

**(X) Required**

☐ Local

☐ Notice

**PROGRAMS FOR STUDENTS WITH DISABILITIES  
UNDER THE IDEA AND NEW YORK'S EDUCATION LAW ARTICLE 89**

The Board of Education will make available a free appropriate public education to all students with disabilities who reside within its district and are eligible for special education and related services under the Individuals with Disabilities Education Act and Article 89 of New York's Education Law, and their implementing regulations. Special education and related services will be provided to resident eligible students with disabilities in conformity with their individualized education program (IEP) and in the least restrictive environment appropriate to meet their individual educational needs. Special education services or programs will be designed to enable a student with disabilities to be involved in and progress in the general education curriculum, to the extent appropriate to their needs.

The Board also will make available special education and related services to eligible students with disabilities parentally placed in a nonpublic school located within the district, regardless of whether they are residents of the district.

However, this obligation does not extend to resident students with disabilities who are placed in a nonpublic school within district boundaries because of a disagreement between the parent/guardian and the school district over the provision of a free appropriate public education. Nonpublic school students with disabilities who are not district residents but who reside within New York State will be provided programs and services in accordance with their individualized education services program (IESP). Nonpublic school students with disabilities who reside out-of-state will be provided services in accordance with their services plan (SP). (Refer to policy 4321.10, Programs and Services for Parentally placed Nonpublic School Students with Disabilities under the IDEA and New York's Education Law Article 89 for more guidance on this topic).

In addition, to the maximum extent appropriate to their individual needs, eligible students with disabilities residing within the district and attending the district's public schools will be entitled to participate in school district academic, co-curricular and extracurricular activities available to all other students enrolled in the district's public schools. Such cocurricular and extracurricular activities may include athletics, transportation, recreational activities, school-sponsored special interest groups or clubs, and referrals to agencies that provide assistance to individuals with disabilities and the employment of students (including both employment by the school district and assistance in making outside employment available).

In providing a free appropriate public education to students with disabilities eligible under the IDEA and Article 89, the Board will afford the students and their parent/guardian the procedural safeguard rights they are entitled to under applicable law and regulations. The Board also will provide them with notice of such rights as required by law and regulation, using the form prescribed by the commissioner of education.

For purposes of this policy and others related to the provision of services to eligible students with disabilities, and consistent with applicable law and regulation, the word parent means a birth or adoptive parent, a legally appointed guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child; a person in parental relationship to the child as defined in section 3212 of the Education Law; an individual designated as a person in parental relation pursuant to title 15-A of the General Obligations Law, including an individual so designated who is acting in the place of a birth or adoptive parent (including a grandparent, stepparent, or other relative with whom the child resides; or a surrogate parent who has been appointed in accordance with commissioner's regulations.

Eligible students with disabilities will be entitled to special education and related services until the end of the school year in which they turn 21 or until they receive a local high school or Regent's diploma.

Students with disabilities may not be required to take medication as a condition for receiving a free appropriate public education.

To ensure the provision of a free appropriate public education to all eligible students with disabilities:

1. The Board will adopt and maintain a district special education services plan in conformance with Commissioner's Regulations (8NYCRR 200.2(c)). The plan will be available for public inspection and review by the Commissioner of Education.
2. School district staff will take steps to locate, identify, evaluate and maintain information about all children with disabilities within the district, including homeless children and children who are wards of the state, and children attending nonpublic school within the district (including religious schools), who are in need of special education.
3. The district will establish a plan and practice for implementing school-wide approaches and interventions to remediate a student's performance prior to referral for special education services. The district will provide general education support services, instructional modifications, and/or alternative program options to address a student's performance before referring the student to the Committee on Special Education (CSE). The RTI, IST or CST teams will develop, implement, and evaluate pre-referral intervention strategies (4321.2, School-wide Pre-referral Approaches and Interventions).
4. School district staff will initiate a request for evaluation of a student who has not made adequate progress after an appropriate period of time when provided instruction under a response to intervention program. In making the request the staff person will describe in writing intervention services, programs and methodologies used to remediate the student's performance prior to referral. In addition, the extent of parental contact will be described as well.
5. The Board will appoint a committee on special education (CSE), and, as appropriate, CSE subcommittees, to assure the timely identification, evaluation and placement of eligible students with disabilities.
6. The Board will arrange for special education programs and services based upon the recommendation of the CSE or CSE subcommittee.
7. The Superintendent will establish a process for ensuring that district staff understand the right of students with disabilities to access and participate in the same academic, cocurricular and extracurricular programs and activities as all other students enrolled in the district's public schools, to the maximum extent appropriate to their individual needs.

### **Locate and Identify Students with Disabilities**

The District will maintain an annual census that locates and identifies all students with disabilities who reside in the district and establish a register of such students who are entitled to attend the public schools of the district during the next school year, including students with disabilities who are homeless or wards of the State. The census will be conducted, and the registry maintained, in accordance with the requirements established in Commissioner's regulations.

The Superintendent will determine what other activities might be appropriate to help locate and identify students with disabilities. These may include, but are not limited to, the mailing of letters to all district residents regarding the availability of special education programs and services and their right to access such services, and/or the publication of a similar notice in school newsletters and other publications.

### **Evaluation of Students with Disabilities**

To initially determine a student's eligibility for a free appropriate public education under the IDEA and Article 89, the district will conduct a full evaluation of the student in accordance with legally prescribed timelines. As set forth in Commissioner's regulations, the initial evaluation will include, at least, a physical examination, an individual

psychological evaluation unless the school psychologist determines it unnecessary, a social history, an observation of the student in the student's learning environment to document the student's academic performance and behavior in the areas of difficulty, and other appropriate assessments or evaluations (including a functional behavioral assessment for a student whose behavior impedes their learning or that of others) to ascertain the physical, mental, behavioral and emotional factors that contribute to the suspected disabilities.

Once a student has been determined eligible to receive a free appropriate public education, the district will reevaluate the student with a disability whenever the student's parent/guardian requests a reevaluation, and when the district determines the educational and related services needs (including improved academic achievement and functional performance) of the child warrant a reevaluation. However, a reevaluation must take place at least once every three years, unless the student's parent/guardian and the district agree it is unnecessary.

### **Consent for Student Evaluations**

Before conducting any type of evaluation, district staff will take steps to obtain written informed consent as required by applicable law and regulations. They also will keep a detailed record of those attempts and their results.

1. If parent/guardian consent is refused or fails to respond to such a request, the parent/guardian will be given an opportunity to attend an informal conference and ask questions about the proposed evaluation. Unless the referral for evaluation is withdrawn, if the parent/guardian continues to withhold consent, the Board will commence due process proceedings to conduct an initial evaluation without parent/guardian consent within the timelines established in Commissioner's regulations.
2. If a parent/guardian refuses to give consent for a reevaluation, or fails to respond to such a request, district staff will proceed with the reevaluation without parent/guardian consent if it has engaged in documented reasonable efforts to obtain such consent and the parent/guardian has failed to respond. If the district cannot document its efforts to obtain consent, the Board will commence due process proceedings to conduct a reevaluation without parent/guardian consent.
3. If district staff is unable to obtain consent for the initial evaluation or reevaluation of a home schooled or a parentally placed nonpublic school student, the Board will not commence due process proceedings to conduct the evaluation without parent/guardian consent and will consider the student as not eligible for special education.

### **Conducting Evaluations**

In conducting evaluations of students with disabilities, the district will use a variety of assessment tools and strategies, including parent/guardian-provided information, to gather relevant functional, developmental, and academic information for determining a student's eligibility for special education and related services, and the content of the student's individualized education program or individualized education services program or services plan in the case of nonpublic school students with disabilities (including information related to enabling the student to be involved in and progress in the general education curriculum).

The district also will assess a student in all areas of suspected disability, and the assessment and other evaluations used will not be discriminatory on a racial or cultural basis. In addition, students will be assessed in the language and form most likely to yield accurate information on what the student knows, and can do academically, developmentally, and functionally, unless it is not feasible to do so.

In the case of students suspected of having a specific learning disability, the district will follow the procedures established in commissioner's regulations.

The district will notify a student's parent/guardian of any determination that no additional data is needed and the reasons for such a determination. It will also inform the parent/guardian of their right to request an assessment, notwithstanding that determination.

### **Eligibility Determination**

The CSE or CSE subcommittee will determine whether a student is eligible for special education and related services under the IDEA and Article 89, as well as the student's educational needs.

The CSE or CSE subcommittee may not determine that a student is eligible for special education and related services if the determining factor is lack of appropriate instruction in the essential components of reading, including phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills), and reading comprehension strategies; or lack of appropriate instruction in math; or limited English proficiency.

### **Committee on Special Education**

The members of the CSE and CSE subcommittees will include those individuals identified in applicable law and regulations, and their attendance at CSE and CSE subcommittee meetings will be required except as otherwise provided in law and regulations.

The parent/guardian of a student with disabilities is one of the mandated CSE and CSE subcommittee members and as such has a right to participate in CSE and CSE subcommittee meetings concerning the identification, evaluation, educational placement, and the provision of a free appropriate public education to their child. District staff will take steps to ensure the parent/guardian's participation, in accordance with the following:

1. CSE and CSE subcommittee meetings will be scheduled at a time and place that is mutually agreeable to the parent and the district.
2. The parent/guardian will be given at least five days notice of the time and place of a CSE or CSE subcommittee meeting, except as otherwise provided in law and regulation, along with notice of the purpose of the meeting, those who will attend (including name and title), and the parent/guardian's right to be accompanied to the meeting by person(s) the parent/guardian considers to have knowledge and special expertise about their child.
3. The parent/guardian and the district may agree to use alternative means of participation at CSE meetings, such as videoconferences or telephone conference calls.
4. District staff will take any action necessary to ensure that the parent/guardian understands the proceedings at CSE meetings, including arranging for an interpreter for deaf parents/guardians or parents/guardians whose native language is other than English.

The CSE or CSE subcommittee may meet without a student's parent/guardian only if district staff has been unable to obtain either parent/guardian participation and has a record of its attempts to arrange a mutually agreed upon time and place. Similarly, the CSE or CSE subcommittee may decide without the involvement of the student's parent/guardian only if district staff has been unable to obtain parental participation, even through the use of alternative means of participation, and has a record of its attempts to ensure parent/guardian involvement.

### **Provision of Services**

The District will arrange for appropriate special education and related services recommended by the CSE or CSE subcommittee within 60 school days of the district's receipt of parent/guardian consent to evaluate a student not previously identified as a student with a disability, or within 60 school days of referral for review of a student with a disability, except as otherwise provided in law and regulations.

All staff responsible for the implementation of a student's individualized education program, or an individualized education services program or services plan in the case of parentally placed nonpublic school students with disabilities, will be provided information regarding those responsibilities (Refer to policy 4321.5 for more information on this topic).

### **Parent/Guardian Consent for the Provision of Services**

The District acknowledges that parent/guardian consent for initial evaluation does not constitute consent for placement for the provision of special education and related services. Therefore, district staff will take steps to obtain written informed consent for the initial provision of special education and related services to an eligible student. The District will be precluded by applicable law and regulations from commencing due process proceedings to override the parent/guardian's refusal to provide such consent or override the parent/guardian's failure to respond to such a request.

### **Transition Service and Diploma/Credential Options**

In accordance with law and regulation, the District will ensure the provision of transition services, which are a coordinated set of activities for students with disabilities that facilitates movement from school to post-school activities, which may include but are not limited to post-secondary education, vocational education, integrated employment, continuing and adult education, adult services, independent living or community participation. At age 15, or younger if appropriate, the student's IEP will include a statement of transition service needs.

In developing the plan for transition services, students and parents/guardians will be made aware of the range of diploma and credential options available and the requirements associated with each option.

**Ref:** The Individuals with Disabilities Education Act (IDEA), 20 USC §§1400 *et seq.*  
34 CFR Part 300  
N.Y. Education Law Article 89, §§4401 *et seq.*  
8 NYCRR Part 200

Adoption date: July 12, 2021

## SCHALMONT CENTRAL SCHOOL DISTRICT

4321.1

**(X) Required**

( ) Local

( ) Notice

### **PROVISION OF SPECIAL EDUCATION SERVICES IN THE LEAST RESTRICTIVE ENVIRONMENT**

The Board of Education recognizes its responsibility to ensure that students with disabilities eligible for special education programs and services under the IDEA and Article 89 of New York's Education Law receive those services in the least restrictive environment appropriate to meet their individual educational needs.

Therefore, the District will not place students with disabilities in special classes or separate schools, or otherwise remove them from the regular educational environment unless the nature or severity of their disability is such that their education cannot be achieved satisfactorily in regular classes, even with the use of supplementary aids and services. In addition, the district will provide special services or programs to enable students with disabilities to be involved in and progress in the general curriculum, to the extent appropriate to their needs.

To fulfill its responsibility to educate students with disabilities in the least restrictive environment, the district will implement the provisions of section 200.6 of Commissioner's regulations.

Furthermore, and pursuant to those provisions, students with disabilities placed together for purposes of receiving special education will be grouped by similarity of individual needs including their range of academic achievement, functional performance and learning characteristics, social and physical development, and management needs.

The District also recognizes that the least restrictive environment requirements established by applicable law and regulations also extend to nonacademic settings. Therefore, the district will provide students with disabilities the opportunity to participate with non-disabled students in school-sponsored cocurricular and extracurricular activities, to the maximum extent appropriate to each individual student's needs. The District also will provide students with disabilities with supplementary aids and services the CSE or CSE subcommittee, as applicable, determines to be appropriate and necessary for the students to participate in such activities.

Ref: Individuals with Disabilities Education Act (IDEA), 20 USC §§1400 et seq.  
8 NYCRR §§200.2(b)(4); 200.6

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## SCHALMONT CENTRAL SCHOOL DISTRICT

4321.2

**(X) Required**

( ) Local

( ) Notice

### SCHOOL-WIDE PRE-REFERRAL APPROACHES AND INTERVENTIONS

The District recognizes that the provision of academic and behavioral supports and targeted interventions for students who are not making academic progress at expected levels in the general curriculum may improve a student's performance and minimize the inappropriate classification as a student with a disability. Therefore, the District will implement on a school-wide basis practices appropriate to enable all the District's students to succeed in the general education environment.

The Superintendent will identify and take steps to implement a variety of practices appropriate to comply with this policy. Consistent with applicable law and regulation, those practices may include, for example:

1. Providing early intervention services with funds available under the IDEA, which may be coordinated with similar activities conducted under the Elementary and Secondary Education Act. Such services would be made available to students not currently identified as needing special education and related services, but who need additional support to succeed in a general education setting. This may include professional development that enables teachers and other staff to deliver scientifically based academic instruction and behavioral interventions, such as scientifically based literacy instruction and, where appropriate, instruction on the use of adaptive instructional software. It also may include educational and behavioral evaluations, services and supports.
2. Implementation of a response to intervention (RTI) program that includes the minimum requirements established by commissioner's regulations and allows teachers and other staff to determine whether a student responds to scientific, research-based instruction or requires interventions beyond those provided to all students in the general education classroom.
3. Implementation of a behavioral system that reduces school and classroom behavioral problems and creates and maintains a safe and positive learning environment by promoting positive behavior in all students.

District implementation of any of the above practices will not impede or delay the appropriate evaluation of a student suspected of having a disability, and the student's right to a free appropriate public education.

Ref: Individuals with Disabilities Education Act, 20 USC §§1413(f); 1414(b)(6)(B)  
34 CFR §§300.226; 300.307(a)(2)  
8 NYCRR §§100.2(ii); 200.2(b)(7)

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## SCHALMONT CENTRAL SCHOOL DISTRICT

4321.3

**(X) Required**

( ) Local

( ) Notice

### ALLOCATION OF SPACE FOR SPECIAL EDUCATION PROGRAMS

The District recognizes its responsibility to ensure that appropriate space is available for:

1. Special programs and services provided to meet the needs of students and preschool students with disabilities both within its own facilities, and in programs provided by the Board of Cooperative Educational Services (BOCES) and attended by district residents; and
2. Offering support services to students with disabilities in settings with non-disabled peers, as well.

The district will address such space allocation needs as part of its annual budget cycle, during the annual or any more frequent re-evaluation of its long-range educational facilities plan, and as part of the district's special education services plan.

Through the Superintendent, the district also will share with the BOCES District Superintendent information relevant for the BOCES to determine the regional space needs for serving the District's resident students and preschool students with disabilities.

As part of the process for ensuring the allocation of appropriate space for special education programs and services and offering support services to students with disabilities in settings with non-disabled peers, the Superintendent, in consultation with appropriate school personnel will, at a minimum:

1. Periodically gather information regarding the number of students and preschool students with disabilities presently participating and anticipated to continue to participate in the district's special education programs and services, the type of programming they presently receive and may receive in the future, as well as the setting in which those services are and/or will be provided.
2. Review the results of the district's latest census, and other district child find efforts, including child find activities conducted with respect to parentally-placed nonpublic school students with disabilities.
3. Anticipate any projected increase in the number of students and preschool students with disabilities the district will be responsible for providing special education programs and offering support services to, the anticipated type of services they will be receiving and the settings in which those services will be provided.
4. Based on the above information, review current space capacity, and identify any additional space requirements to meet both current and future needs.

Adoption date: August 23, 2021



**(X) Required**

( ) Local

( ) Notice

**CONFIDENTIALITY AND ACCESS TO INDIVIDUALIZED EDUCATION PROGRAMS,  
INDIVIDUALIZED EDUCATION SERVICES PROGRAMS AND SERVICE PLANS**

The Board of Education recognizes the importance of ensuring the confidentiality of personally identifiable data pertaining to a student with a disability. Personally identifiable data will not be disclosed by any school district employee or member of a CSE/CPSE to any person unless disclosure is permitted by law.

Personally identifiable data is defined in the policy on Student Records, 5500.

The Board of Education, while acknowledging the confidentiality requirement, believes that in order for each student with disabilities to receive the full benefit of his/her Individualized Education Program (IEP), Individualized Education Services Program (IESP) or Service Plan (SP), individuals responsible for implementing the program or plan must, prior to the implementation, fully understand the scope of their responsibility and the specific accommodations, modifications and supports to be provided.

To this end, this policy establishes procedures to ensure that any person having both direct contact with a student with an IEP, IESP or SP and a responsibility to provide a service, accommodation or program modification for the student in accordance with that student's IEP, IESP or SP will be informed of they/their responsibilities under the IEP and will receive or have access to a copy of the student's IEP, IESP or SP as specified below.

**I. IEP, IESP or SP Copies**

At a CSE, CSE Subcommittee or CPSE meeting for each student, a determination will be made as to which general education teachers, special education teachers, related service providers and other service providers have responsibility to implement the recommendations on the student's IEP, IESP or SP. "Other service provider" means a representative of another public school district, charter school, BOCES program, childcare institution school, Special Act School District, State-supported school, approved private in-state or out-of-state school and an approved preschool provider where the student receives or will receive IEP, IESP or SP services.

The CSE, CSE Subcommittee and CPSE Chairpersons will ensure that a paper or electronic copy of each student's IEP, IESP or SP is provided to each general education teacher, special education teacher, related service provider and/or other service provider who is responsible for implementation of the program or plan. These individuals responsible for implementing an IEP, IESP or SP will, in turn, ensure that all paraprofessionals (teacher aides and teacher assistants) and other providers responsible for assisting in implementation are given the opportunity to review their copy of the IEP, IESP or SP prior to program implementation as well as have ongoing access to such copy.

**II. Notification of Responsibilities**

In addition to disseminating copies of a student's IEP, IESP or SP, CSE, CSE Subcommittees and CPSE Chairpersons must designate one or more professional employees of the district with knowledge of the student's disability and program to inform each regular education teacher, special education teacher, related service provider, other service provider, paraprofessional, and other provider and support staff person of his or her responsibility to provide specific accommodations, program modifications, supports and/or services for the student in accordance with the IEP, IESP or SP. In selecting the professional staff person(s), the chairperson could select him/herself for this responsibility, another administrator, or a teacher, related service provider or other professional, as appropriate.

### III. Confidentiality

All copies of a student's IEP, IESP or SP provided or made accessible under this policy must remain confidential, and will not be redisclosed to any other person, except in accordance with the Individuals with Disabilities Education Act (IDEA) and the Family Educational Rights and Privacy Act (FERPA). To ensure such confidentiality, the CSE and CPSE Chairpersons will include with each IEP, IESP or SP copy provided or made accessible under this policy, a copy of the Board's policy on student records (Policy 5500). All IEP, IESP or SP copies must remain in a secure location on school grounds, at all times. If IEP copies are transmitted and/or provided electronically, security systems (e.g., password protect a file or folder) must be implemented to prevent unauthorized internal and external access to the student's IEP, IESP or SP.

### IV. Documentation

The designated professional employee(s) defined in section II above will obtain the signature of each person covered by this policy, indicating that they:

1. have received either a copy of the student's IEP, IESP or SP or the opportunity to review the IEP, IESP or SP prior to its implementation, as required under state law and regulation;
2. have been informed of their responsibilities for implementation;
3. have knowledge of where the IEP, IESP or SP is to be maintained; and
4. have an understanding of the confidentiality requirements.

At the end of the school year or whenever the IEP has been revised, the IEP will be destroyed.

Ref: Individuals with Disabilities Education Act (IDEA), 20 USC §§1400 et seq.  
Family Educational Rights and Privacy Act (FERPA), 20 USC §1232g; 34 CFR Part 99  
Education Law §4402(7)  
8 NYCRR §§200.2(b)(11); 200.4(e)(3); 200.16(e)(6)  
New York State Education Department, Office of Special Education, Guidance Document, Providing copies of the IEPs for Students with Disabilities, 5/13/03,  
[www.p12.nysed.gov/specialed/publications/policy/chap408final.htm](http://www.p12.nysed.gov/specialed/publications/policy/chap408final.htm)

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## SCHALMONT CENTRAL SCHOOL DISTRICT

4321.7

**(X) Required**

( ) Local

( ) Notice

### DISTRICTWIDE AND STATEWIDE ASSESSMENTS OF STUDENTS WITH DISABILITIES

The Board of Education recognizes the importance of offering access and appropriate testing accommodations to eligible students so that they can participate in assessment programs on an equal basis with their nondisabled peers. Two elements that contribute to an effective assessment program are proper use of use of accommodations and use of universal design principles in developing and administering assessments.

#### Assessment Accommodations

Assessment accommodations provide an opportunity for students with disabilities to:

- Participate in the instructional and assessment program;
- Demonstrate their strengths, knowledge and skills
- Provide an accurate measure of the standards being assessed so that appropriate instruction and services can be provided.

Assessment accommodations are changes made in the administration of the test in order to remove obstacles to the test-taking process that are presented by the disability without changing the constructs being assessed. Examples of assessment accommodations are: flexibility in scheduling/timing; flexibility in the setting for the administration of the assessment; changes in the method of presentation and changes in the method of response. Assessment accommodations are neither intended nor permitted to: alter the construct being measured or invalidate the results, provide an unfair advantage for students with disabilities over students taking the test under standard conditions or substitute for knowledge or abilities that the student has not attained.

The Committee on Special Education, the Subcommittee on Special Education or the Committee on Preschool Special Education is responsible for recommending the appropriate assessment accommodations and including those recommendations on the student's Individualized Education Program (IEP), Individualized Education Services Program (IESP) or Service Plan (SP). If it is determined that a student should participate in alternative assessments instead of the standard statewide or districtwide assessments, the CSE must indicate the reasons for doing so on the IEP, IESP or SP. The Building 504 Committee will include the appropriate test accommodations as part the 504 plan.

The recommendations will be reviewed annually by the CSE, CSE subcommittee, CPSE or 504 team. The Board acknowledges the importance of integrating the assessment program with the instructional program and, to that end, encourages effective communication among district staff so that implementation is consistent and fair. The goal is to provide effective assessments that allow students to benefit from their educational program.

In some situations, a building principal may authorize the use of testing accommodations in accordance with this policy. Those instances are limited to cases where a regular education student incurs a disability, such as, but not limited to, a broken arm, without sufficient time for the CSE, CPSE and/or Section 504 Committee to make a recommendation prior to a test. They do not include cases where the student is already being evaluated to determine his or her eligibility for status as a student with a disability. In exercising this authority, the building principal will rely on his or her professional judgment. He or she also may confer with CSE, CPSE and/or Section 504 Committee members.

Universal Design Principles in Districtwide Assessments

The Board of Education recognizes the benefits of using the principles of universal design to further the goal of ensuring equal access to districtwide assessments and to ensure the most accurate measure of the performance of all students. The Board directs the Superintendent, in consultation with appropriate school staff, to examine how universal design principles can be incorporated into the district's assessment program, and to facilitate its use to the extent feasible. Any steps taken in this regard will be consistent with this policy and applicable State Education Department policy and/or guidance on the use of universal design principles.

Ref: Individuals with Disabilities Education Act (IDEA), 20 USC §§1401(35); 1412(a)(16)(E);  
34 CFR §§ 300.44  
Assistive Technology Act, 29 USC 3002(19)  
8 NYCRR §§ 200.1(jjj); 200.2(b)(13,14); 200.4(d)(2)(vi)

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( ) Local

( ) Notice

## **IMPARTIAL HEARING OFFICER APPOINTMENT AND COMPENSATION**

The District will appoint impartial hearing officers (IHO), as needed, to hear complaints regarding the identification, evaluation, or placement of students with disabilities, or the provision of a free appropriate public education to such a student in accordance with the rotational selection process and other applicable procedures described in Commissioner's regulations.

### **Selection**

The updated list of certified IHOs for this county promulgated by the New York State Education Department will be used in connection with requests for impartial hearings. The list will also include the names of those other certified IHOs whose names appear on the state list and who have indicated to the district their interest in serving as an IHO in the district.

Upon receipt of a request for an impartial hearing, the rotational selection process for the IHO will be initiated immediately and always within two (2) business days after receipt by the district of such written request. Should an IHO decline appointment, or if within 24 hours the IHO fails to respond or is unreachable after reasonable efforts by the District Clerk or designee, such efforts will be documented through independently verifiable efforts. The district representative will then proceed through the list to determine availability of the next successive IHO.

The District Clerk or other person so designated, under the direction of the Board President, will initiate the selection process by contacting the impartial hearing officer whose name first appears after the impartial hearing officer who last served. The District Clerk or designee will canvass the list in alphabetical order as prescribed by the Regulations of the Commissioner of Education until an appointment is accepted. Pursuant to the Regulations of the Commissioner of Education, if an impartial hearing is currently pending for the same student when a new hearing request is received, the district will appoint the same IHO, if available, who will determine whether or not to consolidate the hearings. Additionally, if the new hearing request concerns an issue which had been previously withdrawn in the 12 months prior, the district will appoint the same IHO, if available.

An IHO on the district's rotational list may not accept appointment unless he or she is available to:

1. Make a determination on the sufficiency of the due process complaint that will be heard at the hearing within five days of receiving such a request; and
2. Initiate the hearing within the first 14 days after either:
  - The date on which he or she receives written notice that the parents and the district waived their right to hold a resolution meeting to resolve their differences prior to commencement of the hearing, or met but were unable to reach agreement; or
  - The expiration of the 30-day period beginning with the receipt of the due process complaint, whichever occurs first.

### **Appointment**

The Board President, or in his or her absence or inability the Vice President, will appoint an IHO immediately after the IHO selected from the rotational list indicates he or is available.

The Board will rescind the appointment of an IHO and appoint a new one if, the parties to the hearing mutually agree that the IHO is either incapacitated or otherwise unavailable or unwilling to continue the hearing or issue a decision. The appointment of a new IHO in such an instance will be made in accordance with the selection and appointment procedures established by this policy.

Records relating to the IHO process including, but not limited to, the request for initiation and completion of each impartial hearing will be maintained by the district and such information will be reported to the Office of Vocational and Educational Services for Individuals with Disabilities of SED as required by Commissioner's regulations.

Ref: 8 NYCRR §§200.2; 200.5; 200.21

Adoption date: July 12, 2021

**SCHALMONT CENTRAL SCHOOL DISTRICT**

**4321.11**

**(X) Required**

( ) Local

( ) Notice

**PUBLIC REPORT ON REVISIONS TO DISTRICT POLICIES, PRACTICES AND PROCEDURES UPON  
A FINDING OF SIGNIFICANT DISPROPORTIONALITY**

The Board of Education recognizes that, despite the district's best efforts, there may be times when there might be a disproportionate representation of racial and ethnic groups in its special education programs and services, and/or with respect to the suspension of students with disabilities. To minimize the risk of such an occurrence, the Board has endeavored to adopt policies, practices and procedures for the district that are consistent with the IDEA and Article 89 of New York's Education Law, and their implementing regulations.

Upon learning of significant disproportionality either in the suspension, identification, classification and/or placement of the district's students with disabilities, the Board will review the district's policies, practices and procedures to determine whether they are fully compliant with the requirements of the IDEA and Article 89 or require revisions. If changes are needed, the Board will take immediate steps to adopt and implement any and all necessary revisions.

The Board will inform the public of any revisions to the district's policies, practices and procedures undertaken as a result of a finding of significant disproportionality. The Superintendent will notify school personnel responsible for implementing the revisions.

Ref: Individuals with Disabilities Education Act, 20 USC §§1412(a)(24); 1418(d);  
34 CFR §§300.173; 300.646  
8 NYCRR §§200.2(b)(15).

Adoption date: July 12, 2021

(X) Required  
(x) Local  
(x) Notice

### **TIMEOUT AND PHYSICAL RESTRAINT (ALL STUDENTS)**

The Board of Education recognizes that sometimes students exhibit challenging behaviors that impede learning and pose concern for the physical safety of themselves or others.

As required by state regulations, the district will utilize positive, proactive, evidence- and researched-based strategies through a multi-tiered system of supports, to reduce the occurrence of challenging behaviors, eliminate the need to the use of timeout and physical restraint, and improve school climate and the safety of all students. Such strategies will include intervention and prevention procedures and de-escalation techniques. However, these strategies may not always be effective in keeping the students and staff safe.

Pursuant to state regulations 8 NYCRR §19.5, timeout and physical restraint will not be used as discipline or punishment, retaliation, or as a substitute for positive, proactive intervention strategies that are designed to change, replace, modify, or eliminate a targeted behavior. Physical restraint may only be used when:

1. Other less restrictive and intrusive interventions and de-escalation techniques would not prevent imminent danger of serious physical harm to the student or others;
2. There is no known medical contraindication to its use on the student; and
3. School staff using such interventions have been trained in its safe and appropriate application, as required by state regulations.

The Superintendent is directed to establish administrative regulations to implement this policy and communicate and document as appropriate to the community.

#### **I. Prohibited Actions**

District teachers, administrators, officers, employees, or agent may not use corporal punishment, mechanical restraint and other aversive interventions, or seclusion (which differs from timeout) against a student

#### **II. Annual Reporting**

District staff must report all allegations of corporal punishment, mechanical restraint and other aversive interventions, prone physical restraint, or seclusion to the Superintendent

#### **III. Public Availability and Posting of Policy**

This policy and accompanying administrative regulation will be made publicly available for review at the District administrative offices, at each school building, and posted on the district's website.

Ref: Education Law §4402(9)  
8 NYCRR §§19.5; 200.22

Adoption date: November 6, 2023



## SCHALMONT CENTRAL SCHOOL DISTRICT

4321.13

**(X) Required**

( ) Local

( ) Notice

### PRESCHOOL AGE SPECIAL EDUCATION

The Board of Education recognizes the value of early intervention to address the needs of preschool age children with disabilities. The Board further recognizes its responsibility to ensure that all resident preschool age children with disabilities have the opportunity to participate in programs, approved by the Commissioner of Education, from which they may benefit educationally. The Board authorizes the Superintendent of Schools to establish administrative practices and procedures which will include:

1. locating, identifying, evaluating, referring and placing all preschool children (generally ages three and four) with disabilities. The register of children eligible to attend programming is to be maintained and revised annually by the Committee on Preschool Special Education (CPSE);
2. ensuring that the parent(s)/guardian(s) of preschool age children with disabilities have received and understand the request for consent for evaluation of their child;
3. developing an individualized education program (IEP) for each preschool age child with a disability;
4. ensuring that preschool age education providers with whom the district contracts have appropriately trained and qualified personnel.
5. preparing and keeping summary reports of student data including the number of preschool students with disabilities served, as well as students referred but not served and the reasons why they are not served; and
6. reporting to the State Education Department the data on preschool aged children with disabilities as required.

Ref: Individuals with Disabilities Education Act, 20 U.S.C. §§1400 et seq.  
34 CFR §§300.12; 300.503  
Education Law §4410  
8 NYCRR Part 200, 200.2, 200.5, 200.16

Adoption date: July 12, 2021