

FEDERAL VERSUS STATE SPECIAL EDUCATION REQUIREMENTS

STATE REQUIREMENT	FEDERAL REQUIREMENT
COMMITTEE ON SPECIAL EDUCATION (CSE) MEMBERSHIP	
<p>§200.3 Committee on special education</p> <p>(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:</p> <p>(i) the parents or persons in parental relationship to the student;</p> <p>(ii) not less than one regular education teacher of the student whenever the student is or may be participating in the regular education environment;</p> <p>(iii) not less than one special education teacher of the student, or, if appropriate, not less than one special education provider of the student;</p> <p>(iv) a school psychologist;</p> <p>(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;</p> <p>(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;</p> <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>§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>(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>There is no comparable federal requirement.</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>(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> <p>There is no comparable federal requirement.</p>

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<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>(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>(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>§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>(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>

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<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>(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>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> <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 The individual evaluation shall include a variety of assessment tools and strategies, including information provided by the parent, to gather</p>	<p>§300.304 Evaluation procedures. (b) Conduct of evaluation. In conducting the evaluation, the public agency must —</p>

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<p>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>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>(vii) the student is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social</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 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 for all students 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> <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>

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<p>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>(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 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.</p>	<p>There are no comparable federal requirements.</p>

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<p>Individualized education program (IEP) §200.4(d)(2)(ix) Transition services.</p> <p>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:</p> <p>(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;</p> <p>(b) appropriate measurable postsecondary goals based upon age appropriate transition assessments relating to training, education, employment and, where appropriate, independent living skills;</p> <p>(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;</p> <p>(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</p> <p>(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-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>Individualized Education Programs §300.320 Definition of individualized education program.</p> <p>(b) <i>Transition services.</i> 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—</p> <p>(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and</p> <p>(2) The transition services (including courses of study) needed to assist the child in reaching those goals.</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>