

**New York State Education Department
P-12 Education: Office of Special Education**

**ANNOUNCEMENT OF PUBLIC HEARINGS
SPECIAL EDUCATION MANDATE RELIEF OPTIONS**

The New York State Education Department (NYSED) P-12 Education, Office of Special Education, has scheduled three public hearings to seek public comment on special education mandate relief proposals. The public hearing sessions are scheduled as follows:

	New York City	Rochester	Albany
Date	Tuesday June 28, 2011	Tuesday June 28, 2011	Wednesday June 29, 2011
Time	2:00 p.m. – 5:30 p.m.	2:00 p.m. – 4:45 p.m.	2:00 p.m. – 4:45 p.m.
Location	Shirley A. Chisholm State Office Building 55 Hanson Place Room 346 Brooklyn, NY 11217 Room Capacity: 75 Directions: http://www.acces.nysed.gov/vr/brooklyn/directions.htm	Monroe 1 BOCES 15 Linden Park Rochester, NY 14625 Room Capacity: 90 Directions: http://www.monroe.edu/locations.cfm	East Greenbush Community Library 10 Community Way Meeting Rooms A & B East Greenbush, NY 12061 Room Capacity: 76 Directions: http://www.eastgreenbushlibrary.org/index.php?option=com_content&view=article&id=132&Itemid=5

- Pre-registration is not required.
- The meeting rooms are accessible to individuals with disabilities. Individuals who need accommodations for a disability in order to attend the meeting (i.e., interpreting services and material in an alternative format) should notify Tim Knapik at (518) 486-7462 no later than two weeks before the scheduled meeting date.
- You must bring photo identification and follow sign-in procedures, which may include a security scanning, as required at the door.
- Individuals may register to provide comment at the door on a first-come, first-served basis. Comments can be oral and/or written. Written comments that accompany oral remarks are recommended, but optional.
- **NYC** - Participants wishing to provide comment between 5:00 p.m. and 5:30 p.m. must arrive and register no later than 5:15 p.m.
- **Rochester and East Greenbush** - Participants wishing to provide comment between 4:30 p.m. and 4:45 p.m. must arrive and register no later than 4:30 p.m.
- Please check the following P-12: Office of Special Education website prior to the meeting dates for additional information and any changes regarding these meetings: <http://www.p12.nysed.gov/specialed/timely.htm>

Questions regarding the special accommodation requests and other logistic issues relating to the public hearings may be directed to Tim Knapik at (518) 486-7462.

Questions regarding the special education mandate relief proposals may be directed to Alison Conners or Suzanne Corey at (518) 473-2878.

Written comments on the special education mandate relief proposals will be accepted until July 25, 2011 and may be submitted to:

New York State Education Department
P-12 Education: Office of Special Education
89 Washington Avenue
Room 309 EB
Albany, New York 12234
Attention: Public Comment – Special Education Mandate Relief Proposals

Comments may also be faxed to 518-473-5387 or emailed to spedpubliccomment@mail.nysed.gov. We request that written public comment be provided using the Public Comment Submission Sheet – Special Education Mandate Relief Proposals.

Background Information:

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 2011, the Board of Regents have reviewed and discussed mandate relief options at each of their monthly meetings that are intended to increase flexibility and reduce requirements in ways that do not adversely impact the health and safety of students and essential elements of education reform. At their May 16, 2011 meeting, the Regents issued a vote of support for NYSED to seek public comment on selected special education mandate relief proposals prior to proposing statutory revisions or adopting regulatory changes.

In developing mandate relief proposals relating to special education, NYSED reviewed certain administrative requirements in New York State (NYS) law and regulations that are not otherwise required by federal law and regulations and where there should not be a significant direct negative impact on the provision of special education services and where there are federal procedural protections to ensure that the rights of students with disabilities and their parents are protected.

Mandate Relief Proposals

COMMITTEE ON SPECIAL EDUCATION (CSE) MEMBERSHIP

1. Conform the membership of the CSE to the federal individualized education program (IEP) team membership:

- Repeal the requirement that a school psychologist and an additional parent of a student with a disability (other than the parent of the student to be discussed) must attend each CSE meeting.
- Repeal the requirement that a school physician attend the CSE meeting, if requested by the school or parent at least 72 hours before the meeting.
- Repeal requirements relating to Subcommittees on Special Education and related notices to parent regarding subcommittee meetings.

COMMITTEE ON PRESCHOOL SPECIAL EDUCATION (CPSE)

2. Conform the membership of the CPSE to the federal IEP team membership:
 - Repeal the requirement that CPSE membership must include an additional parent member (other than the parent of the preschool student to be discussed).
 - Retain the current State requirement that a representative of the municipality of the preschool child's residence as a member of the CPSE, provided that the attendance of the appointment of the municipality shall not be required for a quorum.

INDIVIDUAL EVALUATIONS

3. Repeal the requirement that the parent(s) selects the preschool evaluator:
 - Replace it with the requirement that the school district, after providing the parent(s) with a list of approved evaluators, must consult with the parent(s) regarding the selection of an approved evaluator that can provide a timely evaluation of the preschool child.
 - Deem that all public school districts are approved preschool evaluators pursuant to section 4410 of the Education Law.
4. Align the preschool initial evaluation timeline to be the same as the evaluation timeline for school-age students, which is 60 calendar days:
 - Repeal the requirement that the initial evaluation be conducted within 30 school days of the date of parental consent to conduct the evaluation.
 - Replace it with a requirement that the initial evaluation of a preschool child be conducted within 60 calendar days of the date of parental consent to conduct the evaluation.
5. Adopt the federal standard for initial evaluations:
 - Repeal the requirement that each 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.
 - Replace it with the federal requirement that the initial evaluation include an assessment of the student 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.
 - Repeal the requirement that the school psychologist must conduct a screening and a written report whenever an individual psychological evaluation is not to be conducted as part of the initial evaluation of a student suspected of having a disability or for a reevaluation of a student with a disability.

PLANNING AND REPORTING REQUIREMENTS

6. Repeal the outdated requirement that the school district must 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. There are no longer significant numbers of such students who are currently of school age.
7. Repeal the requirement for Boards of Education to have plans and policies for appropriate declassification of students with disabilities.
 - o Retain the federal requirement that all students with disabilities must have a reevaluation prior to a recommendation for declassification.

APPROVAL OF CERTAIN EARLY INTERVENTION (EI) PROGRAMS

8. Repeal the requirement that the Commissioner of Education must approve the provision of early intervention services by approved preschool providers.
 - o Transfer the responsibility for EI program approval to the Department of Health, which is the lead agency in New York State for Early Intervention Services.

COMMISSIONER'S APPOINTMENT TO STATE-SUPPORTED SCHOOLS

9. Repeal the Commissioner of Education's role in appointments to State-supported schools and the requirement that the State-supported school conduct an evaluation of the student in addition to the evaluation conducted by the school district.

NYSED recognizes that many New York mandates that exceed the federal requirements were put into place at a time when the federal special education laws and regulations were first being implemented and when it was often felt that greater specificity was needed to assist districts in understanding and carrying out their responsibilities. Since that time, the federal laws have been revised to address certain previous short-comings. At a time of great fiscal constraint when districts' capacity is being reduced in many areas, these proposals reflect our desire to provide districts with the flexibility needed to devote resources to the activities and programs that, while providing the essential federal protections for students, will ensure the needed improvements in outcomes for students with disabilities.

ADDITIONAL INFORMATION RELATED TO THESE PROPOSALS MAY BE FOUND AT:

Federal Versus State Special Education Requirements

<http://www.p12.nysed.gov/specialed/policy/mandaterelief-fed-vs-state.htm>

Special Education Mandate Relief Proposals for Public Comment: June 2011

<http://www.p12.nysed.gov/specialed/policy/mandaterelief-chart-611.htm>

Public Comment Submission Cover Sheet

<http://www.p12.nysed.gov/specialed/policy/mandaterelief-commentform.htm>