



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY,
NY 12234

TO: P-12 Education Committee and
Subcommittee on State Aid

FROM: John B. King, Jr.

SUBJECT: Mandate Relief and Flexibility

DATE: May 9, 2011

AUTHORIZATION(S):

SUMMARY

Issue for Decision

What additional mandate relief options can the Regents recommend? What are the details of specific mandate relief and flexibility recommendations within P-12, including transportation-related issues and special education, and for certification of teachers and administrators?

Reason(s) for Consideration

Review of policy.

Proposed Handling

These questions will come before a joint meeting of the Regents Subcommittee on State Aid and the P-12 Education Committee at their May meeting.

Procedural History

The Regents approved their State Aid proposal for school year 2011-12 in December 2010. The proposal supports the continued review and examination of cost containment and mandate relief options. Since February, the Regents have reviewed and discussed mandate relief options at each of their monthly meetings. All mandate relief options are intended to increase flexibility and reduce requirements for school

districts in ways that do not adversely impact the health and safety of students or the essential elements of the educational reform efforts underway.

Descriptive detail on mandate relief and flexibility options that relate to student support services, curriculum and assessment, transportation and certification of teachers and administrators is provided in Appendix A. Several of these options were initially presented in February.

Mandate relief and flexibility options that relate to special education, as were discussed by the Regents at their April meeting, are delineated in Appendix B. Appendix C includes a comparison between the current State and federal requirements. Appendix C lists federal mandates that would, even if certain State standards were repealed, continue to protect families and students and ensure that individual decisions are made regarding evaluations and special education program recommendations. Appendix C also demonstrates the extent to which New York State has prescribed additional practices and procedures that were never contemplated by the federal law. In other areas, the federal standards were revised in recent federal law reauthorizations, leaving the State with both the new federal standards and the State's previously adopted more extensive mandates.

Background Information

The Regents carefully crafted this year's State Aid proposal to retain those critical funding directions necessary to continue the State's progress toward educational adequacy, despite the State's worsening revenue picture. The Regents recommended that the State continue to phase in the Foundation Aid formula and to continue to increase support for universal pre-kindergarten. In order to preserve funding for these critical priorities, the Regents recommended cost-containment strategies including mandate relief, regional transportation, and expanded use of BOCES shared services. While all of these mandates were originally enacted to enhance the rights, protections and/or performance of students and the fiscal accountability of school districts, not all have produced their intended results.

Recommendation

It is recommended that the Regents Committees discuss and approve mandate relief and flexibility proposals relating to student support services, curriculum and assessment, transportation and certification of teachers and administrators, as described in Appendix A. Several of these recommendations were previously proposed at the February meeting.

It is recommended that the Regents Committees discuss and approve the special education mandate relief options proposed in Appendix B. With support of the Regents, the Department will, as required by federal law, seek public comment prior to proposing statutory revisions or adopting regulatory changes.

VOTED: That the Regents approve the mandate relief and flexibility option recommendations, as described in Appendix A, of which several were reviewed at the February meeting, and issue a vote of support for Department staff to seek further public comment on the special education options, as described in Appendix B.

Timetable for Implementation

The Governor's Mandate Relief Redesign Team, of which Commissioner David M. Steiner and Chief Operating Officer Val Grey are members, issued its Preliminary Report on March 1, 2011. The report incorporated many of the mandate relief options that the Board has reviewed and approved. Further, the Legislature is currently considering bills which would further support mandate relief efforts across the State.

**MANDATE RELIEF RECOMMENDATIONS
INCLUDING OPTIONS PRESENTED AT FEBRUARY BOARD OF REGENTS MEETING AND NEW OPTIONS**

NYS Requirement	Citation	Comments
STUDENT SUPPORT SERVICES		
1. Hyperopia vision screening for new school entrants	8NYCRR 136.3(e)(1)(ii)	Hyperopia screening (for farsightedness) is not required by Education Law §905, but was mistakenly included in the rewrite of the regulations in 2005. Current regulations require new entrants to be screened for vision abnormalities in: color perception, near vision, distance acuity, and hyperopia. Subsequent vision screenings are in distance acuity only in grades K, 1, 2, 3, 5, 7, &10. We recommend eliminating the requirement for hyperopia vision screening for new school entrants because this goes beyond what is required by law and remaining requirements ensure adequate screening.
2. Scoliosis screening For all students in grades 5-9	Education Law §905 8NYCRR 136.3(e)(1)(i)	Current NYS requirements to screen all students for scoliosis in grades 5-9 are greater than those recommended by NYSDOH, professional medical societies and organizations, and the US Preventive Task Force. The US Preventive Task Force does not recommend routine screening, however, the NYSDOH and the professional medical organizations do recommend that routine screening be continued but that the frequency of screenings be reduced to one screening for boys in grades 8 or 9, and two screenings for girls in grades 5 and 7. A survey of NYS school health medical directors and nurses demonstrated an overwhelming majority are in favor of the change. The proposed change would reduce scoliosis screening to one time for boys in grades 8 or 9 and twice for girls in grades 5 and 7.
3. Eliminate annual corporal punishment report as school climate survey is phased in	8NYCRR 100.2 (3) (ii) Corporal Punishment 100.2 (hh) Child Abuse	Currently, school districts, BOCES and Charter Schools are required to report bi-annually to the Department in January and July on complaints received about the use of corporal punishment. The Department does not review or act on this reported information. Should the Department determine a need for the data, it could be requested as part of a school climate survey instrument. Reports of allegations of child abuse within an educational setting could be handled in the same manner.

NYS Requirement	Citation	Comments
CURRICULUM AND ASSESSMENT		
4. Eliminate the requirement that school districts observe Conservation Day	Education Law 810 and Commissioner Regulation Section 100.2 (c)	This should be embedded within required curriculum programming and instruction throughout the academic year not just on one day.
TRANSPORTATION		
5. Eliminate second set of fingerprints for school bus drivers	State Law "SAVE" requirements	Currently the State requires a second set of fingerprints for school bus drivers who have already been certified under Section 509-cc of the Vehicle and Traffic Law
6. Add flexibility to timing of school bus training	8NYCRR 156.3(b)(5)(iii)	Amending the current regulation would allow for greater flexibility for completing the required semi-annual school bus driver refresher training programs to allow school districts to schedule those courses coincidental with other professional development days that occur during the year.
7. Eliminate the requirement for back-lit school bus sign	State Law—Vehicle and Traffic Law Section 375	Eliminate the requirement for back-lit school bus and replace it with federally-compliant reflective materials, consistent with the provisions currently in place in 48 out of 50 states.
8. Enable school districts to assess local need for transportation	Education Law § 3635	Pending bill, S.4434/A.6821, would permit boards of education in certain school districts to enact a policy to provide student transportation based upon patterns of actual ridership.
9. Eliminate requirements for anti-idling reports	8NYCRR 156.3	Education Law section 3637 requires school districts to minimize school bus idling near children to prevent adverse impacts on the health of students. The regulations require school districts to monitor compliance with these requirements twice a year and to prepare and submit two reports each year to SED. This mandate relief action would eliminate the reports submitted to SED while retaining the requirements for reducing bus idling.
CERTIFICATION OF TEACHERS AND ADMINISTRATORS		
10. Revise existing regulations to provide more teacher certification flexibility by allowing for a certified teacher to teach in grades 5 and 6 or 7 and 8 for 2 years (under a limited certificate) while s/he completes the required coursework for the full certificate authorizing teaching at that level	8NYCRR 80-4.3(k),(l),(m) and 80-5.18(d)	It is intended that these Limited Extension certificates would provide a two-year bridge to authorize teaching for an already experienced teacher who is seeking to complete any remaining requirements to qualify for the full certificate extension in the new teaching assignment.

NYS Requirement	Citation	Comments
11. Modify existing regulations to clarify that the School District Leader certificate is the only certificate required for a Superintendent also performing the roles of principal or business official in small school districts	8NYCRR 80-3.10(b)(2)	Smaller districts would have the flexibility of a superintendent of schools, holding the SDL certificate, serving concurrently as a building principal or a school district business leader. This will offer significant mandate relief by clarifying that one individual with the SDL certification may serve in multiple capacities.

**SPECIAL EDUCATION RECOMMENDATIONS
NOT PREVIOUSLY PROPOSED BY THE BOARD OF REGENTS**

NYS REQUIREMENTS NOT OTHERWISE REQUIRED BY FEDERAL LAW OR REGULATION UNDER CONSIDERATION FOR MANDATE RELIEF

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement	Comments
COMMITTEE ON SPECIAL EDUCATION (CSE) MEMBERSHIP			
<p>1. The CSE membership must include, in addition to the federal IEP team members:</p> <ul style="list-style-type: none"> • a school psychologist; • a parent of a student with disability (in addition to the student’s parent), except that the parent of the student may decline the participation of the additional parent member; and • a physician if requested by the school or parent 72 hours before the meeting. <p><u>Proposal:</u> Conform the membership of the CSE to the federal IEP team membership.</p>	<p>Education Law §4402(1)(b)(1)(a) and (b)</p> <p>8 NYCRR §200.3(a)(1)</p>	<p>Federal law and regulations do not require a school psychologist, additional parent member or physician.</p>	<p>The federally required IEP team membership was expanded in 1997 to include general education teachers, individuals who can interpret instructional implications of evaluations and others at the discretion of the parents and public agency, and other individuals who have knowledge or special expertise regarding the child. These other individuals could include the school psychologist, another parent or a physician at the request of the school or parent.</p>

APPENDIX B

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement	Comments
<p>2. Subcommittees on Special Education - School districts with more than 125,000 inhabitants must appoint subcommittees to the extent necessary to ensure timely evaluation and placement of students with disabilities. Other school districts may, but are not required to, have subcommittees. Subcommittee membership is the same as federal IEP team membership, except a school psychologist is a required member of a subcommittee whenever a new psychological evaluation is reviewed or a change to a program option with a more intensive staff-to-student ratio is recommended.</p> <p>Subcommittees must submit an annual report to CSE. The parent has the right to disagree with Subcommittee recommendations and refer to CSE.</p> <p><u>Proposal:</u></p> <p>Repeal Subcommittee requirements, contingent upon change to State law to conform the CSE membership to the federal IEP team.</p>	<p>Education Law §4402(1)(b)(1)(d)</p> <p>8 NYCRR §200.3(c)</p>	<p>The subcommittee membership is the same as the federal mandated IEP team membership, with the exception of the requirements for participation of the school psychologist.</p>	<p>Only viable if the State aligns its CSE membership to federal standard (above). If the membership of the CSE is aligned to the federal IEP team membership, Subcommittees on Special Education would no longer be necessary.</p>
<p>3. Written notice of a CSE meeting must inform the parent(s) of his or her right to request, in writing at least 72 hours before the meeting, the presence of the school physician member of the CSE.</p> <p><u>Proposal:</u></p> <p>Repeal contingent upon change to State law to conform the CSE membership to the federal IEP team.</p>	<p>8 NYCRR §200.5(c)(2)(iv)</p>	<p>There is no comparable federal requirement.</p>	<p>Only viable if the State aligns its CSE membership to federal standard (above).</p>

APPENDIX B

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement	Comments
<p>4. If the meeting is being conducted by a Subcommittee on Special Education, the meeting notice must inform the parent(s) that, upon receipt of a written request from the parent, the Subcommittee shall refer to the CSE any matter on which the parent(s) disagrees with the Subcommittee's recommendation concerning a modification or change in the identification, evaluation, educational placement or provision of a free appropriate public education to the student.</p> <p><u>Proposal:</u></p> <p>Repeal contingent upon change to State law to conform the CSE membership to the federal IEP team.</p>	<p>8 NYCRR §200.5(c)(2)(vi)</p>	<p>There is no comparable federal requirement.</p>	<p>Only viable if the State aligns its CSE membership to federal standard (above).</p>
COMMITTEE ON PRESCHOOL SPECIAL EDUCATION (CPSE)			
<p>5. In addition to the federal IEP team members, membership of the CPSE includes an additional parent member (except that the parent can decline the participation of the additional parent member) and a municipality representative, except the attendance of the municipality representative is not required for a quorum.</p> <p><u>Proposal:</u></p> <p>Align CPSE membership with the federal IEP team, except continue the municipality representative until such time that the county no longer has a role in the provision or payment of special education to preschool students.</p>	<p>Education Law §4410(3) (a)(1)</p> <p>8 NYCRR §200.3(a)(2)</p>	<p>There are no federal requirements for an additional parent member or municipality representative on the committee.</p>	<p>The federally required IEP team membership was expanded in 1997 to include general education teachers, individuals who can interpret instructional implications of evaluations and others at the discretion of the parents and public agency, other individuals who have knowledge or special expertise regarding the child. These other individuals could include the school psychologist, another parent or a physician at the request of the school or parent. If there is no revision to the payment structure for preschool special education, the municipality representative may need to be retained on the CPSE.</p>

APPENDIX B

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement	Comments
INDIVIDUAL EVALUATIONS			
<p>6. For preschool students, the parent selects the evaluator from list of approved evaluators.</p> <p><u>Proposal:</u></p> <p>Repeal the requirement that parent select the evaluator and replace it with the requirement that the school district, after providing the parent with a list of approved evaluators, consult with the parent regarding the selection of an evaluator that can provide a timely evaluation of the preschool child.</p> <p>All school districts would be approved preschool evaluators.</p>	<p>Education Law §4410(4)(b)</p> <p>8 NYCRR §200.16 (c)(1)</p>	<p>Federal law imposes evaluation responsibilities on the public school district, with parental right to independent evaluation under limited circumstances.</p>	<p>This requirement has contributed to significant non-compliance in NYS for timely evaluations of preschool students, as parents do not always select approved evaluators who are able to complete the individual evaluation within the State’s required timeline. Districts would select an approved evaluator (which could be the district) in consultation with the parent and in consideration of the availability of the approved evaluator to complete the evaluation within the time period required by State law</p> <p>Parents would be provided a list of approved evaluators and informed of their right to request an independent educational evaluation if they disagree with the evaluation that is completed or contracted for by the school district.</p>
<p>7. The initial evaluation of a preschool student must be conducted within 30 school days of the date of parental consent to conduct the evaluation.</p> <p><u>Proposal:</u></p> <p>Align the timeline to be the same as school age students, which is 60 calendar days.</p>	<p>8 NYCRR §200.16(c)(2)</p>	<p>Federal regulations require the initial evaluation to be conducted within 60 calendar days of receiving parental consent for the evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe.</p>	<p>Our current requirements provide for less time for preschool students’ evaluations to be completed than school age evaluations, even though the preschool evaluation system relies is more complex and dependent upon approved evaluators and parental choice of evaluators. This has resulted in substantial non-compliance in preschool evaluation timelines.</p>

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement	Comments
<p>8. Each initial individual evaluation of a student suspected of having a disability must include a physical examination, individual psychological evaluation, social history, observation, other appropriate evaluations and functional behavioral assessment (FBA) when behavior impedes learning.</p> <p><u>Proposal:</u> Adopt the federal standard for initial evaluations.</p>	<p>Education Law §4402(1)(b)(3)(a)</p> <p>8 NYCRR §§200.1(aa), 200.4(b)(1)(i) – (v);</p>	<p>Federal requirements do not prescribe specific types of assessments that must be conducted as part of an initial evaluation except that a classroom observation is a federal requirement for students with specific learning disabilities. The terms psychological evaluation, social history and FBA are not defined in federal law or regulation.</p>	<p>This would provide flexibility to Committees to determine most appropriate evaluations (e.g., not every student would require a physical evaluation).</p> <p>Federal regulations require that, for eligibility determinations for special education, the Committee must draw upon information from a variety of sources, including aptitude and achievement tests, parent input and teacher recommendations, as well as information about the student’s physical condition, social or cultural background and adaptive behavior.</p>
<p>9. Establishes the process for a school psychologist to determine the need to administer an individual psychological evaluation and requires a written report when such evaluation is determined not to be necessary.</p> <p><u>Proposal:</u> Repeal, contingent upon adoption of the federal standard for individual evaluations.</p>	<p>Education Law §4402(1)(b)(3)(a)</p> <p>8 NYCRR §200.4(b)(2)</p>	<p>There is no comparable federal requirement.</p>	<p>Only viable if change definition of individual evaluation (above)</p>
PLANNING AND REPORTING REQUIREMENTS			
<p>10. Requires the school district to provide a form to parents of certain children with disabilities who are veterans of the Vietnam war for a report to the Division of Veterans’ Affairs for research purposes.</p> <p><u>Proposal:</u> Repeal - outdated statutory requirement</p>	<p>Education Law §4402(1)(b)(3)(h)</p> <p>Executive Law §353(15)</p>	<p>There is no comparable federal requirement.</p>	<p>There are no longer any school age students of veterans of the Vietnam War.</p>

APPENDIX B

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement	Comments
POLICIES AND PROCEDURES			
<p>11. Requires BOEs to have plans and policies for appropriate declassification of students with disabilities – regular consideration for declassifying students when appropriate and the provision of educational and support services upon declassification.</p> <p><u>Proposal:</u> Repeal.</p>	<p>Education Law §4402(1)(b)(3)(d-2)</p> <p>8 NYCRR §200.2(b)(8)</p>	<p>There is no comparable federal requirement.</p>	<p>CSE/CPSEs must still determine whether a student with a disability continues to need special education services as one component of every annual review. This has not been an effective requirement leading to an increase in declassification rates.</p> <p>Federal law requires that a student with a disability be reevaluated prior to a determination that the student is no longer a student with a disability.</p>
APPROVAL OF CERTAIN EARLY INTERVENTION PROGRAMS			
<p>12. The Commissioner approves the provision of early intervention services by approved preschool providers.</p> <p><u>Proposal:</u> Repeal.</p>	<p>Education Law §4403(18)</p>	<p>Federal law does not require the State Educational Agency to approve providers of early intervention services.</p>	<p>The Department of Health (DOH) under the Early Intervention Program provides services to children with disabilities, birth to two in NY State. This requirement is a duplicative burden to SED for a responsibility that resides in the first instance with DOH.</p>
COMMISSIONER'S APPOINTMENT TO STATE SUPPORTED SCHOOLS			
<p>13. Procedures for the appointment of students to State-supported schools.</p> <p><u>Proposal:</u> Repeal the Commissioner's role in appointments to State supported schools and that the State supported school evaluate the student in addition to the evaluation conducted by the school district.</p>	<p>Education Law §4201</p> <p>8 NYCRR §200.7(d)(1)(ii) and (iii)</p>	<p>There are no federal requirements relating to appointment to state-supported schools.</p>	<p>This would eliminate unnecessary administrative procedures that were established before the federal and State laws were enacted and are duplicative costly evaluations of the student for admission to such schools.</p>

COMMITTEE ON SPECIAL EDUCATION (CSE) MEMBERSHIP

§200.3 Committee on special education

(a) Each board of education or board of trustees shall appoint: (1) committees on special education in accordance with the provisions of Education Law, section 4402, as necessary to ensure timely evaluation and placement of students. The membership of each committee shall include, but not be limited to:

(i) the parents or persons in parental relationship to the student;

(ii) not less than one regular education teacher of the student whenever the student is or may be participating in the regular education environment;

(iii) not less than one special education teacher of the student, or, if appropriate, not less than one special education provider of the student;

(iv) a school psychologist;

(v) a representative of the school district who is qualified to provide or supervise special education and who is knowledgeable about the general education curriculum and the availability of resources of the school district, provided that an individual who meets these qualifications may also be the same individual appointed as the special education teacher or the special education provider of the student or the school psychologist. The representative of the school district shall serve as the chairperson of the committee;

(vi) an individual who can interpret the instructional implications of evaluation results. Such individual may also be the individual appointed as the regular education teacher, the special education teacher or special education provider, the school psychologist, the representative of the school district or a person having knowledge or special expertise regarding the student when such member is determined by the school district to have the knowledge and expertise to fulfill this role on the committee;

§300.321 IEP Team.

(a) *General.* The public agency must ensure that the IEP Team for each child with a disability includes—

(1) The parents of the child;

(2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);

(3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;

There is no comparable federal requirement.

(4) A representative of the public agency who—

(i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

(ii) Is knowledgeable about the general education curriculum; and

(iii) Is knowledgeable about the availability of resources of the public agency.

(5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;

COMMITTEE ON SPECIAL EDUCATION (CSE) MEMBERSHIP	
<p>(vii) a school physician, if specifically requested in writing by the parent of the student or by a member of the school at least 72 hours prior to the meeting;</p> <p>(viii) an additional parent member of a student with a disability residing in the school district or a neighboring school district, provided that the additional parent member may be the parent of a student who has been declassified within a period not to exceed five years or the parent of a student who has graduated within a period not to exceed five years. Such parent is not a required member if the parents of the student request that the additional parent member not participate in the meeting;</p> <p>(ix) other persons having knowledge or special expertise regarding the student, including related services personnel as appropriate, as the school district or the parent(s) shall designate. The determination of knowledge or special expertise of such person shall be made by the party (parents or school district) who invited the individual to be a member of the committee on special education; and</p> <p>(x) if appropriate, the student.</p>	<p>There is no comparable federal requirement.</p> <p>There is no comparable federal requirement.</p> <p>(6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and</p> <p>(7) Whenever appropriate, the child with a disability.</p>

COMMITTEE ON PRESCHOOL SPECIAL EDUCATION (CPSE)	
<p>§200.3 Committee on preschool special education</p> <p>(2) committees on preschool special education in accordance with provisions of Education Law, section 4410 to implement the provisions of section 200.16 of this Part. The membership of each committee on preschool special education shall include, but not be limited to:</p>	<p>§300.321 IEP Team.</p> <p>(a) <i>General.</i> The public agency must ensure that the IEP Team for each child with a disability includes—</p>

<p>COMMITTEE ON PRESCHOOL SPECIAL EDUCATION (CPSE)</p>	
<p>(i) the parents of the preschool child;</p> <p>(ii) not less than one regular education teacher of the child whenever the child is or may be participating in the regular education environment;</p> <p>(iii) not less than one special education teacher of the child, or, if appropriate, not less than one special education provider of the child;</p> <p>(iv) a representative of the school district who is qualified to provide or supervise special education and who is knowledgeable about the general education curriculum and the availability of preschool special education programs and services and other resources of the school district and the municipality. The representative of the school district shall serve as the chairperson of the committee;</p> <p>(v) an additional parent member of a child with a disability residing in the school district or a neighboring school district and whose child is enrolled in a preschool or elementary level education program, provided that such parent is not a required member if the parent(s) of the child request that the additional parent member not participate;</p> <p>(vi) an individual who can interpret the instructional implications of evaluation results, provided that such individual may also be the individual appointed as the regular education teacher, the special education teacher or special education provider, the school psychologist, the representative of the school district or a person having knowledge or special expertise regarding the student when such member is determined by the school district to have the knowledge and expertise to fulfill this role on the committee;</p>	<p>(1) The parents of the child;</p> <p>(2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);</p> <p>(3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;</p> <p>(4) A representative of the public agency who—</p> <p>(i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;</p> <p>(ii) Is knowledgeable about the general education curriculum; and</p> <p>(iii) Is knowledgeable about the availability of resources of the public agency.</p> <p>There is no comparable federal requirement.</p> <p>(5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;</p>

COMMITTEE ON PRESCHOOL SPECIAL EDUCATION (CPSE)	
<p>(vii) other persons having knowledge or special expertise regarding the child, including related services personnel as appropriate, as the school district or the parents shall designate. The determination of knowledge or special expertise of such person shall be made by the party (parents or school district) who invited the individual to be a member of the committee on special education;</p> <p>(viii) for a child in transition from early intervention programs and services, at the request of the parent, the appropriate professional designated by the agency that has been charged with the responsibility for the preschool child; and</p> <p>(ix) a representative of the municipality of the preschool child’s residence, provided that the attendance of the appointee of the municipality shall not be required for a quorum.</p>	<p>(6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate;</p> <p>§300.321(c). Determination of knowledge and special expertise. The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) ... must be made by the party (parents or public agency) who invited the individual to be a member of the IEP Team.</p> <p>(7) Whenever appropriate, the child with a disability.</p> <p>§300.321(f) Initial IEP Team meeting for child under Part C. In the case of a child who was previously served under Part C of the Act, an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.</p> <p>There is no comparable federal requirement.</p>

INDIVIDUAL EVALUATIONS	
<p>§200.4(b)(1)(i)-(v) Individual evaluation and reevaluation</p> <p>The individual evaluation shall include a variety of assessment tools and strategies, including information provided by the parent, to gather relevant functional, developmental and academic information about the student that may assist in determining whether the student is a student with a disability and the content of the student’s individualized education program, including information related to enabling the student to participate and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities).</p>	<p>§300.304 Evaluation procedures.</p> <p>(b) Conduct of evaluation. In conducting the evaluation, the public agency must—</p> <p>(1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining—</p> <p>(i) Whether the child is a child with a disability under § 300.8; and</p> <p>(ii) The content of the child’s IEP, including information related to enabling the child to be involved in and progress in the general</p>

INDIVIDUAL EVALUATIONS	
<p>The individual evaluation must be at no cost to the parent, and the initial evaluation must include at least:</p> <p>(i) a physical examination in accordance with the provisions of sections 903, 904 and 905 of the Education Law;</p> <p>(ii) an individual psychological evaluation, except when a school psychologist determines after an assessment of a school-age student, pursuant to paragraph (2) of this subdivision, that further evaluation is unnecessary;</p> <p>(iii) a social history;</p> <p>(iv) an observation of the student in the student’s learning environment (including the regular classroom setting) or, in the case of a student of less than school-age or out of school, an environment appropriate for a student of that age, to document the student’s academic performance and behavior in the areas of difficulty; and</p> <p>(v) other appropriate assessments or evaluations, including a functional behavioral assessment for a student whose behavior impedes his or her learning or that of others, as necessary to ascertain the physical, mental, behavioral and emotional factors which contribute to the suspected disabilities.</p> <p>§200.4(b)(6) School districts shall ensure that:</p> <p>(iii) assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a general intelligence quotient;</p> <p>(v) no single measure or assessment is used as the sole criterion for determining whether a student is a student with a disability or for determining an appropriate educational program for a student;</p>	<p>education curriculum (or for a preschool child, to participate in appropriate activities);</p> <p>There is no comparable federal requirement</p> <p>There is no comparable federal requirement</p> <p>There is no comparable federal requirement</p> <p>There is no comparable federal requirement except for students suspected of having a learning disability.</p> <p>§300.304 Evaluation procedures In conducting the evaluation the public agency must...</p> <p>(2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and</p> <p>§300.304(c) Other evaluation procedures. Each public agency must ensure that—</p>

INDIVIDUAL EVALUATIONS	
<p>(vii) the student is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, vocational skills, communicative status and motor abilities;</p> <p>(viii) students age 12 and those referred to special education for the first time who are age 12 and over, shall receive an assessment that includes a review of school records and teacher assessments, and parent and student interviews to determine vocational skills, aptitudes and interests; (there is no comparable federal requirement)</p> <p>(ix) the evaluation is sufficiently comprehensive to identify all of the student's special education needs, whether or not commonly linked to the disability category in which the student has been identified;</p> <p>§200.4(j) Additional procedures for identifying students with learning disabilities</p> <p>The individual evaluation must include information from an observation of the student in routine classroom instruction....</p>	<p>(2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.</p> <p>(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;</p> <p>(6) In evaluating each child with a disability under §§ 300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.</p> <p>(7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.</p> <p>Additional Procedures for Identifying Children With Specific Learning Disabilities - § 300.310(a) Observation.</p> <p>The public agency must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.</p>

PLANNING AND REPORTING REQUIREMENTS	
<p>§§4402(1)(b)(3)(c) & 4402(5) and §200.4(i) & 200.5(a)(6)(iii): Establish procedures and timelines for the CSE to provide written notice to the parents or guardian (or the student if the student is age 18 or older) who are in residential programs, receiving special education services 100% of the school day, receiving individualized attention or intervention because of intensive management needs or a severe disability and/or who may need</p>	<p>There are no comparable federal requirements.</p>

PLANNING AND REPORTING REQUIREMENTS

adult services as determined by the CSE, to inform such students/parents that their eligibility for special education services will end and obtain consent to share information on the student with appropriate adult agencies. Requires the school district to forward information to the adult agencies and prepare an annual report to SED on all students with disabilities aging out or graduating.

Individualized education program (IEP)

§200.4(d)(2)(ix) Transition services.

For those students beginning not later than the first IEP to be in effect when the student is age 15 (and at a younger age, if determined appropriate), and updated annually, the IEP shall, under the applicable components of the student’s IEP, include:

(a) under the student’s present levels of performance, a statement of the student’s needs, taking into account the student’s strengths, preferences and interests, as they relate to transition from school to post-school activities as defined in section 200.1(fff) of this Part;

(b) appropriate measurable postsecondary goals based upon age appropriate transition assessments relating to training, education, employment and, where appropriate, independent living skills;

(c) a statement of the transition service needs of the student that focuses on the student’s courses of study, such as participation in advanced-placement courses or a vocational education program;

(d) needed activities to facilitate the student’s movement from school to post-school activities, including instruction, related services, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation; and

(e) a statement of the responsibilities of the school district and, when applicable, participating agencies for the provision of such services and activities that promote movement from school to post-

Individualized Education Programs

§300.320 Definition of individualized education program.

(b) *Transition services.* Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include—

(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

(2) The transition services (including courses of study) needed to assist the child in reaching those goals.

<p>PLANNING AND REPORTING REQUIREMENTS</p>	
<p>school opportunities, or both, before the student leaves the school setting.</p> <p>§200.4(d)(4)(i)(c) IEP recommendations.</p> <p>To the extent appropriate and with parental consent or consent of a student 18 years of age or older, the school district must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the district should take steps to involve the other agency in the planning of any transition services;</p>	<p>§300.321 IEP Team. (b) Transition services participants.</p> <p>(3) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.</p> <p>§300.324 Development, review, and revision of IEP. (c) Failure to meet transition objectives—</p> <p>(1) Participating agency failure. If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with § 300.320(b), the public agency must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.</p>