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January 2013

## SPECIAL EDUCATION FIELD ADVISORY

FROM: James P. DeLorenzo *James P. DeLorenzo*

SUBJECT: New Requirements for Special Education Programs and Services:  
Amendment to Sections 200.2 through 200.5 of the Regulations of the  
Commissioner of Education Relating to Chapters 276 and 279 of the Laws of  
2012 (Effective January 2, 2013)

This memorandum is to inform you that the Board of Regents has approved for permanent adoption the amendments of sections 200.2 through 200.5 of the Regulations of the Commissioner of Education. The amendments conform State regulations to Chapters 276 and 279 of the Laws of 2012 relating to, respectively, the additional parent member of a committee on special education (CSE) and authorizing electronic access to students' individualized education programs. The effective date of the amendments is January 2, 2013. However, these requirements have been in effect since the Governor signed Chapters 276 and 279 into law on August 1, 2012.

Attached is a summary of the changes to the Regulations of the Commissioner of Education that were adopted at the December 2012 Regents meeting. A copy of the full text of the amended regulations can be found at <http://www.regents.nysed.gov/meetings/2012Meetings/December2012/1212brca6.pdf>.

To ensure dissemination to appropriate individuals within a school district, I ask Superintendents to please share this memorandum with individuals such as Directors of Special Education, School Psychologists, CSE and Committee on Preschool Special Education Chairpersons, Guidance Counselors and Directors of Pupil Personnel and Parent Teacher Associations. Questions regarding this memorandum may be directed to the Special Education Policy Unit at 518-473-2878 or to the Special Education Quality Assurance Office in your region:

Central Regional Office	(315) 428-4556
Eastern Regional Office	(518) 486-6366
Hudson Valley Regional Office	(518) 473-1185
Long Island Regional Office	(631) 952-3352
New York City Regional Office	(718) 722-4544
Western Regional Office	(585) 344-2002
Nondistrict Unit	(518) 473-1185

Attachment

## **Amendment to Sections 200.2 through 200.5 of the Regulations of the Commissioner of Education Relating Chapters 276 and 279 of the Laws of 2012**

Effective January 2, 2013

The following is a summary of the new regulatory requirements. A copy of the regulations, as amended, can be found at <http://www.regents.nysed.gov/meetings/2012Meetings/December2012/1212brca6.pdf>.

**Underlined language is new language.**

**Bracketed [ ] language is repealed language.**

### **SECTIONS 200.3 and 200.5 Membership of the Committee on Special Education (CSE)**

#### ***Additional parent member – section 200.3(a)(1)***

Consistent with Chapter 276 of the Laws of 2012:

Section 200.3(a)(1)(viii) as amended:

- repeals the provision that the additional parent member is a required member of the CSE unless the parents of the student request that he/she not participate in the meeting; and
- adds that the additional parent member of the CSE would be a required member of the CSE if requested by the parent, the student or the district in writing at least 72 hours prior to the meeting.

*200.3(a)(1)(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], if specifically requested in writing by the parent of the student, the student or by a member of the committee at least 72 hours prior to the meeting...*

Sections 200.5(c)(2)(iv) and (v) as amended:

- provide that the meeting notice for CSE meetings must inform parents of their right to request, in writing at least 72 hours prior to the meeting, the attendance of an additional parent member at any CSE meeting and that the meeting notice must include a statement, prepared by the New York State Education Department (NYSED), explaining the role of having the additional parent attend the meeting.

- clarify that the requirement for the meeting notice to inform parents of their right to decline the participation of the additional parent member pertains only to meetings of the committee on preschool special education; and
- correct a cross reference to Education Law.

*200.5(c)(2)(iv) for meetings of the committee on special education, inform the parent(s) of his or her right to request, in writing at least 72 hours before the meeting, the presence of the school physician member and an additional parent member of the committee on special education at any meeting of such committee pursuant to section 4402(1)(b) of the Education Law and include a statement, prepared by the State Education Department, explaining the role of having the additional parent member attend the meeting...*

*200.5(c)(2)(v) for meetings of the committee on preschool special education, inform the parent(s) of his or her right to decline, in writing, the participation of the additional parent member at any meeting of such committee pursuant to section [4402(1)(b)] 4410(3)(a)(1)(v) of the Education Law...*

**Notes:**

- ✓ No changes were made regarding the required membership of the committee on preschool special education (CPSE). Therefore, the additional parent member of the CPSE is a required member unless the parent of the student declines the participation of the additional parent member.
- ✓ NYSED has revised the State's required meeting notice form to a statement explaining the role of having the additional parent member attend the CSE meeting. A copy of the revised form may be found at <http://www.p12.nysed.gov/specialed/formsnotices/meetingnotice/CSEmeetform.htm>.
- ✓ School districts must continue to maintain a list of sufficient numbers of additional parent members and when establishing the schedule of CSE meetings, should anticipate the need for additional parent members to be available for the meeting in the event their participation is requested by the parent so that these arrangements may be made in a timely manner.

## **SECTIONS 200.2 and 200.4 Teacher Access to Students' Individualized Education Programs (IEPs)**

Consistent with Chapter 279 of the Laws of 2012:

Section 200.2(b)(11)(i) provides that, in lieu of providing a paper or electronic copy of the IEP, school district policy may provide that the student's teachers, related service providers and other service providers have access to a copy of a student's IEP

electronically; and that if the policy provides that the IEP is to be accessed electronically, the policy must ensure that the individuals responsible for the implementation of the IEP are notified and trained on how to access the IEP electronically.

*200.2(b)(11)(i) each regular education teacher, special education teacher, related service provider and/or other service provider, as defined in clause (a) of this subparagraph, who is responsible for the implementation of a student's individualized education program (IEP) is provided a paper or electronic copy of such student's IEP, including amendments to the IEP, made pursuant to section 200.4(g) of this Part, prior to the implementation of such program or shall be able to access such student's IEP electronically. If the policy provides that students' IEPs are to be accessed electronically, then such policy shall also ensure that the individuals responsible for the implementation of a student's IEP shall be notified and trained on how to access such IEPs electronically:*

Section 200.4(e)(3)(i) provides that school districts may allow a student's teachers, related service providers and other service providers to access a student's IEP electronically; provided that if a school district adopts a policy that provides that a student's IEP is to be accessed electronically, such policy must also ensure that the individuals responsible for the implementation of the IEP are notified and trained on how to access such IEP electronically.

*200.4(e)(3)(i) ensuring that each regular education teacher, special education teacher, related service provider, and/or other service provider, as defined in section 200.2(b)(11)(i)(a) of this Part, who is responsible for the implementation of a student's IEP, is provided a paper or electronic copy of the IEP prior to the implementation of such IEP or shall be able to access such student's IEP electronically. If the board of education or board of trustees adopts a policy that the student's IEP is to be accessed electronically, then such policy shall also ensure that the individuals responsible for the implementation of a student's IEP shall be notified and trained on how to access such IEPs electronically;*

**Notes:**

- ✓ *Districts must continue to ensure the appropriate personnel have been informed, prior to the implementation of the IEP, of their responsibility to implement the IEP.*
- ✓ *Districts must continue to ensure that supplementary school personnel (i.e., teaching assistants or teacher aides) have the opportunity to review a copy of the student's IEP, prior to the implementation of the IEP, and that they have ongoing access to a copy of the IEP, which may be the copy provided to the student's special education teacher or the teacher or related service provider under whose direction the individual works.*