



# THE NEW YORK CITY DEPARTMENT OF EDUCATION

JOEL I. KLEIN, *Chancellor*

OFFICE OF SPECIAL EDUCATION INITIATIVES  
52 Chambers Street, Room 220 · New York, NY 10007

## MEMORANDUM

February 1, 2005

**TO:** LEAD REGIONAL ADMINISTRATORS OF SPECIAL EDUCATION  
REGIONAL ADMINISTRATORS OF SPECIAL EDUCATION  
REGIONAL COMMITTEE ON SPECIAL EDUCATION CHAIRPERSONS  
SCHOOL IMPROVEMENT TEAM MEMBERS

**FROM:** Linda Wernikoff, Deputy Superintendent  
Office of Special Education Initiatives *Linda Wernikoff*

**SUBJECT:** Special Education Annual Review Information

**DISTRIBUTE THIS MEMORANDUM AND ATTACHED ENCLOSURES TO ALL  
SCHOOL AND SUPERVISORY STAFF.**

### Overview of Annual Review

This correspondence outlines key information that is critical to ensuring that the Annual Review process is completed accurately and expeditiously for special education students.

- Each student receiving special education services must have his/her Individual Education Program (IEP) reviewed within one year of the date of their last IEP. This flexibility for scheduling Annual Reviews on a rolling basis, spread out across all months, assists in ensuring the participation of the general education and special education teachers at the meeting.
- Parents and school staff, as members of the IEP Team, will review the IEP including the student's present levels of performance and develop new annual goals and short term objectives (benchmarks). The Annual Review also provides the opportunity to review and discuss the student's educational services/program and goals, and to consider whether the student would benefit from placement in a less or more restrictive setting.
- At an Annual Review, the IEP Team can finalize changes designated as Type I (no change) or Type II (change in the current IEP) recommendations described in Attachment A.
- If the IEP Team at an Annual Review believes a change that is designated on the chart as a Type III recommendation (Attachment A) is required, a referral to the CSE must be made by completing the Type III Request for SBST/CSE Review of the IEP. Type III decisions require the involvement of the School Psychologist.

## Promotion Decision

It is the responsibility of the IEP Team to consider if the student can meet the Standard Promotion Criteria. If the IEP Team determines that the student cannot meet the Standard Promotion Criteria, the Team must determine the modified criteria to include on the student's IEP.

Chancellor's Regulation A-501 implements a systemwide promotion policy with clearly defined standards for promotion for grades 3-12. The regulation has been revised and implements a new Standard Promotion Criteria for the 3<sup>rd</sup> grade and will implement new standard promotion criteria for 5<sup>th</sup> grade students with disabilities starting in school year 2005-2006.

Promotion from grade 3 to grade 4 and from grade 5 to grade 6 will be based on:

- √ achieving at or above Proficiency Level 2 on the Citywide ELA assessment;
- √ achieving at or above Proficiency Level 2 on the Citywide Mathematics assessment.

Students who do not achieve Level 2 on the ELA and/or Math assessments will receive an automatic, mandatory review of student work to determine whether they have demonstrated performance that is equivalent to the standardized test promotion criteria.

Promotion Criteria for students in grades 4, 6, 7 and 8 will be based on:

- √ achievement of designated performance standards as evidenced by student work, teacher observation, and assessment/grades;
- √ achievement of designated proficiency levels on State and Citywide assessments;
- √ attainment of 90 percent attendance; and
- √ in 8<sup>th</sup> grade; attaining passing grades in English, Mathematics, Science and Social Studies.

**The decision to promote or retain may not be based on the consideration of a sole criterion. Instead promotion will be based on the integrated use of the multiple criteria established by A-501.**

During the Annual Review for students who participate in State and Citywide assessments, the student's promotion criteria for the upcoming school year must be determined and specified in the IEP. During the Annual Review all 2<sup>nd</sup> graders must have their promotion criteria established for the next school year, when students begin participating in the Department's promotion criteria as established by Chancellor's Regulation A-501. Special education students in grades 3 and 5 will be held to the Standard Promotion Criteria as described in the Regulation or will be held to a modified promotion as specified in their IEP.

For students with disabilities in the 3<sup>rd</sup> grade and 5<sup>th</sup> grade, the IEP Team may recommend that the student's promotion decision be based on the use of the multiple criteria (as is described above for grades 4, 6, 7, 8) including achievement of designated performance standards as evidenced in student's work, teacher observations and assessments/grades. In these cases the IEP on Page 9 must indicate that the student requires modifications to the standard 3<sup>rd</sup> or 5<sup>th</sup> grade promotion criteria. The IEP on Page 9 must state promotion will be based on multiple criteria including student work, teacher observations and assessments/grades.

For more detailed information, please access the IEP Manual, *Creating a Quality IEP*, section on *Participation in School Activities, Related Service Recommendations, Participation in Assessments and Promotion Criteria* which can be accessed on the Department's website at: <http://www.nycenet.edu/Parents/Essentials/Special+Education/Documents.htm>

Please be reminded that to ensure parents, providers and students have sufficient notification of the promotion criteria to be applied and to have benefits of all necessary instructional intervention student's IEPs must indicate the promotion criteria prior to January 31<sup>st</sup> of the school year.

### **Participants at the IEP Meeting**

- The student's parents or guardian(s) **must** be invited and should be encouraged to attend and participate in the meeting. The school participants at the IEP Annual Review meeting **must** include:
  - the student's special education teacher;
  - the student's general education teacher if the student is, or may be, participating in the general education environment; and
  - a district representative (who may also be fulfilling another role on the IEP Team e.g., the student's special education teacher).

The Principal or designee is expected to ensure the participation of school based staff.

- For "related services only" students, the related service provider is considered the student's special education teacher. If the "related services only" student is served by a non-Department of Education employee (e.g., contractor, independent provider, etc.), the School Psychologist is responsible for conducting the Annual Review with all required participants (i.e. general education, special education, District Representative). The Regional Administrator of Special Education (RASE) assigned to the school should provide the names of students who fall into this category to the School Psychologist.
- Draft IEP goals are to be brought to Annual Review meetings by the special education teacher and/or Related Service providers to be discussed and finalized at the meeting.
- If the Related Service provider cannot attend the meeting, he/she must submit a progress report indicating the student's current level of performance, progress towards meeting the Related Service annual goals, proposed annual goals and short-term objectives and recommendations for continuation or termination of the services and changes in frequency, duration, group size and language. Related Service providers must be given notice of the need for a progress report at least 10 days in advance of the upcoming review. If modifications of Related Service recommendations are being considered, all attempts should be made to ensure the participation of the Related Service provider.
- A district representative is a required participant at **all** IEP meetings and **must** sign the IEP as the "district representative" as evidence of participation. The district representative must be qualified to provide or supervise special education and also be knowledgeable about the general education curriculum and the availability of district resources. The role of the district representative can be filled by an Assistant Principal of Special Education, Special Education Teacher, Related Service Provider or School Psychologist or School Social Worker. The person serving as the District Representative **may also** fulfill the role of another person on the IEP Team (i.e., special education teacher) if they meet all the requirements. In cases where an individual is serving as the district representative and another role, that person must sign the IEP in both categories. The IEP conference page (i.e., page 2) **must** have the signature of each mandated participant, or the IEP may be considered a nullity in a due process hearing.

- Students on the Long Term Absence (LTA) register, like all other students, must have updated IEPs which must be finalized at the meeting. If the LTA student has had contact with a special education teacher and, if appropriate, a general education teacher within the 12 month period prior to review, those teachers should participate in the review as the student's special education teacher and/or general education teacher. Where there is no such teacher(s), a special education teacher and/or general education teacher should be to participate selected on a rotating basis, if possible.
- For secondary level students, it is not required that all the student's teachers attend the meeting. Participation in annual reviews should, if possible, be rotated among the student's special education and general education teachers. The student's other teachers should be given at least 10 days notice to submit recommendations/materials for the review.

Schools may utilize a variety of different strategies to ensure participation at IEP meetings such as:

- Scheduling IEP meetings during established consultation time;
- Providing paid prep coverages on a voluntary basis for either the participating teacher or a colleague who covers the participating teacher's class.
- Using voluntary per session/overtime before or after school;
- Utilizing an ATR (Absent Teacher Reserve) at the regional level; and
- Listed on menu of professional activities under Circular 6R.

### **Determining the Dates for Annual Reviews**

In an effort to facilitate the process by which schools determine the date for conducting the Annual Review, reports are available in RMDS from the Child Assistance Program (CAP). These reports provide school specific information on a monthly basis indicating the due date for Annual Review. The Regional Administrator of Special Education / Superintendent of District 75 or designee must print the report the first week of each month and distribute the report to each school. The updated report will include all students who have not yet had their Annual Review conducted. The names of the reports are:

- DSEB3206 - List of Students in Need of Annual Review
- DSEB3207 - Summary of Students in Need of Annual Review

In addition, principals will receive via email lists of students in their schools who require annual reviews. The updated report will include all students who have not yet had their Annual Review conducted.

### **Transmitting IEPs to the CSE**

IEPs and Notices of Recommendation developed as a result of Annual Review must be completed, packaged and copies submitted to the appropriate Regional CSE for filing as they are completed.

- The original information must be filed in the students' official special education school clinical file. The clerical worker/family worker assigned to the school to assist with special education evaluations can complete this task. The clerical worker assigned to the school is responsible for data entry in the CAP system of the Annual Review information at the school. Students will be removed from the current Annual Review list upon data entry into CAP. As such, Regional Administrators of Special Education and the District 75 Superintendent / designee must develop a process to ensure that Annual Reviews are completed, IEPs and Notices of Recommendation developed through Annual Review are forwarded to the Regional CSE and that information is filed at the school and that data entry is completed.

The Regional Administrator of Special Education/Superintendent of District 75/designee is responsible for ensuring that schools have the required documents for conducting Annual Reviews.

**Required Documents for Conducting Annual Reviews**

The required documents for conducting Annual Reviews include the following:

- Notice of Parental Rights
- Notice of Individualized Education Program Meeting
- Notice of Recommendation of Individualized Education Program Meeting
- Individualized Education Program

Please also find enclosed new procedures relating to providing copies of IEPs to staff. These procedures must be distributed to schools.

LW:ja

Attachments

c: Carmen Fariña  
Regional Superintendents  
Susan Erber  
Helene Shuster

If at Annual Review a recommendation is made to change the primary special education program/services see the chart below to determine if it is a Type II or Type III change. Reminder: Type I is no change.

Current Service	Annual Review	TYPE III
General Education with Related Service(s) Only	<p style="text-align: center;">TYPE II</p>	<ul style="list-style-type: none"> <li>➤ Decertification</li> <li>➤ Special Education Teacher Support Services</li> <li>➤ Collaborative Team Teaching</li> <li>➤ Special Class in a CSD/HS</li> <li>➤ Special Class in a Specialized School (D. 75)</li> <li>➤ Defer to CBST</li> <li>➤ Home Instruction</li> </ul>
Special Education Teacher Support Services	<ul style="list-style-type: none"> <li>➤ Related Service(s) Only</li> <li>➤ Collaborative Team Teaching</li> </ul>	<ul style="list-style-type: none"> <li>➤ Decertification</li> <li>➤ Special Class in a CSD/HS</li> <li>➤ Special Class in a Specialized School (D. 75)</li> <li>➤ Defer to CBST</li> <li>➤ Home Instruction</li> </ul>
Collaborative Team Teaching	<ul style="list-style-type: none"> <li>➤ Related Service(s) Only</li> <li>➤ Special Education Teacher Support Services</li> </ul>	<ul style="list-style-type: none"> <li>➤ Decertification</li> <li>➤ Special Class in a CSD/HSI</li> <li>➤ Special Class in a Specialized School (D. 75)</li> <li>➤ Defer to CBST</li> <li>➤ Home Instruction</li> </ul>
Special Class in a CSD/HS	<ul style="list-style-type: none"> <li>➤ Related Service(s) Only</li> <li>➤ Special Education Teacher Support Services</li> <li>➤ Collaborative Team Teaching</li> <li>➤ Special Class with less intensive staffing ratio if it exists in the current school</li> <li>➤ Change in staffing ratio from 12:1 to 15:1 for students articulating to a special class in high school</li> </ul>	<ul style="list-style-type: none"> <li>➤ Decertification</li> <li>➤ Special Class with more intensive staffing ratio if it exists in the current school</li> <li>➤ Special Class with a different staffing ratio in a CSD/HS if it does not exist in the current school</li> <li>➤ Special Class in a Specialized School (D. 75)</li> <li>➤ Defer to CBST</li> <li>➤ Home Instruction</li> </ul>
Special Class in a Specialized School (D. 75)	<ul style="list-style-type: none"> <li>➤ Special Class in a specialized school with less intensive staffing ratio if it exists in the current D. 75 site</li> </ul>	<ul style="list-style-type: none"> <li>➤ Decertification</li> <li>➤ Related Service(s) Only</li> <li>➤ Special Class in a specialized school with a more intensive staffing ratio if it exists in the current D. 75 site</li> <li>➤ Special Education Teacher Support Services</li> <li>➤ Collaborative Team Teaching</li> <li>➤ Special Class in a CSD/HS</li> <li>➤ Special Class in a specialized school with a different staffing ratio if it does not exist in the current D.75 site</li> <li>➤ Defer to CBST</li> <li>➤ Home Instruction</li> </ul>

All changes other than changes to the student's primary program (e.g. SETSS, special class) are Type II changes (meaning they do not require a referral to the CSE and can be finalized at the teacher level annual review IEP meeting with appropriate team member) except the following changes which are Type III changes.

### **Type III**

#### **Changes to Special Education Services (Other than primary program recommendation)**

- **Initiation of Related Services.**
- **Initiation of classroom paraprofessional support.**
- **Change of test category to participation in the State Alternate Assessment.**
- **Initiation of door-to-door (special) transportation.**
- **Specification whether counseling should be provided by a social worker/psychologist.**
- **Initial recommendation of ESL only (e.g. change from bilingual services to ESL only).**
- **Termination of bilingual/ESL services for students scoring at or below the cut point on the NYCELAT.**
- **Recommendation of 12 month school year for students with disabilities not attending a specialized school, State Approved Non-Public School, or Home Instruction.**
- **Initiation of Assistive Technology for high tech devices (e.g. computers, augmentative communication devices, etc.).**
- **Initiation of an Awaiting Placement Paraprofessional.**

## **Chapter 408**

### **Providing Copies of IEPs to Teachers and Related Services Providers and Informing School Personnel of Their IEP Implementation Responsibilities**

The IEP describes the school's obligation to provide specially designed instruction, related and other support services to students with disabilities. In order for students to achieve the full benefit of the IEP planning process, school personnel with responsibility for implementing the IEPs of students with disabilities must understand their responsibilities and have students' IEPs readily available to them. State Education Law and the Regulations of the Commissioner of Education were recently amended to require that this occur.

Accordingly, the principal shall implement procedures to ensure that

1. Each general education teacher, special education teacher and related service provider who is responsible for implementing the student's IEP is provided a paper or electronic copy of the IEP to prior to implementation of such IEP.
  - a. Every teacher responsible for implementing a service, accommodation and/or program modification on a student's IEP must receive a copy of the IEP.
  - b. The determination of which teachers must be provided a copy of the IEP should be made at the IEP meeting for such student.
  - c. Teachers of declassified students who continue to receive accommodations, modifications and/or other support services must receive a copy of the student's last IEP.
2. Each paraprofessional responsible for assisting in the implementation of a student's IEP is provided the opportunity to review a copy of the student's IEP prior to implementation of such program.
3. Each paraprofessional responsible for assisting in the implementation of a student's IEP has ongoing access to a copy of the IEP. Such copy may be
  - a. the copy provided to the student's special education teacher;
  - b. the copy provided to the teacher or related service provider under whose direction the paraprofessional or teacher's aide works; or
  - c. a copy maintained in another location in the school building that is readily accessible to the paraprofessional.
4. Each general education teacher, special education teacher, related service provider, paraprofessional, and other support staff has been informed, prior to implementation of the IEP, of his or her responsibility to implement the recommendations on the student's IEP, including the responsibility to provide specific accommodations, program modifications, supports and/or services for the student in accordance with the IEP.
  - a. The principal shall designate an individual who is an employee of the NYCDOE and who is familiar with the contents of the student's IEP, such as the Instructional Support Specialists, a school psychologist or a teacher, to ensure that appropriate staff is so informed.
  - b. Any teachers and/or related service providers who were present at the meeting at which the IEP was finalized shall be assumed to be familiar with the contents of the IEP and of their specific duties in implementing the IEP.

- c. In order to provide flexibility to address administrative, supervisory, timeliness, workload responsibilities, unique needs of the student and other issues, more than one individual can be designated. For example, the principal could designate the special education teacher to inform paraprofessionals, the school psychologist to inform related service providers, him or herself to inform general education teachers, and/or related service providers to inform paraprofessionals who assist in the implementation of a related service.
- 5. A copy of the IEP is provided at no cost to the student's parents.
  - a. If the IEP is finalized at a school level IEP meeting, the student's parents shall be provided a copy at the conclusion of the meeting.
  - b. If the IEP is finalized at the Regional Committee on Special Education, the Regional Chairperson is responsible for ensuring that a copy of the student's IEP is provided to the student's parents *and* the principal of the school that the student attends.
- 6. Student IEPs remain confidential and are not disclosed to any other person(s) consistent with the school district's policy for ensuring confidentiality of student records.
  - a. All persons who receive copies of IEPs or have access to IEPs must be instructed regarding their legal obligation to maintain the confidentiality of student records.
  - b. Personally identifiable information in a student's education records, including the student's IEP, may be disclosed to school personnel with "legitimate educational interests."
  - c. School personnel responsible for implementing a student's IEP have a "legitimate educational interest" in accessing the IEPs of the students they serve.
  - d. Teachers and related service providers who receive a copy of a student's IEP shall not disclose personally identifiable information from the IEP without consent of the parent.