

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 305, 4402, 4403 and 4410.

1. Paragraphs (1) and (2) of subdivision (b) of section 200.4 of the Regulations of the Commissioner of Education is amended, effective April 11, 2012, as follows:

(b) Individual evaluation and reevaluation. (1) Unless a referral for an evaluation submitted by a parent or a school district is withdrawn pursuant to paragraph (a)(7) or (9) of this section, after parental consent has been obtained or a parental refusal to consent is overridden, an individual evaluation of the referred student shall be initiated by a committee on special education. The initial individual evaluation shall be completed within 60 days of receipt of consent unless extended by mutual agreement of the student's parents and the CSE pursuant to subparagraph (7)(i) and paragraph (j)(1) of this subdivision. 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). The individual evaluation must be at no cost to the parent, and the initial evaluation must include at least:

(i) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(v) . . .

(2) A determination by a school psychologist of the need to administer an individual psychological evaluation to a student of school age pursuant to Education Law, section 4402(1)(b)(3)(a) and section 200.1(aa) and (bb) of this Part, shall be based upon an assessment conducted by the school psychologist to substantiate his or her determination. Whenever a school psychologist determines that a psychological evaluation is unnecessary as a component of the initial evaluation, the psychologist shall prepare a written report of such assessment, including a statement of the reasons such evaluation is unnecessary, which shall be reviewed by the committee.

2. Paragraph (2) of subdivision (c) of section 200.16 of the Regulations of the Commissioner of Education is amended, effective April 11, 2012, as follows:

(2) Except as provided in section 200.4(b)(7) of this Part, [The] the initial individual evaluation shall be completed within 60 days of receipt of consent to evaluate and conducted in accordance with section 200.4(b) of this Part. The summary report shall include a detailed statement of the preschool student's individual needs, if any. The summary report shall not include a recommendation as to the general type, frequency, location and duration of special education services and programs that should be provided; shall not address the manner in which the preschool student can be provided with instruction or related services in the least restrictive environment; and shall not make reference to any specific provider of special services or programs. Reports of the assessment and/or evaluation and a summary portion of the evaluation shall be provided to the members of the committee on preschool special education and to the person designated by the municipality in which the preschool student resides [so

as to allow for a recommendation by the committee to be made to the board within thirty school days of the receipt of consent]. An approved evaluator shall provide the parent with a copy of the statement and recommendation provided to the committee. Such statement and recommendation including the summary evaluation shall be provided in English and when necessary, in the native language of the parent or other mode of communication used by the parent unless it is not feasible to do so.

3. Paragraph (1) of subdivision (e) of section 200.16 of the Regulations of the Commissioner of Education is amended, effective April 11, 2012, as follows:

(e) Recommendation. (1) The committee on preschool special education shall [provide a] meet to review the results of the initial evaluation and develop a recommendation [to the board of education] within [30 school days] 60 calendar days of the date of the receipt of consent to evaluate.

4. Paragraph (1) of subdivision (f) of section 200.16 of the Regulations of the Commissioner of Education is amended, effective April 11, 2012, as follows:

(f) Provision of services for preschool students with disabilities. (1) Upon receipt of the recommendation of the committee, the board of education shall arrange for the preschool student with a disability to receive such programs and services commencing with the July, September or January starting date for the approved program, unless such services are recommended by the committee less than 30 school days prior to, or after, such appropriate starting date selected for such preschool student, in which case, such services shall be provided as soon as possible following development of the IEP, but no later than 30 school days from the recommendation of the committee and within 60 school days from receipt of consent to evaluate. If the board disagrees with the

recommendation of the committee, it shall send the recommendation back to the committee with notice to the parent and the committee including a statement of the board of education's reasons and that the recommendation will be sent back to the committee with notice of the need to schedule a timely meeting to review the board's concerns and to revise the IEP as deemed appropriate.