

SUBCHAPTER 2. PROCEDURAL SAFEGUARDS

6A:14-2.1 General requirements

(a) Prior to receiving a high school diploma, a student with a disability age 16 through 21 who voluntarily leaves a public school program may reenroll at any time up to and including the school year of his or her 21st birthday.

(b) Upon request by a parent, each district board of education shall provide copies of special education statutes (N.J.S.A. 18A:46-1 et seq.), special education rules (N.J.A.C. 6A:14), student records rules (N.J.A.C. 6:3-6), and/or low cost legal or other services relevant to a due process hearing and due process rules (N.J.A.C. 1:6A).

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(c) If the mediation according to N.J.A.C. 6A:14-2.6 or due process hearing according to N.J.A.C. 6A:14-2.7 involves initial admission to the public school, the child shall be placed in an interim public school program agreed to by the parent and the district board of education pending the outcome of the mediation or due process hearing.

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

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

In (b), deleted reference to adult student.

Case Notes

Successful challenge to local board's decision to remove multiply handicapped child from residential school into home and local school programs; determination of appropriate placement. *Geis v. Bd. of Ed., Parsippany-Troy Hills, Morris Cty.*, 589 F.Supp. 269 (D.N.J.1984), affirmed 774 F.2d 575 (3rd Cir.1985).

Three-year old special education student did not require extended services. *J.L. v. Board of Education of Englewood*, 97 N.J.A.R.2d (EDS) 2.

Handicapped student received entirely inappropriate and inadequate education and was entitled to placement in out-of-state residential program. *L.P. v. Hamilton Board of Education*, 96 N.J.A.R.2d (EDS) 360.

Emergency relief request regarding classified student's suspension was rendered moot by student's withdrawal from school. *Brick Township Board of Education v. M.F.*, 96 N.J.A.R.2d (EDS) 127.

Student with multiple disabilities required extra year of special education due to chronic absenteeism. *G.K. v. Roselle Borough*, 95 N.J.A.R.2d (EDS) 86.

Impaired student's research paper was acceptable for grading as long as marking periods in subject were passed. *T.D. v. Rutherford Board*, 95 N.J.A.R.2d (EDS) 47.

Parents not entitled to emergent relief; no evidence offered to show that student was socially maladjusted. *N.P. v. Freehold Regional High School*, 94 N.J.A.R.2d (EDS) 218.

Handicapped child with increasing level of seizure activity; extended-year residential care. *J.S. v. West Windsor-Plainsboro Regional Board of Education*, 94 N.J.A.R.2d (EDS) 152.

Emergency placement for neurologically impaired child was not available absent evidence of irreparable harm. *M.B. v. Manville*, 93 N.J.A.R.2d (EDS) 233.

Student, classified as perceptually impaired, who filed an application for emergency relief return to his previously established course of study was returned to mainstream placement with resource room assistance pending outcome of the dispute over his proper classification and placement. *Milt v. East Windsor Regional School District*, 9 N.J.A.R. 159 (1986).

State Department of Human Services not a necessary party to special education placement determination; joinder of party denied due to lack of authority; consolidation denied as unqualified. *A.N. v. Clark Bd. of Ed.*, 6 N.J.A.R. 360 (1983).

Standing of foster parents (citing former regulations). *Orr v. Bd. of Ed., Caldwell-West Caldwell, Essex Cty.*, 1976 S.L.D. 264.

6A:14-2.2 Surrogate parents and foster parents

(a) Each district board of education or responsible State agency shall ensure that the rights of a student are protected through the provision of an individual to act as surrogate for the parent and assume all parental rights under this chapter when either:

1. The parent as defined according to N.J.A.C. 6A:14-1.3 cannot be identified;
2. The parent cannot be located after reasonable efforts; or
3. An agency of the State of New Jersey has guardianship of the student.

(b) Each district board of education or responsible State agency shall establish a method for selecting and training surrogate parents.

(c) The person serving as a surrogate parent shall have:

1. No interest that conflicts with those of the student he or she represents; and
2. Knowledge and skills that ensure adequate representation of the student.

(d) The person(s) serving as a surrogate parent may not be an employee of the Department of Education, the district board of education or a public or nonpublic agency that is involved in the education or care of the child. A surrogate parent may be paid solely to act in that capacity.

(e) When a student (who is or may be a student with a disability) is in the care of a foster parent, the district board of education where the foster parent resides shall contact the student's case manager at the Division of Youth and Family Services (DYFS) in the Department of Human Services to:

1. Determine whether the parent retains the right to make educational decisions; and
2. Determine the whereabouts of the parent.

(f) If the parent retains the right to make educational decisions and the parent's whereabouts are known to the district board of education, the school shall obtain all required consent from and provide written notices to the parent.

(g) If the district board of education cannot ascertain the whereabouts of the parent, the district board of education shall consult with the student's case manager at DYFS to assist in identifying an individual, including the foster parent, who may serve as a surrogate. The district board of education shall appoint a surrogate parent and obtain all required consent from and provide written notices to the surrogate parent.

(h) If the rights of the parent have been terminated, the district board of education shall consult with the student's case manager at DYFS to determine whether the foster parent meets the criteria established at N.J.A.C. 6A:14-1.3 in the definition of "parent" and can act on behalf of the student. If so, the district board of education shall obtain all required consent from and provide written notices to the foster parent.

1. If it is determined that the foster parent cannot serve as the parent on behalf of the student, the district board of education in consultation with DYFS shall appoint a surrogate parent and obtain all required consent from and provide written notices to the surrogate parent.

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

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

Rewrote the section.

Amended by R.2001 d.397, effective November 5, 2001.

See: 33 N.J.R. 2375(a), 33 N.J.R. 3735(b).

In (d), inserted "a" preceding "public", "or nonpublic" preceding "agency", and substituted "that is involved in the education or care of the child" for "providing services to the student".

Case Notes

Successful challenge to local board's decision to remove multiply handicapped child from residential school into home and local school programs. *Geis v. Bd. of Ed., Parsippany-Troy Hills, Morris Cty.*, 589 F.Supp. 269 (D.N.J.1984), affirmed 774 F.2d 575 (3rd Cir.1985).

Individuals with Disabilities Act (IDEA) imposed no federal requirement of statewide uniformity of methods for the selection and training of surrogate parents, and state special education regulations which provided for establishment of selection and training systems by each district board of education or responsible state agency were not arbitrary, capricious or unreasonable. *Baer v. Klagholz*, 771 A.2d 603 (2001).

State special education regulations defining eligibility for appointment as a surrogate parent which did not prohibit appointment of an employee of a nonpublic agency involved in the education or care of the child as that child's surrogate parent improperly failed to conform to federal conflict-of-interest standard. *Baer v. Klagholz*, 771 A.2d 603 (2001).

Regulation valid. In re: Repeal of N.J.A.C. 6:28, 204 N.J.Super. 158, 497 A.2d 1272 (App.Div.1985).

6A:14-2.3 Parental consent, notice, participation and meetings

(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 (i)7 below, to obtain such consent and the parent failed to respond; and

4. Prior to the release of student records according to N.J.A.C. 6:3-6.

(b) If a parent refuses to provide consent and the district and the parent have not agreed to other action, the district shall request a due process hearing according to N.J.A.C. 6A:14-2.7(b) to obtain consent.

(c) Upon receipt of consent, the district board of education shall implement without delay the action for which consent was granted.

(d) Written notice which meets the requirements of this section shall be provided to the parent when a district board of education:

1. Proposes to initiate or change the identification, classification, evaluation, educational placement of the student or the provision of a free, appropriate public education to the student; or

2. Declines to initiate or change the identification, classification, evaluation, educational placement of the student or the provision of a free, appropriate public education to the student.

(e) Written notice shall be in language understandable to the general public, and shall be provided in the native language of the parent, unless it is clearly not feasible to do so according to N.J.A.C. 6A:14-2.4. Written notice shall include:

1. A description of the action proposed or denied by the district board of education;

2. An explanation of why it is taking such action;

3. A description of any options the district board of education considered and the reasons why those options were rejected;

4. A description of the procedures, tests, records or reports and factors used by the district board of education in determining whether to propose or deny an action;

5. A description of any other factors that are relevant to the proposal or refusal by the district board of education;

6. A statement that the parents of a student with a disability have protection under the procedural safeguards of this chapter, the means by which a copy of a description of the procedural safeguards can be obtained and sources for parents to contact to obtain assistance in understanding the provisions of this chapter; and

7. In addition, a copy of the procedural safeguards statement published by the New Jersey Department of Education which contains a full explanation of the procedural safeguards available to parents shall be provided:

i. Upon referral for an initial evaluation;

ii. Upon each notification of an IEP meeting;

iii. Upon reevaluation; and

iv. When a request for a due process hearing is submitted to the Department of Education.

(f) Written notice according to (e) above shall be provided to the parent as follows:

1. The district board of education shall provide written notice no later than 15 calendar days after making a determination;

2. The district of board of education shall provide written notice at least 15 calendar days prior to the implementation of a proposed action so that the parent may consider the proposal. The proposed action may be implemented sooner, if the parent agrees in writing;

3. The district board of education shall implement the proposed action after the opportunity for consideration in (f)2 above has expired unless:

i. The parent disagrees with the proposed action and the district takes action in an attempt to resolve the disagreement; or

ii. The parent requests mediation or a due process hearing according to N.J.A.C. 6A:14-2.6 or 2.7. A request for mediation or a due process hearing prior to the expiration of the 15th calendar day in (f)2 above shall delay the implementation of the proposed action according to N.J.A.C. 6A:14-2.6(d)9 or 2.7(j).

4. The district of residence may provide written notice less than 15 calendar days prior to the implementation of a disciplinary action according to N.J.A.C. 6A:14-2.8(b) when the IEP team determines that disciplinary action requires immediate implementation. Such written notice shall be provided according to the following:

i. The notice shall specify when the disciplinary action will be implemented and shall meet all other requirements according to (e) above. Documentation of the notice shall be maintained and shall include the reason(s) that notice for less than 15 calendar days was warranted.

ii. During the pendency of mediation or due process related to the disciplinary action the student shall be returned to the last agreed upon placement, unless the parent and district agree otherwise, the district requests emergency relief or if the student has been placed in an interim alternative educational setting according to 20 U.S.C. § 1415(k)(1)(A)(ii) or § 1415(k)(2), the student shall remain in the interim alternative educational setting according to 20 U.S.C. § 1415(k)(7).

5. Upon receipt of any written parental request to initiate or change the referral, identification, classification, evaluation, educational placement or the provision of a free, appropriate public education, a response that meets the requirements of written notice in (e) above shall be provided to the parent within 20 calendar days, excluding school holidays but not summer vacation.

i. When a meeting is required to make the determination and respond to the parental request, the meeting shall be conducted and a determination made within 20 calendar days, excluding school holidays but not summer vacation. Written notice of the determination shall be provided within 15 calendar days of the meeting.

(g) When a determination is made to conduct or not to conduct an initial evaluation, in addition to the notice required in (e) above, the parent shall be provided with copies of the special education rules (N.J.A.C. 6A:14), and due process hearing rules (N.J.A.C. 1:6A).

(h) A district board of education shall take steps to ensure that the parent is given the opportunity to participate in meetings regarding the identification, evaluation, classification, educational placement of, or the provision of a free, appropriate public education to the student.

(i) Meetings to determine eligibility and develop an IEP may be combined as long as the requirements for notice of a meeting according to (e)7ii above and (i)3 through 5 below are met.

1. Any eligibility meeting for students classified according to N.J.A.C. 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 disabled, or the school principal or designee if they choose to participate.

2. Meetings of the IEP team shall include the following participants:

i. The parent;

ii. At least one regular education teacher of the student, if the student is or may be participating in the regular education classroom;

(1) If the student has no regular education teacher, a regular education teacher who is knowledgeable about the district's programs shall participate;

(2) The regular 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 regular education teacher shall assist in the determination of appropriate positive behavioral interventions and strategies; and

(4) The regular 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. At least one special education teacher of the student or, where appropriate, at least 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; and

ix. 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.

3. Parents shall be given written notice of a meeting early enough to ensure that they will have an opportunity to attend.

4. Meetings shall be scheduled at a mutually agreed upon time and place.

5. Notice of meetings shall indicate the purpose, time, location and participants.

i. The notice of an IEP meeting shall inform the parents of the provisions in (i)2vii and (i)2vii(1) above relating to the participation of other individuals on the IEP team who have knowledge or special expertise.

ii. When a purpose of an IEP meeting for a student with a disability beginning at age 14, or younger, if appropriate, is a discussion of transition services needs, the notice of the IEP meeting shall indicate that:

(1) A purpose of the meeting will be the development of a statement of the transition services needs of the student; and

(2) The school district will invite the student;

iii. When a purpose of an IEP meeting for a student with a disability beginning at age 16, or younger, if appropriate, is a discussion of needed transition services, the notice of the IEP meeting shall:

(1) Indicate that a purpose of the meeting is the consideration of needed transition services for the student;

(2) Indicate that the school will invite the student; and

(3) Identify any other agency that will be invited to send a representative.

6. If the parent cannot attend the meeting(s), the chief school administrator or designee shall attempt to ensure parental participation. Parental participation may include the use of electronic conference equipment.

7. A meeting may be conducted without the parent in attendance if the district board of education can document that it is unable to secure the participation of the parent. The school shall maintain a record of its attempts to arrange the meeting, including, but not limited to:

i. Detailed records of telephone calls made or attempted and the results of those calls;

ii. Copies of correspondence sent to the parents and any responses received; and

iii. Detailed records of visits made to the parent's home or place of employment and the results of those visits.

8. Participants at the IEP meeting shall be allowed to use an audio-tape recorder during the meeting.

(j) The following activities shall not be considered a meeting that requires parental participation:

1. Informal or unscheduled conversations involving school district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the student's IEP; and

2. Preparatory activities that school district personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

(k) Except when a parent has obtained legal guardianship, all rights under this chapter shall transfer to the student upon attainment of the 18th birthday. The district board of education shall provide the adult student and the parent with written notice that the rights under this chapter have transferred to the adult student. The adult student shall be given a copy of the special education rules (N.J.A.C. 6A:14), the due process hearing rules (N.J.A.C. 1:6A) and the procedural safeguards statement published by the Department of Education.

1. An adult student shall be given notice and shall participate in meetings according to (a) through (i) above. The district board of education or the adult student may invite the parent to participate in meetings regarding the identification, evaluation, classification, or educational placement of, or the provision of a free, appropriate public education to, the adult student.

2. Consent to conduct an initial evaluation or reevaluation, for initial implementation of a special education program and related services, or for release of records of an adult student shall be obtained from the adult student.

3. The district board of education shall provide any notice required under this chapter to the adult student and the parent.

4. When there is a disagreement regarding the identification, evaluation, classification, or educational placement of, or the provision of a free, appropriate public education to, an adult student, the adult student may request mediation or a due process hearing.

(l) The New Jersey Department of Education shall disseminate the procedural safeguards statement to parent training and information centers, protection and advocacy centers, independent living centers, and other appropriate agencies.

Amended by R.1998 d.527, effective November 2, 1998.

See: 30 N.J.R. 2852(a), 30 N.J.R. 3941(a).

In (f)5, added “, excluding school holidays, but not summer vacation” at the end.

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

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

Rewrote the section.

Amended by R.2001 d.397, effective November 5, 2001.

See: 33 N.J.R. 2375(a), 33 N.J.R. 3735(b).

In (i)2, rewrote ii(1) and iii(1); added (l).

Case Notes

Recommended placement of handicapped child in its preschool handicapped program satisfied requirement for an “appropriate” education. *Fuhrmann on Behalf of Fuhrmann v. East Hanover Bd. of Educ.*, C.A.3 (N.J.)1993, 993 F.2d 1031, rehearing denied.

Recommended placement of handicapped child in new public school program did not violate the Individuals with Disabilities Education Act.

Fuhrmann on Behalf of Fuhrmann v. East Hanover Bd. of Educ., C.A.3 (N.J.)1993, 993 F.2d 1031, rehearing denied.

Parents of disabled students failed to sustain their burden of demonstrating that state special education regulations were arbitrary, capricious, or unreasonable, or were violative of Individuals with Disabilities Education Act (IDEA), federal regulations, or state special education laws. *Baer v. Klagholz*, 771 A.2d 603 (2001).

State special education regulation mandating provision of copy of procedural safeguards statement, including complaint procedures, to parents of special education students did not satisfy the federal regulatory requirements for dissemination of complaint procedures; federal regulations also required dissemination of statement at parent training and information centers, protection and advocacy centers, independent living centers, and other appropriate agencies. *Baer v. Klagholz*, 771 A.2d 603 (2001).

Federal due process requirements (citing former N.J.A.C. 6:28-1.9). *Levine v. State Dept. of Institutions and Agencies*, 84 N.J. 234, 418 A.2d 229 (1980).

Special education program approved for classified student despite lack of parental approval after mother failed to attend either of two scheduled conferences. *Seaside Park Board of Education v. C.G.*, 96 N.J.A.R.2d (EDS) 257.

Handicapped child's pre-school educational program was appropriate since it conferred meaningful educational benefit for child. *A.E. v. Springfield Board of Education*, 96 N.J.A.R.2d (EDS) 128.

Mother of third-grader who exhibited serious behavioral and educational problems was properly ordered to produce child for evaluations by child study team. *Linden Board of Education v. T.T.*, 96 N.J.A.R.2d (EDS)105.

Parents' refusal to cooperate compels administrative order to place special education student in out-of-district facility recommended under individualized education plan. *Lawrence Township Board of Education v. C.D.*, 96 N.J.A.R.2d (EDS) 98.

Objection to emotionally disturbed classification and out-of-district placement of student with discipline problems dismissed after both classification and placement found to be justified. *L.M. v. Vinland Board of Education*, 96 N.J.A.R.2d (EDS) 93.

Student classified as neurologically impaired was properly ordered placed in self-contained class despite lack of parental consent to such placement. *Jersey City Board of Education v. J.H.*, 96 N.J.A.R.2d (EDS) 92.

Poor academic performance and consistent misbehavior warranted comprehensive evaluation of child over parent's consent to determine value of special education classification. *Voorhees Township Board In Interest of S.H.*, 95 N.J.A.R.2d (EDS) 228.

Intervention in form of an evaluation by child study team was necessary for child with possible educational disability notwithstanding parent's lack of consent. *Parsippany-Troy Hills Board v. B.H.*, 95 N.J.A.R.2d (EDS) 225.

Child's possible educational disability warranted comprehensive evaluation by child study team despite parent's failure to appear. *Union Township Board v. T.K.J.*, 95 N.J.A.R.2d (EDS) 224.

Inappropriate, aggressive and hostile behavior necessitated an order permitting school district to test and evaluate child despite lack of consent from parents. *Jersey City Board v. T.W.*, 95 N.J.A.R.2d (EDS) 211.

Poor academic performance and behavior necessitated child's classification, program and placement even though parent was inaccessible and unresponsive. *M.F. v. Piscataway Board*, 95 N.J.A.R.2d (EDS) 206.

Lack of parental consent did not preclude evaluation of failing student for special education services. *South Brunswick Board v. J.R.*, 95 N.J.A.R.2d (EDS) 161.

Parent could not further delay in arranging neurological examination for impaired child. *Upper Freehold Regional v. T.S.*, 95 N.J.A.R.2d (EDS) 123.

Student with serious educational and behavioral problems with sexual overtones required emergent relief to complete child study team evaluations. *Dumont Board v. G.C.*, 95 N.J.A.R.2d (EDS) 119.

Student with serious behavioral and educational problems required evaluation without parental consent. *Jersey City Board v. C.F.*, 95 N.J.A.R.2d (EDS) 113.

Mother of disabled student required to participate in interview with school district. *Jersey City State-Operated School District v. M.B.*, 95 N.J.A.R.2d (EDS) 8.

Board of Education entitled to administer initial evaluation for special education services of student, no parental consent. *Jersey City Board of Education v. T.W.*, 95 N.J.A.R.2d (EDS) 6.

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

Lack of proper notice to parents of board's placement decision under former N.J.A.C. 6:28-1.9; review meeting under former N.J.A.C. 6:28-1.8. *A.N. v. Clark Bd. of Ed.*, 5 N.J.A.R. 152 (1983).

6A:14-2.4 Native language

(a) Written notice to the parent shall be provided and parent conferences required by this chapter shall be conducted in the language used for communication by the parent and student unless it is clearly not feasible to do so.

1. Foreign language interpreters or translators and sign language interpreters for the deaf shall be provided, when necessary, by the district board of education at no cost to the parent.

(b) If the native language is not a written language, the district board of education shall take steps to ensure that:

1. The notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

2. That the parent understands the content of the notice; and

3. There is written documentation that the requirements of (b)1 and 2 above have been met.

Case Notes

Parents of disabled students failed to sustain their burden of demonstrating that state special education regulations were arbitrary, capricious, or unreasonable, or were violative of Individuals with Disabilities Education Act (IDEA), federal regulations, or state special education laws. *Baer v. Klagholz*, 771 A.2d 603 (2001).

6A:14-2.5 Protection in evaluation procedures

(a) In conducting the evaluation, each district board of education shall:

1. Use a variety of assessment tools and strategies to gather relevant functional and developmental information, including information:

i. Provided by the parent that may assist in determining whether a child is a student with a disability and in determining the content of the student's IEP; and

ii. Related to enabling the student to be involved in and progress in the general education curriculum or, for preschool children with disabilities to participate in appropriate activities;

2. Not use any single procedure as the sole criterion for determining whether a student is a student with a disability or determining an appropriate educational program for the student; and

3. Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(b) Each district board of education shall ensure:

1. That evaluation procedures including, but not limited to, tests and other evaluation materials according to N.J.A.C. 6A:14-3.4:

i. Are selected and administered so as not to be racially or culturally discriminatory; and

ii. Are provided and administered in the student's native language or other mode of communication unless it is clearly not feasible to do so; and

iii. Materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measure the student's English language skills;

2. Any standardized tests that are administered:

i. Have been validated for the purpose(s) for which they are administered; and

ii. Are administered by certified personnel trained in conformance with the instructions provided by their producer;

3. The student is assessed in all areas of suspected disability;

4. Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student are provided;

5. Tests are selected, administered and interpreted so that when a student has sensory, manual or communication impairments, the results accurately reflect the ability which that procedure purports to measure, rather than the impairment unless that is the intended purpose of the testing;