

PRESCHOOL
SPECIAL EDUCATION

How to secure an appropriate
education for your 3 to 5 year old
with a disabling condition

A guide for New York City
parents

Advocates for Children of New
York, Inc.

ACKNOWLEDGEMENTS

Advocates for Children is deeply grateful to all those who participated in the drafting of this guide for parents whose preschool children may need special education services.

Our special thanks go to AFC Senior Advocate Joan Harrington, who wrote the article on which this guide is based, and to AFC staff Sara Baughan, Joanne Buccellato Nancy Nevarez-Sanchez, and Janice Silber for their thoughtful editorial comments.

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Introduction

A New York State law passed in 1989 changes the process for referring and evaluating three and four year-old children for special education and related ("itinerant") services. Under the law each community school district in New York City must have a Committee on Preschool Special Education (CPSE) to identify, evaluate and place three and four year old children with special education needs. The state procedures are spelled out in Part 200 of the Regulations of the New York State Commissioner of Education. These were amended in 1996. In addition, the New York City schools have adopted specific procedures for implementing the state requirements. These changes are mandated by amendments to the IDEA (Individuals with Disabilities Education Act).

We hope this brochure will help you understand how you can get the special educational services that your three or four year old child needs. If you have further questions, you can call the Intake Department at Advocates for Children (718) 624-8450 and we will try to assist you.

The Committee on Preschool Special Education (CPSE)

Every community school district must have a Committee on Preschool Special Education (CPSE). The CPSE must provide for the private evaluation of your three or four year old child, make an initial placement, and conduct a review every year. You and your child's preschool teacher must be invited to all review and evaluation meetings.

The members of the CPSE must include:

- ◆ a professional employed by the school district who is qualified to provide or supervise the provision of special education and who shall serve as the chairperson.
- ◆ A parent of a preschool or elementary school child with a disability who resides in the school district and who is not employed by or under contract with the Board of Education.
- ◆ An appropriately certified teacher or the child's teacher if she/he has one.
- ◆ A professional who participated in the evaluation of the child. (Note: An approved evaluator is NOT a voting member of the CPSE).
- ◆ An appropriately certified or licensed professional appointed by the district. (Note: This individual is not required for a

quorum.)???

If your child was in an early intervention program before she/he turned three years, a professional designated by the Department of Health's Early Intervention Program shall attend all the CPSE meetings conducted prior to the child's initial receipt of services under CPSE.

If your child was in a regular nursery/preschool program before referral to and evaluation by CPSE, his/her teacher from that program should be a part of the CPSE process.

You may bring other persons of your choice and an advocate if you wish.???

Timing of Eligibility for Services

The time of the year that your child becomes eligible for preschool education services depends on his/her date of birth, as follows:

<u>If your child becomes 3 years old between:</u>	<u>S/he is eligible for preschool services:</u>
January 1st and June 30th	January 2nd
July 1st and December 31st	July 1st

Who can make a Referral to the CPSE

If you suspect that your preschool child has an educationally disabling condition, you must submit a written referral to the chairperson of the CPSE in your

community school district. You can make an oral referral of your child to a professional staff member in the district and s/he will assist you in making a written referral to the CPSE. If your child's suspected disabling condition is Hard of Hearing, Deaf, or Visually Impaired, your community school district CPSE will refer the case to the Hard of Hearing/Visually Impaired (HHVI) CPSE.

In addition to yourself ¹ -- the child's parent or legal guardian -- the following people can refer your child to the CPSE:

- ◆ a licensed physician;
- ◆ a representative of a government agency involved in the care of your child (for example, the Child Welfare Agency);
- ◆ a judge or other judicial officer;
- ◆ a school staff member, school district employee, or someone from an Early Childhood Direction Center or another program serving preschool children.

¹ If you are not the parent or legal guardian of a child in your care, you may request that your case worker or the child's teacher make the referral.

What Happens When a CPSE Receives A Referral

As soon as the CPSE receives a written referral concerning your child, it must immediately send you, in your dominant or "preferred" language:

1. Notice that a preschool referral has been received, along with a "Notice of Parental Due Process Rights" and a listing of free and low cost legal services available to you if you want to seek assistance.

2. The official list of evaluation sites and program providers that have been approved by the New York State Education Department to serve preschool children.

3. A "Consent for Initial Evaluation" letter for you to sign and give to the preschool evaluation site before the evaluation can begin.²

² If you are not the parent of a child in your care, and the parent or legal guardian is unknown, cannot be found, or has had parental rights legally terminated, the CPSE should name a "surrogate parent" to make educational decisions for the child. The "surrogate parent" should, to the maximum extent possible, share the same cultural and linguistic background as the child. If you are the child's foster parent, and you are interested in participating in your foster child's education, ask the CPSE to name you as the surrogate parent.

The Evaluation Site

If you agree to have your child evaluated, you will be asked to choose an evaluation site from the official list of approved evaluators. Currently, only preschool special education program providers are approved evaluation sites, although they may contract with private and public hospitals and clinics to do evaluations. Someone from the CPSE should be available to assist you in selecting an appropriate site and in arranging for an evaluation meeting. If you have applied to the Commissioner of

Education for approval for your child to attend a school for the blind, deaf, or severely physically disabled (a "4201 school"), the appropriate "4201 school" closest to your home will do the evaluation.

After you select the evaluation site, the CPSE will send materials to the site. Then personnel at the evaluation site will send you a letter notifying you of the evaluation meeting date. The meeting must be scheduled as soon as possible but no later than five school days from the date that they send you the notification letter.

If you feel you need someone at the conference or for interviews who can speak with you or your child in a language other than English, let the evaluation site know this immediately. If you need "other than English" services, the site will arrange for them to be provided. If the evaluation site is unable to provide appropriate bilingual personnel or translators, you should call your District CPSE.

Once you give written consent to the evaluation, the evaluation site must forward a copy of the signed consent form and any other available information to the CPSE.

If you cannot make the appointment the evaluation site has scheduled, call the site and have it changed. Remember, you must respond to the material you receive from the evaluation site if you want the referral to go forward. The preschool evaluation site may withdraw a referral and close the case if they can document that they tried but were unable to establish an evaluation appointment with you.

Your Child's Multidisciplinary Assessment

(Evaluation)

Personnel at the evaluation site must complete a multidisciplinary assessment and issue a report within twenty (20) school days of receiving your consent. They must consider your child's primary language and, if necessary, the evaluation will be conducted in that language. This evaluation is conducted at no cost to you.

The evaluation must include:

- ◆ a general physical examination

- ◆ a social history

- ◆ an individual psychological evaluation and observation of your child in her/his current educational setting, if there is one.

It any also include, if necessary:

- ◆ a speech/language evaluation

- ◆ a thorough medical examination

- ◆ a psychiatric, neurological, audiological, ophthalmological, occupational, or physical therapy evaluation.

In addition, you may submit any private reports that you wish to have considered during the process.

After the evaluation, the evaluation site will prepare an evaluation summary. The evaluation must describe your child's present level of performance and specific learning characteristics, and indicate whether your

child is educationally disabled. The evaluation must include a detailed statement of your child's intellectual, social, emotional, and physical development and behavior management educational needs.

The evaluation site must send this reports of the evaluation and a summary portion of it will be sent to the members of the Committee on Preschool Education and the chairperson. The site will automatically send you the evaluation summary, but if you want a copy of the full evaluation you have to request one from the CPSE.

If you disagree with the evaluation, you may be eligible for a second evaluation at public expense. You should speak to an attorney or an advocate to find out about the relevant provisions of federal law (the Individuals with Disabilities Education Act.)

The CPSE Review Meeting

• Scheduling the Meeting

After receiving the reports from the evaluation site, the CPSE must schedule a Preschool Special Education Review meeting. The CPSE will mail you a notice of the meeting at least seven days in advance, with a copy of the evaluation summary attached. At the same time it will notify all the CPSE members of the meeting.

If you are not available on the scheduled date, call to reschedule. If you do not respond within seven days, the CPSE review meeting will be held without you.

Who will be at the CPSE Meeting

Not all the members must be at the CPSE meeting. However, certain persons are mandated by law to be there:

- ◆ the CPSE Chairperson/Preschool Administrator;
- ◆ a parent of a preschool or elementary school child with an educationally disabling condition who lives in the school district;
- ◆ An appropriately certified teacher of the child's teacher if he/she has one;
- ◆ a professional who participated in your child's evaluation (not a voting member);
- ◆ An appropriately certified or licensed professional appointed by the district;
- ◆ For a child transitioning from Early Intervention, a professional designated by the Department of Health's Early Intervention Program;
- ◆ You - the parent of the child being reviewed - unless you do not wish to attend.

Other people who might be at the CPSE meeting are:

- ◆ A translator, if your preferred language is not English;
- ◆ Anyone else you wish to bring.

What happens at the meeting

Everyone at the CPSE meeting should discuss the results of the assessments in jargon-free language, identify your child's disabilities, and determine if your child needs, and is eligible for, preschool services. The CPSE should discuss and review all relevant information, including the evaluations, any information you wish to add, and information from prior programs your child may have attended.

After discussion, an Individualized Education Plan (IEP) will be developed for your child, containing annual goals, short-term objectives to meet those goals, and measurable criteria to determine whether your child is mastering these objectives. If the CPSE members disagree among themselves or with your preference, the Committee must develop an objective statement describing the reasons for its recommendation. Your statements, if any, should be included in this rationale, which will be attached to the completed IEP.

Recommendation for Services

If the CPSE decides that your child needs assistance because of a disabling condition, it will indicate that your child is a "preschooler with an educationally disabling condition." It will not label your child (i.e., learning disabled, emotionally disturbed, vision-impaired, etc.). It will also recommend an educational placement at a specific licensed or certified program site and/or "itinerant" services, like consultant teacher or speech or language therapy. It may recommend that the program

and/or services be provided all year round. (Remember: July and August (twelve-month) services will be approved only if your child needs a year-round, structured learning environment to maintain developmental levels and prevent regression.) The program or special services may differ in type, frequency or duration from those provided during the ten month school year.)

If the CPSE is considering placing your child in an approved program of the agency that did the initial evaluation, the CPSE may, at its discretion, obtain a second evaluation from another approved evaluator.

Related Services/Itinerant Services

If the CPSE recommends one or more related services (e.g. Physical, Occupational and/or Speech Therapy) or itinerant services, the location where the services are provided shall be arranged by the parent. The providers will be selected from a list of certified or licensed providers compiled by the Central Board of Education.

The Cost of the services recommended by the CPSE will be paid by the Board of Education; however, the cost of the program, if any, is the responsibility of the parent.

Least Restrictive Setting

According to the United States Department of Education, a full range of educational and support services must be made available to preschoolers with disabling conditions. The continuum of services, or range of alternative placement options, is: related services only; special education itinerant services only, related services in combination with special education itinerant services; a

half day preschool program and a full day program. Each preschooler with an educationally disabling condition is entitled to placement in the "least restrictive" appropriate setting. Special education services for preschool students with disabilities in a setting that includes no regular contact with age appropriate peers without disabilities may only be recommended when the nature and severity of the child's disability is such that even with supplementary aids and services, satisfactory progress may not be achieved.

In New York, as well as many other States, children below age 5 are not within the State's mandated school age. As a result, public agencies do not typically operate educational programs for non-disabled children below age 5. Local educational agencies (LEAs) must consider alternative placement options when they don't provide preschool programs.

Provision of Services

After the CPSE decides that your child is eligible for preschool special education services, it will get a Preschool Acceptance Letter from the program it has recommended. The CPSE will indicate in the IEP whether your child will receive ten or twelve-month school programming. If your child is in a twelve month program, the CPSE may recommend and the Board may select a program or special services that are different in type, frequency or duration from the services provided the child during the ten month school year. The CPSE will also send you a Notice of Recommendation and IEP, and ask for your consent for the educational program it recommends. Once you have consented, the CPSE will send materials to the Central Board of Education's Central

Based Support Team (CBST) ³ for review and initiation of services.

3. The CBST is the administrative division designated by the New York City Board of Education to oversee preschool special education services.

If the CPSE Decides Your Child Is Not Eligible

If the CPSE decides that your child is not eligible for services, or doesn't recommend the program or services you want, it will send or give you the Notice of Recommendation. You should already have received the Evaluation Summary and Notice of Parental Due Process Rights. It must also send a complete packet to the Central Board's CBST for review.

If the District CPSE and Central Board CBST Agree:

- **That Your Child Is Eligible**

The CBST must complete its review within thirty school days of your consent for evaluation.

- **That Your Child Is Not Eligible**

If both the district CPSE and the Central CBST agree that your child is not eligible for special education, you will receive a final Determination that your child is not eligible for special education services, as well as information about your due process right to challenge the denial of special education at an impartial hearing.

If the District CPSE and Central Board CBST Disagree

If the Central CBST disagrees with the district CPSE recommendation, the CBST will consult with representatives from the evaluation site, the program, and the district CPSE Chairperson. It will inform the CPSE of its reasons for disagreement, and request a meeting to try to resolve those differences. You must be invited to

attend this meeting. If the CPSE does not change its recommendation the CBST may not override the district's finding.

If You Do Not Agree to the Recommended Services

If you disagree with the recommendation, you may request an impartial hearing (see Your Procedural Due Process Rights, below). If you do not respond to the recommendation and do not request an impartial hearing or another district CPSE review meeting, the CPSE can close your case if they can document that they made significant attempts to reach you.

If You Agree With The Recommended Services

If you agree with the recommendation, then your child must receive the services, including "appropriate transportation," beginning with the January, July or September "school start date." Services must start no later than 30 days from the recommendation if your child is referred mid-session.

If the Program and/or Services are Not Available

If the services are "not available", the New York City Board of Education must develop an appropriate program. **If you are aware of a program that may offer services appropriate for your child, call the CBST and an advocate.**

If your child is recommended for a bilingual preschool program which is not available, s/he may be placed in a monolingual program which is otherwise appropriate with a bilingual paraprofessional who speaks his/her language. This is called an "alternate placement". Your child should be transferred to an appropriate

bilingual program as soon as one becomes available. If the preschool program refuses to provide a bilingual paraprofessional for your child, call the District CPSE and let them know.

Change of Program or Services

If you or your child's teacher or services provider believe that a change of program and/or services is needed, write to the CPSE and request a review of the IEP. If necessary, the CPSE Chairperson will ensure that additional evaluations are done and will schedule a Requested Review conference.

No change in your child's educational placement or services may occur without prior notification to you. If you object, you should request an impartial hearing. During this period, no change in placement or services may occur. If you do not respond, the change in placement or services may occur.

Your Procedural Due Process Rights

Whenever you disagree with the evaluation or recommendation of the CPSE or CBST, you may request an impartial hearing. The impartial hearing is an opportunity to have a neutral decision-maker determine your child's educational needs. It is not as formal as a courtroom proceeding, but it is similar in many respects. The Board of Education will produce evidence to support its position and you will present evidence to support yours. Instead of the informal and open discussion style of CPSE meetings, there are special rules for conducting an impartial hearing.

You should seek the help of an advocate or an attorney if you are considering going to an impartial hearing. Contact Advocates for Children to order our manual, "Securing an Appropriate Education for Children with Disabling Conditions in New York City." (\$10 for parents; \$25 for organizations.) Once you have had the hearing, the impartial hearing officer must give you a decision within 30 calendar days.

During the Appeal Process

If your child has previously received services in this system, s/he will remain in the current educational placement (pendency placement) during the appeal process. If your child has not been previously served, s/he may receive the services recommended by the Board of Education while you await the outcome of the impartial hearing. This will occur if you agree to this temporary provision of services. If you do not agree, your child will not receive services during this period.

If you disagree with the decision of the Impartial Hearing Officer, you may appeal to the New York State Review Officer, (3055 Cultural Education Center, Albany, NY 11230 (518) 486-1860.) You should seek the help of an advocate or an attorney if you decide to appeal to the Commissioner.

ROLES OF THE DISTRICT COMMITTEES ON PRESCHOOL SPECIAL EDUCATION AND THE CENTRAL BOARD'S CENTRAL-BASED SUPPORT TEAM

CPSE

Receives referral
Provides for evaluation
Holds CPSE Review Meeting
Develops IEP and
 Recommends Program & Services
Gets Preschool Acceptance Letter
Sends recommendation and all
 other materials to ----->

CBST

Receives CPSE Recommendation
Within 30 days from your consent

for

evaluation, either: FORWARDS
PACKET to the recommended

provider

or

DISAGREES with
recommendation,

consults with all parties; then either:
FORWARDS PACKET to the
recommended provider

or

REQUESTS a meeting
with you and the CPSE for
re-review to attempt re-solution.

Note: Within 30 days from the recommendation, or 60 days from your consent for evaluation, ensures that your child is receiving the recommended services.

