

# Overview of Educational Services for Students with Disabilities in NJ

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**New Jersey Department of Education  
Office of Special Education Programs**

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# Agenda

- Overview of NJ Special Education Code
  - 6A: 14 Subchapters 1 through 4
- Overview of Intervention & Referral Services
- General Information Regarding Student Records
  - 6A:32 Subchapter 7
- General Information on Section 504 Guidelines
- Questions from Audience

# Introduction to Special Education

- Individuals with Disabilities Education Act (IDEA) 2004
- NJ Administrative Code (NJAC) 6A:14 Special Education



# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 1. GENERAL PROVISIONS



# General Provisions

- Ensures that each district board of education is responsible for providing a system of free, appropriate special education and related services to students with disabilities ages 3 to 21.

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 1. GENERAL PROVISIONS

### **Prescription Medication**

School districts shall not require a child to obtain a prescription as a condition of attending school, receiving an evaluation or for receiving special education and related service [1.1(i)]

### **Homeless Students**

Are located, identified, evaluated and provided services, including appointment of surrogate parent for unaccompanied homeless youths [1.2(b)4]

# IMPLEMENTATION OF N.J.A.C. 6A:14 SUBCHAPTER 1. GENERAL PROVISIONS

## Division of Developmental Disabilities (DDD)

District will provide, pursuant to the Uniform Application Act, the necessary materials to the parent to apply for such service [1.2(b)17]

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 1. GENERAL PROVISIONS

### Assistive Technology Devices and Services

[Appendix F]

- ❖ **Assistive Technology Device** means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain or improve the functional capabilities of children with disabilities.

The term does not include a medical device that is surgically implanted, or the replacement of such device

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 1. GENERAL PROVISIONS

### Assistive Technology Devices and Services (cont.)

[Appendix G]

- ❖ **Assistive Technology Service** means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:
  1. An evaluation of the needs of a student with a disability, including a functional evaluation of the student in his or her customary environment;
  2. Purchasing, leasing or otherwise providing for the acquisition of AT devices by students with disabilities;
  3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive devices;
  4. Coordinating and using other therapies, interventions, or services with AT devices, such as those associated with existing ed. and rehab. plans and services;
  5. Training or technical assistance for a student with a disability or, if appropriate, that student's family; and
  6. Training or technical assistance for professionals, employers or other individuals who may provide services to, employ, or are otherwise substantially involved in the major life functions of students with disabilities.

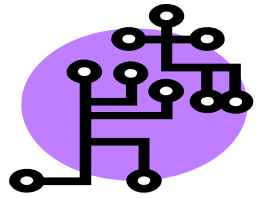
# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 2. PROCEDURAL SAFEGUARDS



# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 2. PROCEDURAL SAFEGUARDS



### Surrogate Parents

- ✓ Must appoint a surrogate parent if there is no parent, for wards of the state, and for unaccompanied homeless youths [2.2(a)4]
- ✓ Make reasonable efforts to appoint in 30 days of the determination that a surrogate parent is needed for a student [ 2.2(b)]
- ✓ Judges may appoint a surrogate parent [2.2(c)]

### **Qualifications [2.2(e) 1-5]**

- Have no interest that conflicts with those of the student he/she represents
- Possess knowledge & skills that ensure adequate representation of the student
- May not be replaced without cause
- Be at least 18 years of age
- If person serving as the surrogate parent is compensated, a criminal history review is completed [2.2(e)3]

# **IMPLEMENTATION OF N.J.A.C. 6A:14**

## **SUBCHAPTER 2. PROCEDURAL SAFEGUARDS**

### **Parental Consent, Notice, Participation, Meetings**

- ❖ Parental Consent shall be obtained:**
  - Prior to conducting an initial evaluation**
  - Prior to implementation of the initial IEP**
  - Prior to conducting any assessment as part of a reevaluation**
  - Prior to the release of student records**
  - Prior to accessing public benefits or public insurance and/or private insurance**
  - For excusal of IEP team member from an IEP meeting**
  - Prior to amending an IEP without a meeting**
  - When a parent and district agree to waive a reevaluation**

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 2. PROCEDURAL SAFEGUARDS

### Parental Consent, Notice, Participation, Meetings

- ✓ For a **ward of the State**, district board of education **must make reasonable efforts** to obtain parental consent for an initial evaluation
  
- ✓ If, after reasonable efforts (a) parent cannot be found or (b) parental rights have been terminated, or subrogated for purposes for consenting to eligibility by a court and consent has been given by an individual the court has appointed, then, in either of these circumstances, parental consent need not be obtained for an initial evaluation
  
- ✓ **Reasonable efforts** means that the school district must document its attempt to obtain parental consent by:
  - Keeping detailed records of telephone calls made or attempted and the results of those calls;
  - Maintaining copies of correspondence sent to the parents and any responses received; and
  - Maintaining detailed records of visits made to the parent's home or place of employment and the results of those visits [guidance]

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 2. PROCEDURAL SAFEGUARDS

### Parental Consent, Notice, Participation, Meetings

A Copy of PRISE shall be provided only **one time per year**

**Except a copy shall also be provided:**

- Upon referral for an initial evaluation
- Upon request by a parent
- When a request for a due process hearing is submitted to the DOE
- First time a complaint investigation is filed with the State
- When a disciplinary sanction is imposed that will result in a change in placement

# IMPLEMENTATION OF N.J.A.C. 6A:14 SUBCHAPTER 2. PROCEDURAL SAFEGUARDS



## Parental Consent, Notice, Participation, Meetings

### Participation

- IEP team must include “not less than one” general education and special education teacher or provider
- Must invite Part C service coordinator to the IEP meeting if the parent requests the invitation

### Use of audio-tape recorder

- Provided notice (i.e. **notification**) is given to the other participants prior to the start of the meeting that such a device is being utilized

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 2. PROCEDURAL SAFEGUARDS

### Protection in Evaluation Procedures

Tests and other evaluation materials are provided and administered in the language and **form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally,** unless it is clearly not feasible to do so.  
[2.5(b)1 ii]



# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 2. PROCEDURAL SAFEGUARDS

### Independent Evaluations

- A school district **shall first have the opportunity** to conduct the requested assessment if a parent seeks an independent evaluation in an area not assessed as part of an initial evaluation or a reevaluation
- The school district **must decide whether to evaluate within 10 days** of the request
- If the school district decides to conduct the evaluation, **must complete the evaluation within 45 calendar days**
- The **parent may still request an independent evaluation** if they continue to disagree with the district's assessment
- School district shall permit the **independent evaluator to observe** the student in the classroom or other educational setting, as applicable

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 2. PROCEDURAL SAFEGUARDS

### Independent Evaluations

- Parents are **limited to one independent evaluation** with respect to each initial evaluation or reevaluation conducted by the school with which the parent disagrees
- The parent cannot, after the request for an independent evaluation is granted (or denied by an ALJ) and the requested assessment(s) is/are provided, request and obtain another independent educational evaluation at public expense until a new evaluation is completed by the school district

# IMPLEMENTATION OF N.J.A.C. 6A:14

## Subchapter 2: Procedural Safeguards

Parents and districts may file for  
**Mediation** or **Due Process**



When there is a disagreement regarding identification, evaluation, reevaluation, classification, educational placement, FAPE or a disciplinary action.

# Mediation Only

- A parent or district may file for “Mediation Only” in order to resolve a dispute.
- Mediation is available for students age three through 21.
- If the student is 18 or older, he/she must submit the petition unless his/her parent has obtained legal guardianship or the student states in writing that his/her parent may act on his/her behalf (case will not be opened until this letter is received by OSEP).
- A petition for “Mediation Only” is just that-- MEDIATION ONLY, scheduled and conducted by the NJDOE.
  - Mediation is VOLUNTARY. Neither party can be required to participate in mediation.
  - Held at a time and location that is reasonably convenient to the parties.

# Mediation Outcomes (“Mediation Only”)

After mediation the following may occur:

- An agreement **is** reached and the case is closed.
- An agreement **is not** reached and the case is closed or withdrawn by the petitioner.
- An agreement **is not** reached and the petitioner requests the petition to be **converted** to a due process petition (“Mediation Only” cases).

# Due Process

A due process hearing is an administrative hearing conducted by an Administrative Law Judge (ALJ) for students ages 3-21 for issues regarding:

- identification,
- evaluation,
- reevaluation,
- classification,
- educational placement,
- the provision of FAPE, or
- disciplinary action.

Decisions by ALJ's are final decisions and may only be appealed in Federal District court or State Superior court.

## IMPLEMENTATION OF N.J.A.C. 6A:14 SUBCHAPTER 2. PROCEDURAL SAFEGUARDS

### Discipline/Suspensions/Expulsions

School district personnel may, **on a case-by-case basis**, consider any unique circumstances when determining whether or not to impose a disciplinary sanction or order a change of placement for a student with a disability who violates a school code of conduct [2.8(b)]

School personnel **may automatically remove** a student to an Interim Alternative Educational Setting (IAES) for:

- Drugs
- Weapons
- Serious bodily injury to others (new requirement)

Removal to an interim alternative educational setting (**IAES**) shall be for a period of no more than **45 CALENDAR days**.

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 2. PROCEDURAL SAFEGUARDS

### Discipline/Suspensions/Expulsions

For removals of **ten (10) days or fewer**

- Student is subject to the **same disciplinary policy** as non-disabled students [6A:14-2.8(a)]

Services must be provided within **5 school days of the removal**

[6A:16-7.2(a)5]

- This applies to removals of at least 5 consecutive school days
- Educational services are consistent with the student's IEP

**Preschool age children** with disabilities cannot be removed (i.e. suspended or expelled) for disciplinary reasons [2.8(a)1]

**IMPLEMENTATION OF N.J.A.C. 6A:14**  
**SUBCHAPTER 2. PROCEDURAL SAFEGUARDS**

**Discipline/Suspensions/Expulsions**

**Change in Placement**

A removal from the student's program for disciplinary reasons that triggers procedural safeguards.

- Occurs if a student is suspended for more than 10 consecutive days
- OR**
- Occurs if the student is subjected to a series of removals that constitute a pattern because they accumulate to more than 10 school days in a year, because the behavior is substantially similar to behavior in previous incidents and consideration of the following factors:
  - Length of each removal
  - Total amount of time student is removed
  - Proximity of the removals to one another

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 2. PROCEDURAL SAFEGUARDS

### Discipline/Suspensions/Expulsions

Has a change of placement occurred?

#### **If YES:**

- Provide PRISE
- Convene a meeting of relevant IEP team members to conduct a Manifestation Determination (MD)
- If behavior **IS** a manifestation, must review Behavior Intervention Plan (BIP) and/or conduct Functional Behavior Assessment (FBA)
- If behavior **IS NOT** a manifestation, as appropriate, review BIP and/or conduct FBA

#### **If NO:**

- May suspend but services continue (school personnel in consultation with child's teacher determine extent of services)
- As appropriate, review BIP and/or conduct FBA

## IMPLEMENTATION OF N.J.A.C. 6A:14 SUBCHAPTER 2. PROCEDURAL SAFEGUARDS

### Discipline/Suspensions/Expulsions

If Behavior **IS** a manifestation of the disability:

- May NOT suspend (remove) the student
- May change the student's program and/or placement (IEP team makes the determination)
- Must review behavior intervention plan (BIP)
  - If there is no BIP, conduct a functional behavioral assessment (FBA) and develop a BIP
    - If a formal assessment is necessary as part of the FBA, parental consent is required

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 2. PROCEDURAL SAFEGUARDS

### Discipline/Suspensions/Expulsions

If Behavior **IS NOT** a manifestation of the disability:

- May suspend (remove) the student
- Must continue to provide educational services

As appropriate (case by case basis):

- Review behavior intervention plan (BIP)
- If there is no BIP, as appropriate, conduct a functional behavioral assessment (FBA) and develop a BIP
  - If the school decides to conduct a formal assessment as part of the FBA, parental consent is required

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 3. SERVICES



# **IMPLEMENTATION OF N.J.A.C. 6A:14 SUBCHAPTER 3. SERVICES**

## **The Child Study Team (CST) Includes the Following Members:**

- School Psychologist
- School Social Worker
- Learning Disabilities Teacher-Consultant

# IMPLEMENTATION OF N.J.A.C. 6A:14 SUBCHAPTER 3. SERVICES

## CST Roles and Responsibilities

- Shall participate in the evaluation of students who may be/are eligible for Special Education Services;
- Shall participate in the determination of eligibility of students for Special Education Services;
- May provide services to educational staff to support the student; and
- May participate on Intervention and Referral Services (I&RS) Teams.

# Intervention and Referral Services (I&RS)

- A local District Board of Education shall implement in each school building an I&RS Team consisting of multidisciplinary team members.
- The team assists students in General Education Programs who are experiencing learning, behavior or health difficulties.
- A collaborative problem solving process is utilized to support the student's individual needs and recommends interventions.
- When it is determined through an analysis of relevant documentation and data concerning each intervention utilized that interventions in the general education program have not adequately addressed the educational difficulties and it is believed that the student may have a disability, the student shall be referred to the Child Study Team
- Referral may be made by professional staff of the district, parents, and State agency employees

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 3. SERVICES

### Early Intervention to Preschool – Transition Planning Conference

**A CST member must participate and shall:**

- **Review** the Individualized Family Service Plan (IFSP) [3.3(e)1i]
- **Provide the parents** written district **registration requirements** [3.3(e)1ii]
- **Provide the parents** written information on **available district programs** for preschool students, including options available for placement in general education classrooms [3.3(e)1iii]
- **Provide the parents a form** to request that the district board of education **invite the Part C service coordinator** from the Early Intervention System to the **initial IEP meeting** for a child after a determination of eligibility [3.3(e)iv]
- **Submit the form** to request that the district board of education invite the Part C service coordinator with the request for the initial evaluation [3.3(e)3i]

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 3. SERVICES

### Evaluation

#### Initial evaluation



- Shall include **at least two assessments**
- Shall be conducted by at **least two members** of the child study team in those areas in which they have appropriate training or are qualified through their professional licensure or educational certification and other specialists in the area of disability as required or determined necessary

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 3. SERVICES

### Eligibility

- When an initial evaluation is completed for a student, a meeting shall be convened to determine whether the student is eligible for Special Education and Related Services.
- If eligible the student shall be assigned the classification of “Eligible for Special Education and Related Services.”
- There are 14 eligibility categories.

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 3. SERVICES

### Individualized Education Program (IEP) Development

- Once a student is determined eligible for Special Education and Related Services a meeting is held to develop the IEP.
- The IEP Team consists of the parent, general education teacher, special education teacher, CST member, and other representative(s) as determined appropriate for the student.
- When developing the IEP, the IEP team shall consider the academic, developmental and functional needs of the student.
- Annually, the IEP Team needs to meet to review and/or revise the IEP.

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 4. PROGRAMS & INSTRUCTION



# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 4. PROGRAMS & INSTRUCTION

### Transfer students – Public School Students

- ✓ **In-state transfer** [4.1(g)1]
  - Conduct an immediate review and provide a comparable program
  - District can accept or reject the current IEP
  - If reject, do any necessary assessments and develop and implement a new IEP within 30 days of enrollment
  
- ✓ **Out-of-state transfer** [4.1(g)2]
  - Conduct an immediate review and provide a comparable program
  - Must determine if an evaluation is needed, based on existing information
  - If an evaluation is needed, obtain parental consent and conduct the evaluation
  - Develop a new IEP and implement the new IEP within 30 days of enrollment
  
- ✓ **Former district** must take reasonable steps to transfer records to the new district [4.1(g)3]

**IMPLEMENTATION OF N.J.A.C. 6A:14  
SUBCHAPTER 4. PROGRAMS & INSTRUCTION**

**Transfer Students – Nonpublic School Students**

- Conduct an immediate review of the services plan [4.1(m)]
  
- Provide comparable services pending completion of any necessary assessments [4.1(m)]
  
- As appropriate, develop an IEP within 60 calendar days from the date of enrollment in the district [4.1(m)]

# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 4. PROGRAMS & INSTRUCTION



### Placement in the Least Restrictive Environment

- ❖ A student with a disability **is not removed** from the age-appropriate general education classroom **solely based on needed modifications** to the general education curriculum.
- ❖ **Placement** is **based on the individual** needs of the student
- ❖ When determining the **restrictiveness** of a particular program option, such determinations are **based solely on the amount of time** a student with disabilities is educated **outside** the general education setting
- ❖ For a student in a **separate setting**, activities necessary to **transition the student** to a less restrictive placement are **considered annually**

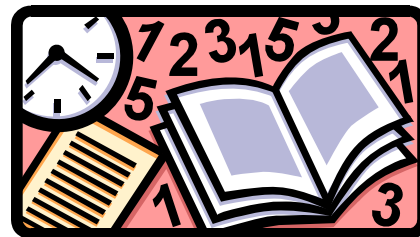
# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 4. PROGRAMS & INSTRUCTION

### Program Options

#### **Least Restrictive Environment (LRE)**

- First, all students shall be considered for placement in the general education class with supplementary aids and services including, but not limited to, the following:
  - Curricular or instructional modifications or specialized instructional strategies
  - Assistive technology devices and services
  - Teacher aides
  - Related services
  - Integrated therapies
  - Consultation services
  - In-class resource programs
- If a student does not remain in the general education class for all or a portion of the school day, other educational options include:
  - Pull Out Resource Programs
  - Special Class Programs
  - Separate Schools



# IMPLEMENTATION OF N.J.A.C. 6A:14

## SUBCHAPTER 4. PROGRAMS & INSTRUCTION

### Home Instruction

- ❖ Provided by appropriately certified teacher of students with disabilities or for the subject or level in which instruction is given
- ❖ Home instruction due to illness is included in N.J.A.C. 6A:16
- ❖ **Must keep a written record**, including dates and times during which home instruction is provided
- ❖ Instruction shall be provided for no fewer than 10 hours per week in no fewer than 3 visits.
- ❖ **Provided in a location conducive** to learning, considering the disability and circumstances of the student
- ❖ Parent shall be consulted in determining the appropriate location [4.8(a)5]
- ❖ If the student is **repeatedly not made available** by the parent, consider whether the student is **truant** in accordance with N.J.S.A. 18A:38-27 [4.8(a)6]

# **Student Records and Confidentiality**

## **6A:32 Subchapter 7**

- The chief school administrator or designee shall be responsible for the security of student records maintained in the school district and shall devise procedures for assuring that access to such records is limited to authorized persons.
- Each district board of education shall maintain student health records separately from other student records in a secure accessible manner.

## 504 Regulations and Guidelines

For more information regarding the 504 regulations you can access the following website:

<http://www.ed.gov/policy/rights/reg/ocr/edlite-34cfr104.html>

and/or

You may contact the USDOE, Office for Civil Rights

1-800-421-3481

or the

New York Office for Civil Rights

1-646-428-3900

# Any Questions??

**This concludes our presentation.**

**Thank you for your attendance.**

**We hope you found the session informative.**

