

## **Instruction**

### **Special Education**

The Board of Education accepts its legal duties and responsibilities for providing special education programs for the students of the school district.

In making a determination of eligibility for special education and related services, through use of a variety of assessment tools and strategies designed to gather relevant functional, developmental, and academic information, a student shall not be determined to be a disabled student if the dominant factor for such a determination is a lack of appropriate instruction in reading, including in the essential components of reading instruction, as defined in the No Child Left Behind Act, lack of instruction in math or limited English proficiency or evidence that a child's behavior repeatedly violated disciplinary policy. Further, the District is not required to take into consideration whether a student has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skills, reading comprehension or mathematical calculation or reasoning.

Each student with a disability who is a resident of the district shall be provided quality education programs and services that meet the student's needs for educational, instructional, transitional and related services. The special education program shall be designed to comply with federal and state law; conform to district goals; and integrate programs of special education with the regular instructional programs of the schools, consistent with the interests of the student with a disability and other students.

In determining whether a child has a specific learning disability, the District may use a process that determines if the student responds to scientific, research-based intervention as a part of the evaluation procedures to determine eligibility.

The Superintendent of Schools or his/her designee is directed to develop a comprehensive plan for compliance with all of the requirements of federal and state law for the education of students with disabilities residing in or attending school in the school district.

The Board of Education requests that the plan be in harmony with the school district's financial abilities, with the availability of special facilities needed and the availability of trained and certified personnel.

1. The Board shall determine the facilities, programs, services and staff that will be provided by the District for the instruction of students with disabilities.
2. In order to maintain an effective special education plan, the Board may participate in special education programs of other school districts or those offered by a RESC.

## Instruction

### Special Education

#### Optional Language (continued)

3. The program to which each student with a disability is assigned shall be one that provides an appropriate education, seeks to assure success in learning, and offers the least restrictive environment, in accordance with federal and state regulations.
4. The Board directs that all procedures for implementing an individualized education program be designed to guard the privacy of the student and family.
5. No student with a disability shall be denied, because of handicap/disability, participation in activities, programs or services offered or recognitions rendered to District students, unless participation is not possible because of the handicap/disability.
6. Individual, elementary, special education student placements outside of the school district shall be transferred to the jurisdiction of Regional School District No. 8 at the request of the Special Education Director, by age fourteen (by January 1 of the school year) unless in the judgment of the Superintendents of Schools after consultation with the Planning and Placement Teams of the elementary and regional school districts the future educational programming of the student would be better served through retention of jurisdiction by the elementary school district.

(cf. 3231 - Medicaid Reimbursement for Special Education Students)

(cf. 5145.71 - Surrogate Parent Program)

Legal Reference: Connecticut General Statutes

10-76a Definitions. (as amended by PA 00-48 and PA 06-18)

10-76b State supervision of special education programs and services.

10-76c Receipt and use of money and personal property.

10-76d Duties and powers of boards of education to provide special education programs and services. (as amended by PA 97-114, PA 00-48 and PA 06-18)

10-76e School construction grant for cooperative regional special education facilities.

10-76f Definition of terms used in formula for state aid for special education.

10-76ff Procedures for determining if a child requires special education (as amended by PA 06-18)

10-76g State aid for special education.

10-76h Special education hearing and review procedure. Mediation of disputes. (as amended by PA 00-48)

## Instruction

### Special Education (continued)

Legal Reference: Connecticut General Statutes (continued)

10-76i Advisory council for special education.

10-76j Five-year plan for special education.

10-76k Development of experimental educational programs.

PA 06-18 An Act Concerning Special Education

State Board of Education Regulations.

10-76m Auditing claims for special education assistance.

10-76a-1 et seq. Definitions. (as amended by PA 00-48)

10-76b-1 through 10-76b-4 Supervision and administration.

10-76d-1 through 10-76d-19 Conditions of instruction.

10-76h-1 through 10-76h-2 Due process.

10-76l-1 Program Evaluation.

10-145a-24 through 10-145a-31 Special Education (re teacher certification).

10-264l Grants for the operation of interdistrict magnet school programs.

34 C.F.R. 3000 Assistance to States for Education for Handicapped Children.

American with Disabilities Act, 42 U.S.C. §12101 et seq.

Individuals with Disabilities Education Act, 20 U.S.C. §1400 et seq.

Rehabilitation Act of 1973, Section 504, 29 U.S.C. § 794.

P.L. 108-446 The 2004 Reauthorization of the Individuals with Disabilities Act

20 U.S.C. §6368(3) The No Child Left Behind Act

*Bd of Ed of the City School District of the City of New York v. Tom F.* 128S.Ct. 1, 76 U.S.L.W. 3197 (2008)

Policy adopted: September 8, 2010

ANDOVER PUBLIC SCHOOLS  
Andover, Connecticut

*The Commissioner of Education requires school districts to include this Circular Letter in their policies and procedural manual. District staff must be made sufficiently familiar with these requirements so as to advise parents appropriately.*

**CONNECTICUT STATE DEPARTMENT OF EDUCATION  
HARTFORD**

Series 2003-2004  
Circular Letter C-1

TO: Superintendents of Schools  
Directors of Special Education  
Special Education Impartial Hearing Officers  
Special Education Attorneys  
Connecticut Parent Advocacy Center (PTI)  
Special Education Resource Center

FROM: Theodore S. Sergi, Commissioner of Education

DATE: July 3, 2003

SUBJECT: State Eligibility for the IDEA Part B grant for federal fiscal year 2003

The Office of Special Education Programs (OSEP) of the Federal Department of Education has been engaged in an ongoing review of Connecticut's statutes and regulations relating to the provision of special education services to eligible students. OSEP has identified what they regard as state statutory "inconsistencies" with the IDEA requirements. To remain eligible for federal financial assistance for the upcoming fiscal year, the State has been directed by OSEP to issue this memo advising all interested parties to abide by the requirements as set forth by OSEP in various memos to the State Department of Education (SDE). Accordingly, effective immediately, the following requirements shall be followed by all interested parties:

1. Section 10-76h(a)(1) of the Connecticut general statutes requires that neither party to an impartial due process hearing may proceed to such hearing without first raising their issues at a planning and placement team meeting. Neither party to a due process hearing may use this requirement to bar the other party from exercising their right to a due process hearing on any matter related to the identification, evaluation, or educational placement of a child with a disability or the provision of a free appropriate public education to that child pursuant to 20 USC Sec. 1415(b)(6) and 34 CFR Sec. 300.507.
2. Special education hearing officers are hereby instructed that they shall not use the PPT requirement to prohibit parties from raising, in a due process hearing, an issue that was not raised in a PPT meeting. This does not prevent a hearing officer from ordering the parties to reconvene a PPT if deemed appropriate.

3. Section 10-76h(a) requires that school districts initiate due process proceedings against parents in the event the parent revokes or refuses consent for their child to be placed in a private school as recommended by the PPT. School districts shall not use the due process procedures to override parental refusal to consent to the initial provision of special education and related services in a private facility. The override provision is available only in the event that the parent has already consented to the receipt of special education and related services and subsequent to initial placement of the child, the district seeks a private school placement.
4. Section 10-76h(d)(4) sets criteria for the submission of evidence upon appealing a special education due process hearing decision to Superior Court pursuant to the provisions of Section 4-183. The court shall hear additional evidence at the request of a party notwithstanding the criteria set forth in Section 10-76h(d)(4).

The State has provided a written assurance to OSEP that these interim requirements shall be enforced by the SDE pending the adoption of legislation by the Connecticut General Assembly. Each school district shall include this Circular Letter as an addendum to the procedural safeguards document currently provided to parents. Also, school districts shall include this Circular Letter in their policies and procedures manual and ensure that all district staff are sufficiently familiar with these requirements so as to advise parents appropriately.

We will continue to explore ways to make special education due process less litigious and more helpful for all parties. We are hopeful that our discussions with OSEP have broadened their perspective on these issues and changes will be considered in the context of the pending IDEA reauthorization legislation. In the meantime, we welcome your ideas on improving special education due process proceedings.

If you have any questions regarding this information, please contact Theresa C. DeFrancis at (860) 807-2018.

TSS:td  
cc: George Coleman, Associate Commissioner  
George Dowaliby, Bureau Chief