



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

OFFICE OF VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES
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To: District Superintendents
Superintendents of Schools
Presidents of Boards of Education
Superintendents of State-Operated and State-Supported Schools
New York City Department of Education
SETRC Program Development Specialists
Commissioner's Advisory Panel for Special Education

From: James P. DeLorenzo 

Subject: Application to the Commissioner of Education for the Child-Specific Exception to Recommend Aversive Behavioral Interventions

Effective June 23, 2006, the Board of Regents approved regulations that establish general standards for behavioral interventions and set a general prohibition on the use of aversive behavioral interventions, with a provision and procedures for a child-specific exception to this prohibition. The child-specific exception is for those rare cases when a student is engaging in such severe self-injurious and/or aggressive behaviors as to threaten the physical well-being of the student or that of others and other interventions have not been successful. Please refer to the June 22, 2006 memorandum for additional information at <http://www.vesid.nysed.gov/specialed/behavioral/requirements606.htm>.

This memorandum provides important information on the application for a child-specific exception to the prohibition on the use of aversives. This process includes:

1. Submission of an application to the Commissioner of Education by the school district when a Committee on Special Education (CSE)¹ is considering a recommendation for an aversive behavioral intervention for an individual student.
2. Review of the application by an independent panel of experts ("Panel") convened by the State.
3. CSE consideration of the determination of the Panel.
4. CSE recommendation to include or not include an aversive intervention on a student's individualized education program (IEP).
5. CSE notification to the Commissioner of Education when a CSE authorizes a child-specific exception to the prohibition on the use of aversives.

¹ CSE refers to Committee on Special Education or Committee on Preschool Special Education (CPSE), as appropriate.



Applications for child-specific exceptions will be reviewed by the Panel beginning October 1, 2006 as follows:

- For students whose IEPs now indicate the need for aversive behavioral interventions, such interventions would continue, consistent with the Regulations of the Commissioner of Education, until a new recommendation is made in consideration of the determination of the Panel. For these students, requests for child-specific exceptions must be submitted by October 1, 2006. The Panel will make a timely review of the application and forward their determination to the CSE. Upon receipt of the Panel's determination, the CSE must convene to consider the Panel's determination and decide to recommend or not recommend the exception. The final decision rests with the CSE.
- For any student whose IEP is developed or amended prior to October 1, 2006 that includes a recommendation for aversives, the CSE must submit an application for a child-specific exception by October 1, 2006.
- For any student for whom the CSE is first considering a recommendation for a child-specific exception on or after October 1, 2006, the CSE must submit an application prior to the CSE's determination and IEP recommendation.

Attached is a chart outlining responsibilities of school districts and the child-specific panel relating to aversive behavioral interventions and the form which must be submitted with each request. An application may only be submitted by a school district. The CSE should submit any information it considers to be relevant to the request to use aversive behavioral interventions.

To ensure dissemination to appropriate individuals within a school district, I ask Superintendents to please share this memorandum with other individuals such as Building Principals, Directors of Special Education, School Psychologists, CSE and CPSE Chairpersons, Guidance Counselors and Directors of Pupil Personnel. Questions regarding this memorandum may be directed to Charlene Gurian at 518-486-7462.

c: Rebecca H. Cort

Attachments:

- Procedures for a Child-Specific Exception to Use Aversive Behavioral Interventions
- Child-specific Exception Application