to the IEP and the new placement shall be