



**DISTRICT POLICIES, PRACTICES AND PROCEDURES  
FOR ASSURING APPROPRIATE  
EDUCATIONAL SERVICES AND DUE PROCESS  
IN EVALUATION AND PLACEMENT OF  
STUDENTS WITH DISABILITIES**

**September 2018 - June 2021**

Adopted by the Board of Education  
December 11, 2018

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**Frank Spagnolo**  
Assistant Director of Special Education and Student Services Education

**Christine Barth**  
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**Janine MacDonald**  
CPSE Coordinator and Chairperson

**Casie LaMarca**  
CSE Chairperson for Students Placed Out of District

**Christa Young**  
Special Education Instructional Specialist and CSE Chairperson

### **Our Mission**

The Ken-Ton school community will provide our students with the supports, tools, and diverse opportunities needed to meet the challenges of an ever-changing world.

### **Our Vision**

A community that creates dynamic learners who possess social awareness, confidence, and a belief in their power to succeed.

### **Strategic Intentions & Strategy Areas:**

#### **Instruction for All Students:**

By 2022-23, all district schools in Ken-Ton will provide comprehensive academic opportunities that support and extend learning in the critical areas of core instruction, academic intervention, and accelerated programming so that all K-12 students may achieve their highest potential.

Strategy Areas:

#1: Core Instruction

#2: Academic Intervention

#3: Accelerated Programming

#### **Technology:**

By 2022-23, Ken-Ton will embody a culture of innovation by providing all district schools increased access to technology-rich resources to enhance every aspect of our learning community.

Strategy Areas:

#4: Integration of Technology

#5: Technology Devices and Infrastructure

#6: Engaging All Learners

#### **Social-Emotional Wellness:**

By 2022-2023, Ken-Ton will provide the necessary staff, support, and structures so that 85% of Ken-Ton students will display improvement in social-emotional wellness as compared to our baseline measures.

Strategy Areas:

#7: Student Resilience

#8: Create a Trauma-Informed School District/Embed Restorative Practices

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*The Board of Education of the Ken-Ton UFSD as a part of a long standing commitment to excellence in education for all students supports the provision of special education and related services for students with disabilities under the auspices of the Committee on Special Education and the Committee on Preschool Special Education.*

*In full support of State and Federal laws pertaining to students with disabilities, it is the intent of this Board of Education to assure that the educational needs of special education students are met. To this end, and in full compliance with the Regulations of the Commissioner of Education (Section 200.2), the Board has reviewed this District Plan for Special Education.*

*By action of the Board of Education in a regularly scheduled meeting, the Board has adopted the Special Education District Plan.*

**BOE Date of Approval:**

## **Regulations of the Commissioner of Education – Part 200.2**

(c) District plans.

(1) Each Board of Education which receives an apportionment for eligible students with disabilities, pursuant to section 3602 of the Education Law, or preschool students with disabilities pursuant to section 4410 of the Education Law shall use such apportionments for special education programs and services which are in accordance with the provisions of this Part. Each board of education which receives such apportionment shall keep on file and make available for public inspection and review by the commissioner an acceptable plan as required by subdivision 8(b) of section 3602 of the Education Law.

(2) Each such plan shall include, but need not be limited to, the following:

(i) A description of the nature and scope of special education programs and services currently available to students and preschool students residing in the district, including but not limited to descriptions of the district's resource room programs and each special class program provided by the district in terms of group size and composition;

(ii) Identification of the number and age span of students and preschool students to be served by type of disability, and recommended setting;

(iii) The method to be used to evaluate the extent to which the objectives of the program have been achieved;

(iv) A description of the policies and practices of the board of education to ensure the continual allocation of appropriate space within the district for special education programs that meet the needs of students and preschool students with disabilities;

(v) A description of the policies and practices of the board of education to ensure that appropriate space will be continually available to meet the needs of resident students and preschool students with disabilities who attend special education programs provided by boards of cooperative educational services;

(vi) A description of how the district intends to ensure that all instructional materials to be used in the schools of the district will be made available in a usable alternative format, as such term is defined in paragraph (b) (10) of this section, for each student with a disability at the same time as such instructional materials are available to nondisabled students. To meet this requirement, the district plan may incorporate by reference the plan established by the board of education pursuant to paragraph (b) (10) of this section;

(vii) The estimated budget to support such plan;

(viii) The date on which such plan was adopted by the board of education

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## **SECTION 1-INTRODUCTION**

## **Objectives for Special Education Programs**

The Ken-Ton UFSD is committed to the development and implementation of an appropriate education for students with disabilities who reside in the district in accordance with the following program objectives:

To ensure the establishment of a plan and policies for implementing school-wide approaches and pre-referral interventions in order to remediate a student's performance prior to referral to special education.

To provide a free appropriate education in the least restrictive environment for resident children between the ages of three (3) and twenty-one (21) or until a high school diploma (Regents, Local, CDOS or SACC) or other credential has been achieved by the student, whichever shall occur first.

To ensure that students with disabilities have the opportunity to participate in school district programs to the maximum extent appropriate to the need of each student, including access to general education curriculum and if enrolled as a student in the public schools of the District or as specified on their Individual Education Plan (IEP) access to extracurricular programs and activities, which are available to all other students enrolled in the public schools of the district.

To establish a Committee on Preschool Special Education (CPSE), a Committee on Special Education (CSE) and appropriate Subcommittees on Special Education for the purpose of evaluating students suspected of having disabilities and for placement of students with disabilities in appropriate programs.

To ensure effective communication and collaboration between the Committee on Special Education, the Committee on Preschool Special Education, school staff, and school district administrators, parents and community.

To ensure that parents are advised of their due process rights and to establish procedures in this regard.

To ensure that each preschool student with a disability residing in the district has the opportunity to participate in an appropriate preschool program or services.

To provide for the establishment of administrative practices and procedures to ensure that parents have received and understand the request for consent for evaluation of a preschool student.

To ensure the establishment of administrative policies, practices and procedures to implement the provisions of Section 200.6 (a) of the Commissioner's Regulations and to provide Special Education Services or programs, to the extent appropriate to the needs of the student, to enable the student to be involved in and progress in the general education curriculum.



To provide the human and material resources necessary for the implementation of a continuum of programs and services to meet the academic, social, physical and management needs of students with disabilities.

To provide, to the greatest extent appropriate, adaptation, and/or modification of instruction and materials to enable students with disabilities to benefit from instruction within the general education setting, whenever appropriate.

To ensure that students with disabilities have access to the full range of general education programs and services to the extent appropriate to their individual needs and to provide them appropriate opportunities to earn a high school diploma in accordance with Section 100.5 of the Regulations of the Commissioner of Education.

To ensure that a discipline code for student behavior is in place, while protecting the rights to continuity of appropriate education for students with disabilities.

To ensure the confidentiality of personally identifiable data, information or records pertaining to a student with a disability. Such personally identifiable information will not be disclosed except in accordance with the Regulations.

To ensure that adequate and appropriate space is made available to meet the needs of students with disabilities.

To ensure that students who reside in the District have received the protection of all other applicable State and Federal laws and regulations.

### **Evaluation of Objectives for Special Education Programs**

The District utilizes the following methods to evaluate the extent to which the objectives of the District's programs and services for students with disabilities have been achieved:

1. The measurement of student achievement through:
  - Annual Goals as stated on IEPs
  - Report Cards
  - Performance on State Assessments
  - Re-evaluations
  - Participation of students with disabilities in general education classes
  - The awarding of Regents and Local diplomas and/or CDOS credentials.
2. Evaluation of the effectiveness of pre-referral intervention strategies to ensure that student needs are met in the least restrictive environment.
3. Continual review of the ongoing involvement of staff in activities that promote professional development.

4. Outreach to encourage and enhance parental involvement in their child's educational program:
  - Attendance at CSE meetings
  - Assessment of parental participation in the Annual Review process
5. Ongoing assessment of the special education program to ensure that all students with disabilities have the opportunity to meet the requirements for graduation.

### **Allocation of Space for Special Education Programs and Services**

The District affirms its responsibility to ensure, to the fullest extent possible, that adequate and appropriate space is made available for special education classes provided by the district, as well as in programs provided by the Board of Cooperative Education Services (BOCES). Accordingly, the Board of Education will allocate an appropriate amount of space in district facilities to meet the needs of students in such programs. This allocation will be part of the triennial district plan for the provision of special education programs and services, as mandated by the Commissioner. Ref: 8 NYCRR §200.2(c) (iv) and (v)

## **IMPLEMENTATION OF SCHOOL-WIDE APPROACHES AND PRE-REFERRAL INTERVENTIONS**

In accordance with the IDEA and Part 200 of the Commissioner's Regulations, the District must develop a policy and implement a plan to establish pre-referral interventions to assist a student's education process before consideration of referral to the Committee on Special Education (CSE). In keeping with this policy, it is the responsibility of each school principal and building level team to investigate all possible avenues of general education support services that would enable the student to achieve the learning standards. Such services may include, but are not limited to Academic Intervention Services, tiered levels of support delivered through a Response to Intervention (RtI) model, and Educationally Related Support Services. These services must be afforded to all students who do not meet, or who are at risk of meeting, the minimum designated standards on State assessments, and to English Language Learners (ELL) students who do not achieve the annual CR Part 154 performance standards.

Supplemental instruction in English language arts, math, social studies, and science as well as support services to deal with barriers to student progress such as attendance, discipline, health, family nutrition, and transient issues will be afforded to students who score below State designated proficiency levels on elementary or intermediate State assessments or who score below the local State designated performance levels on any one of the State examinations required for graduation. All school-wide approaches to provide remediation activities for students who are at risk of not meeting State standards or meeting graduation requirements will be considered prior to making referrals to the CSE. These approaches may also include but are not limited to extra teacher or teacher aide/assistant support, student or volunteer tutorial assistance, counseling support, and computer assisted programs.

The District shall notify each student's parents whenever a student enters the RtI process and/or Academic Intervention Services (AIS) are provided and the reasons these services are necessary. The parent will also be notified about the duration of AIS and/or ending of these services. These school-wide approaches shall serve as pre-referral intervention prior to consideration of special education programs through the Committee on Special Education (CSE).

The referral to the CSE used by the district staff will describe, in writing, interventions services, programs used to remediate the student's performance prior to services, or instructional methodologies, including any supplementary aids or support services provided, or the reasons why no such attempts were made. The principal and/or building level team shall maintain a record of pre-referral interventions implemented for each student. Each referral shall be reviewed to determine its appropriateness and whether pre-referral interventions have been adequately utilized, and if further interventions are deemed necessary.

These pre-referral interventions will not be utilized as a barrier to prevent appropriate referrals for special education services, but shall be used to assess the ability of the student to benefit from general education services.

## DEFINITIONS

Students with disabilities are those whose special needs are significant enough to warrant provisions of special educational services in accordance with an individualized program. Effective October 30, 1990, Congress substituted the term "children with disabilities" for the term "handicapped children" in the Federal law establishing access to fair procedures and appropriate placements.<sup>1</sup>

(As defined in the Student Regulations of the Commissioner of Education Part 200 February 2014)

The term ***student with a disability*** means a student with a disability as defined in section 4401 (1) of the Education Law, who has not attained the age of 21 prior to September 1st and who is entitled to attend public schools pursuant to section 3202 of the Education Law and who, because of mental, physical or emotional reasons, has been identified as having a disability and who requires Special Services and programs approved by the Board of Education.

Such term does not include a student whose educational needs are due primarily to unfamiliarity with the English language, environmental, cultural or economic factors. In making a determination as to eligibility, a student shall not be determined to be a student with a disability if the determinant factor is lack of instruction in reading or math or limited English proficiency.

**The term *student with a disability* includes the following classifications:**

1. ***Autism*** means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age that adversely affects a student's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a student's educational performance is adversely affected primarily because the student has an emotional disturbance as defined in paragraph (4) of this subdivision. A student who manifests the characteristics of autism after age 3 could be diagnosed as having autism if the criteria in this paragraph are otherwise satisfied.
2. ***Deafness*** means a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a student's educational performance.
3. ***Deaf-blindness*** means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness.
4. ***Emotional disturbance*** means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a student's educational performance:
  - an inability to learn that cannot be explained by intellectual, sensory, or health factors.
  - an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
  - inappropriate types of behavior or feelings under normal circumstances;

- ☐ a generally pervasive mood of unhappiness or depression; or
- ☐ a tendency to develop physical symptoms or fears associated with personal or school problems.

*The term includes schizophrenia.* The term does not apply to students who are socially maladjusted, unless it is determined that they have an emotional disturbance.

5. **Hearing impairment** means an impairment in hearing, whether permanent or fluctuating, that adversely affects the child's educational performance but that is not included under the definition of *deafness* in this section.
6. **Learning disability** means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which manifests itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, as determined in accordance with section 200.4(j) of this Part. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing or motor disabilities, of an intellectual disability, of emotional disturbance, or of environmental, cultural or economic disadvantage.
7. **Intellectual disability** means significantly sub average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a student's educational performance.
8. **Multiple disabilities** means concomitant impairments (such as intellectual disability-blindness, intellectual disability-orthopedic impairment, etc.), the combination of which cause such severe educational needs that they cannot be accommodated in a special education program solely for one of the impairments. The term does not include deaf-blindness.
9. **Orthopedic impairment** means a severe orthopedic impairment that adversely affects a student's educational performance. The term includes impairments caused by congenital anomaly (*e.g.*, clubfoot, absence of some member, etc.), impairments caused by disease (*e.g.*, poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (*e.g.*, cerebral palsy, amputation, and fractures or burns which cause contractures).
10. **Other health-impairment** means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems, including but not limited to a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, attention deficit disorder or attention deficit hyperactivity disorder or tourette syndrome, which adversely affects a student's educational performance.
11. **Speech or language impairment** means a communication disorder, such as stuttering, impaired articulation, language impairment or a voice impairment that adversely affects a student's educational performance.
12. **Traumatic brain injury** means an acquired injury to the brain caused by an external physical force or by certain medical conditions such as stroke, encephalitis, aneurysm, and anoxia or brain tumors with resulting impairments that adversely affect educational performance. The term includes open or closed head injuries or brain injuries from certain medical conditions resulting in mild, moderate or severe impairments in one or more areas, including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and

motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not include injuries that are congenital or caused by birth trauma.

13. ***Visual impairment including blindness*** means impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness.

The term “**all students**” applies to every student listed on the registry of the district.

The term “**special education**” means specially designed individualized or group instruction or Special Services or programs as defined in subdivision 2 of section 4401 of the Education Law, and special transportation, provided at no cost to the parent, to meet the unique needs of student with disabilities.

- a) Such instruction includes but is not limited to that conducted in classroom, homes, hospitals, institutions and in other settings.
- b) Such instruction includes specially designed instruction in physical education, including adaptive physical education.

The term “**modified instruction**” means adapting, as appropriate to the needs of an eligible student under this Part, the content, methodology, or delivery of instruction to address the unique needs that result from the student's disability; and to ensure access of the student to the general curriculum, so that he or she can meet the educational standards that apply to all students.

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The term “**Special Services or programs**” may include:

- a) Special classes, transitional support services, resource room, related services, consultant teacher services, declassification support services, integrated co-teach classes, and home instruction
- b) Contracts with other districts for Special Services or programs
- c) Contracts for Special Services or programs provided by Boards of Cooperative Educational Services (BOCES)
- d) Appointment by the Commissioner to a State or State-supported school in accordance with article eighty-five, eighty-seven or eighty-eight of New York State law
- e) Contracts with private non-residential schools, which have been approved by the Commissioner and which are within the state
- f) Contracts with private non-residential schools, which have been approved by the Commissioner and which are outside of the state
- g) Contracts with private residential schools, which have been approved by the Commissioner and which are within the state
- h) Contracts with private residential schools, which have been approved by the Commissioner and which are outside of the state

- i) Provision of educational services in a residential facility for the care and treatment of students with disabilities under the jurisdiction of a State agency other than the New York State Department of Education
- j) Contracts for residential or non-residential placements with a special act school district listed in Chapter five hundred sixty-six of the laws of Nineteen hundred sixty-seven
- k) Contracts with New York State approved and funded schools (Article 89)

**Additional Definitions:**

- Related services*** means developmental, corrective, and other supportive services as are required to assist a student with a disability and includes speech-language therapy, audiology services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation and mobility services, medical services as defined in this section, parent counseling and training, school health services, school social work, assistive technology services, vision services, hearing services, other appropriate developmental or corrective support services, appropriate access to recreation and other appropriate support services.
- Change in placement*** means a transfer of a student to or from a public school, BOCES, or schools enumerated in articles 81,85,87,88, or 89 of the Education Law or graduation from high school with Regents, Local or IEP diploma. For purposes of removal of a student with a disability from the student's current education placement under Education Law 3214, change of placement is defined in Part 201 of the Regulations of the Commissioner of Education (April 2012).
- General curriculum*** means the same curriculum for all students including students with disabilities.
- Individualized Education Program (IEP)*** means a written statement developed, reviewed and revised in accordance with section 200.4(d)(2) of the Regulations of the Commissioner of Education to be provided to meet the unique educational needs of a student with a disability.

## **SPECIAL EDUCATION PROGRAMS AND SERVICES: OVERVIEW**

In accordance with Section 200.6 of the Regulations of the Commissioner of Education, the Ken-Ton UFSD provides a continuum of services which allows placement of preschool and school-age students in the least restrictive environment consistent with their needs and which provides for the placement of students on the basis of similarity of individual needs.

### **School Calendar**

Special education students participate in the same school calendar as their general education peers.

**School day** means any day, including a partial day that students are in attendance at school for instructional purposes. The term school day has the same meaning for all students in school including students with disabilities and students without disabilities. Students with disabilities who are eligible for a twelve (12) month program will participate during the months of July and August. School day means every day except Saturday, Sunday and legal holidays, unless otherwise indicated as school day or business day.

**Business day** means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day.)

### **Least Restrictive Environment**

The Ken-Ton UFSD provides a wide continuum of services, ranging from placement in general education classes with support and related services to placement in residential settings. The District is committed to the policy of placing students in the least restrictive environment consistent with their needs. "Least Restrictive Environment" (LRE) means that the placement of students with disabilities in special classes, separate schools or other removal from the regular educational environment occurs only when the nature or severity of the disability is such that even with the use of supplementary aids and services, education cannot be satisfactorily achieved.

- Program shall be based on the student's individualized education program and determined at least annually.
- Program shall be as close as possible to the student's home school, and unless the student's individualized education program requires some other arrangement, the student shall be educated in the school he or she would have attended if not disabled.
- In selecting the least restrictive environment, consideration must be given to any potential harmful effect on the student or on the quality of services that he or she needs; and
- A student with a disability must not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.



## **PROCEDURES TO IMPLEMENT LEAST RESTRICTIVE ENVIRONMENT REQUIREMENTS**

- The student will receive a comprehensive, individual evaluation in the student's dominant language or other mode of communication, unless it is clearly not feasible to do so, to determine his/her educational needs. In making a determination of a student's eligibility, the CSE shall not determine a student to be a student with a disability if the determination factor is lack of instruction in reading or math or limited English proficiency. The CSE must review evaluation information to determine whether any additions or modifications to special education services are needed to enable the student to participate, as appropriate, in the general curriculum.
- Prior to placement in special education, the CSE ensures that the appropriateness of the resources of the general education program, including educationally related support services, have been considered.
- A student's educational program will be developed with the meaningful involvement of the student's parent/guardian, teacher, and the student, when appropriate. The CSE will include persons knowledgeable about the student, the meaning of the evaluation data, and the continuum of placement options. The IDEA requires that at least one of the student's regular education teachers, who is knowledgeable about the grade level curriculum, be a member of the Committee (if the student is, or may be, participating in the regular education environment). In addition, the representative of the school district qualified to provide or supervise the provision of special education services must be knowledgeable about the general curriculum and the availability of resources of the school district. The individual knowledgeable about the evaluation data must be able to interpret the instructional implications of the evaluation results.
- The Committee on Special Education or Committee on Preschool Special Education will first consider placement in general education with appropriate support for the student and the student's teachers. The IEP must include statements of the student's present levels of educational performance, including how the student's disability affects involvement and progress in the general curriculum; or for preschool students, as appropriate, how the disability affects the child's participation in appropriate activities.
- Measurable annual goals, benchmarks if a student is alternately assessed or short-term objectives, must be related to meeting the student's needs that result from the disability to enable the student to be involved and progress in the general curriculum and meeting each of the student's other educational needs that result from the disability.

- Alternative placements, such as special classes, special schools or other removal from the general education environment, will be considered only when the CSE/CPSE determines that a student's education in regular classes cannot be satisfactorily achieved even with the use of supplementary aids and services.
- The IEP of the student will include an explanation of the extent to which the student will not participate with students who do not have disabilities.
- The parent or guardian and the Board of Education will be provided a recommendation from the CSE/CPSE, which describes the program and placement options considered for the student and a rationale for those options not selected.
- The CSE/CPSE must indicate clearly defined expected benefits to the student from the special education program selected in the areas of academic or educational achievement and learning characteristics, social development, physical development and management needs.
- The CSE/CPSE will conduct an annual review of the student's needs for continuation or modification of the provision of special education programs and services. Such review shall consider the educational progress of the student and the student's ability to participate in general education programs.

The District is committed to the policy of placing students in the least restrictive environment consistent with their needs. The District provides the full continuum of services as described in 200.6 of the Commissioner's Regulations.

### **Similarity of Needs**

Whenever students with disabilities are grouped together for purposes of special education, they are grouped by similarity of need. The CPSE and CSE identify educational needs in accordance with the following factors:

Academic or Educational Achievement and Learning Characteristics -The levels of knowledge and development in subject and skill areas, including activities of daily living, level of intellectual functioning, adaptive behavior, expected rate of progress in acquiring skills and information and learning style.

Social Development -The degree and quality of the student's relationships with peers and adults, feelings about self, and social adjustment of school and community environments

Physical Development -The degree or quality of the student's motor and sensory development, health, vitality and physical skills or limitations which pertain to the learning process.

Physical Development -The degree or quality of the student's motor and sensory development, health, vitality and physical skills or limitations which pertain to the learning process.

Management Needs -The nature of and degree to which environmental modifications and human or material resources are required to enable the student to benefit from instruction.

All classified students with disabilities who reside in the Ken-Ton UFSD shall be provided with an appropriate Individual Education Program (IEP) that meets the student's unique educational needs as determined and recommended by the Committee on Special Education (CSE) and arranged for by the Board of Education. This IEP shall be designed to enable involvement and foster progress in general education to the extent appropriate to the needs of the student. In designing the IEP, the CSE will consider the present levels of performance and the expected learning outcomes of the student. The student's academic, social development, physical development, and management needs will be the basis for written annual goals and short-term objectives, as appropriate.

In keeping with this policy, the CSE will consider the Least Restrictive Environment at each initial, program, or annual review for the student as well as the appropriate support or related services needed for the student to make educational progress within this environment. Progress or educational benefit shall be indicated by successful academic progress, including improvement in skills, achievement on State mandated examinations, ability to perform activities of daily living and an increase in adaptive behavior. Progress will also be considered in the social areas, including relationships with peers and adults, feelings about one's self, and the adjustment to school and community environments. Physical development areas such as the student's improvement in motor or sensory areas, health, vitality and physical skills and the decrease of management needs that require environmental modifications or human resources shall also be considered as progress.

The District will ensure equal access to a diploma for all students with disabilities through its establishment of heterogeneous Regents classes, integrated co-teach classes and special education classes that provide equivalent instruction. Appropriate Academic Intervention Services (AIS) shall also be considered and determined by the building principal to assist students with disabilities in meeting their academic goals. The AIS services shall be in addition to the special education services deemed appropriate by the CSE. No student, by virtue of designation as a student with a disability, shall be precluded from receiving equivalent instruction unless the CSE has determined that the student requires an SACC diploma program. If the student has the potential to achieve a Regents or high school Local diploma but requires a restrictive environment outside the District, CSE will seek placement in a program that provides equivalent instruction.

The District will also ensure equal access for students with disabilities to after school activities such as clubs, sports, or evening activities and will provide, as recommended by the CSE, appropriate services to enable this participation. Students, who are receiving education in out-of-district facilities, as recommended by the CSE, shall also have an equal opportunity to participate in the CSE activities, as deemed appropriate to meet their individualized needs.

**Scope of Special Education Programs and Services (as of BEDS Day 10/3/18)**

**Students with Disabilities Provided Special Education**

**School-age (1,501 total)**

- Number of students attending district schools: 1,191
- Number of students attending BOCES special education classes: 72
- Number of students attending approved private day schools: 106
- Number of students placed residentially (0) or at home (6): 6
- Number of students who are parentally placed in non-public schools within the district: 87
- Number of students attending Charter Schools: 25

**Preschool (144 total)**

- Number of students provided special education as an itinerant service: 18
- Number of students provided special education in an integrated setting: 7
- Number of students provided special education in a separate setting: 29
- 

**Classifications of school age students with disabilities for whom the school district has Committee on Special Education (CSE) responsibility by disability as of October, 2018.**

<b><u>Disability Category</u></b>	<b><u>TOTAL 2015</u></b>	<b><u>TOTAL 2018</u></b>
Autism	<b>108</b>	<b>105</b>
Emotional Disturbance	<b>117</b>	<b>105</b>
Learning Disability	<b>507</b>	<b>437</b>
Intellectual Disability	<b>27</b>	<b>31</b>
Deafness	<b>3</b>	<b>3</b>
Hearing Impairment	<b>17</b>	<b>11</b>
Speech or Language Impairment	<b>337</b>	<b>305</b>
Visual Impairment	<b>10</b>	<b>10</b>
Orthopedic Impairment	<b>1</b>	<b>5</b>
Other Health Impairment	<b>405</b>	<b>419</b>
Multiple Disabilities	<b>76</b>	<b>61</b>
Deaf-Blindness	<b>0</b>	<b>0</b>
Traumatic Brain Injury	<b>4</b>	<b>9</b>
<b>TOTAL</b>	<b>1,612</b>	<b>1501</b>

## Descriptions of District Programs

<b>OT, PT, APE, Speech, Vision, Hearing, Counseling</b>	RELATED SERVICES	Districtwide
<b>CT</b>	CONSULTANT TEACHER (DIRECT AND OR INDIRECT)	Districtwide
<b>ICT</b>	INTEGRATED CO-TEACHING	Districtwide
<b>RES</b>	RESOURCE ROOM	Elementary, High School
<b>SPECIAL CLASS</b>		
<b>Special Class (15:1:1)</b>	ACADEMIC	Districtwide
<b>Special Class (15:1:2)</b>	ACADEMIC/BASIC SKILLS - MULTIGRADE	Franklin Middle School
<b>Special Class (15:1:2) - (SCG)</b>	BASIC LEARNING SKILLS	Hoover Middle
<b>Special Class (15:1:1) - (SCG)</b>	INDEPENDENT LIVING SKILLS	Kenmore East HS
<b>Special Class (15:1:1)</b>	ACADEMIC/BASIC SKILLS (WORKSTUDY)	Kenmore East and Kenmore West HS
<b>12:1+4 - (SCG)</b>	BASIC LEARNING SKILLS (K-1)	Hoover Elem
<b>12:1 (3+1) - (SCG)</b>	BASIC LEARNING SKILLS (2-5)	Hoover Elem
<b>12:1+3 - (SCG)</b>	BASIC LEARNING / PRE-VOC PROGRAM	Kenmore East HS
<b>12:1+3 - (SCG)</b>	BASIC LEARNING / VOC-ED PROGRAM	Kenmore East HS
<b>8:1+1</b>	INTENSIVE SUPPORT PROGRAM	Franklin Middle, Kenmore West HS
<b>8:1+1</b>	HIGH FUNCTIONING AUTISTIC PROGRAM	Kenmore East HS
<b>8:1+1</b>	AUTISTIC CLASSES (K-5)	Hoover Elem

## **Descriptions of District Programs**

### **Special Class 15:1:1 [Mainstream Skills] – Traditional 15:1 K-12 - All Schools**

A Special Education program consisting of 15 students and 1 special education teacher and one teacher aide (in grades K-8 only) which is designed to provide specially designed instruction to students in the below average range of intellectual functioning and to develop cognitive, personal, social and vocational skills required for independent living in the school and community.

### **Special Class 15:1:2 [Essential Skills] – Multi-grade FMS, Kenmore East, Kenmore West**

A Special Education program consisting of 15 students; 1 special education teacher and two teacher aides that is designed to provide specially designed instruction to students near the borderline range of intellectual functioning and to develop cognitive, academic, personal, social and, communication and vocational skills required for independent living in the school and community.

### **Special Class 15:1+2 [Basic Learning Skills] (KE) [NYSAA]**

A Special Education Program consisting of 15 students, 1 special education teacher and two teachers aides which is designed to develop academic, language, social, self-help, and vocational skills necessary to successfully participate in society. The program will stress skills for children functioning as having moderate to severe intellectual disabilities.

### **Special Class 15:1 [Mainstream Skills] – 15:1 (Co-Taught) HS**

A Special Education program consisting of 15 students and two certified teachers, one Special Education teacher and one General Education teacher in grades 9-11 which is designed to provide specially designed instruction to students at the below average range of intellectual functioning and to develop cognitive, academic, personal, social and the vocational skills required for successful accrual of HS credit to earn a Regents or Local Diploma and/or a (CDOS) Career Development and Occupational Skills Commencement Credential.

### **Special Class 12:1+4, 12:1+3 [Multiply Disabled Program] (k-12) [NYSAA] HES; HMS**

A Special Education program consisting of 12 students; 1 special education teacher and up to four teacher aides that is designed to meet the needs of severely multiply disabled students who have both cognitive and physical disabilities. Students are cognitively low functioning and have little communication capabilities. An integrated approach of both specialized techniques and daily living skills are used. This program also specializes in the development of pre-vocational and vocational skill development of these students. A behavioral management system may be utilized.

### **Special Class 8:1:1 [Therapeutic and Behavioral Intervention Class] - FES, FMS, KW**

A Special Education program consisting of 8 students; 1 special education teacher and one teacher aide which is designed to assist students with behavioral and emotional difficulties, and to develop social/emotional and academic skills necessary to be successful in school, home and community activities.

### **Special Class 8:1+1 [Spectrum Disorder/Autism Program] - HES**

A Special Education program consisting of 8 students; 1 special education teacher and one teacher aide which is designed to meet the needs students with autism spectrum disorders with developmental delays. The focus is a highly structured teaching model using specialized technique. Behavioral interventions are implemented to address high management needs. Social interaction, communication difficulties and toileting needs are also addressed.

### **Special Class 8:1+1 [High Functioning Spectrum Disorder/Autistic Program] - KE**

A Special Education program consisting of 8 students; 1 special education teacher and 1 teacher aide which is designed to meet the needs of students with autism spectrum disorders who have high level cognitive functioning.

### **Consultant Teacher [All Schools]**

Consultant Teacher services are defined as direct and/or indirect services provided to a school-age student with a disability in the student's general education classes, including career and technical education classes, and/or to such student's general education teachers.

- Direct Consultant Teacher services mean specially designed instruction provided to an individual student with a disability or to a group of students with disabilities by a certified special education teacher to aid the student(s) to benefit from the general education class instruction. Direct Consultant Teacher can be combined with indirect Consultant Teacher services.
- Indirect Consultant Teacher services mean consultation provided by a certified special education teacher to a general education teacher to assist the general education teacher in adjusting the learning environment and/or modifying his/her instructional methods to meet the individual needs of a student with a disability who attends the general education class. Indirect Consultant Teacher can be combined with direct Consultant Teacher services.

### **Integrated Co-Teaching - All Schools**

This program is designed to provide direct services to students who have been identified as mildly disabled, who are enrolled full time in a general education program. In an Integrated Co-Teaching program, a general education teacher and a special education teacher jointly develop and provide instruction supported by a teaching assistant (elementary level only).

### **Kindergarten Classes**

CT	Consultant Teacher
RR	Resource Room
15:1:1	Mainstream Skills
12:1:4	Basic Learning Skills
8:1+1	Behavioral and Spectrum Disorder Classes

### **Public Out-of-District Programs**

Whenever possible, students are placed in special education programs within the District. Students whose needs cannot be met in an in-district program are placed in an appropriate setting outside of the District. Programs are provided through BOCES, neighboring school districts, or private day or residential schools that are approved by the State Education Department.

### **Private Programs**

The Ken-Ton UFSD offers services through private schools to students who require a more restrictive educational environment. Eligibility of students for such programs is determined by the CSE according to guidelines outlined in Part 200.6 (h) of the Commissioner's Regulations.

At times, the Committee on Special Education may determine that a State-approved residential school placement is the least restrictive environment. This determination is made according to the guidelines outlined in Chapter 600 of the Laws of 1994 regarding Students with Disabilities At Risk Of or In Residential School Placements.



**Home and Hospital Instruction**

Students with disabilities who are recommended for home and/or hospital instruction by the Committee on Special Education shall be provided instruction and appropriate related services as determined by the committee on special education in consideration of the student’s unique needs. Home and hospital instruction shall only be recommended if such placement is in the least restrictive environment.

**Number of school age students with disabilities by least restrictive environment (LRE) as of 10/3/18.**

<b><u>Time Inside Regular Classroom</u></b>	<b><u>TOTAL</u></b>	
80% or more	<b>696</b>	<b>674</b>
40% - 79%	<b>309</b>	<b>299</b>
Less than 40%	<b>289</b>	<b>238</b>
<b>Not in an integrated setting</b>		
Separate School	<b>90</b>	<b>95</b>
Residential Facility	<b>1</b>	<b>0</b>
Hospital (in-patient)	<b>0</b>	<b>0</b>
Home Placement by the CSE	<b>5</b>	<b>7</b>
<b>Total</b>	<b>1,390</b>	1313

**(These numbers do not include parentally placed in non-public, K-level or ESA 4, 5)**

## 2018-2019 Special Education Estimated Budget Expenses

General Fund Code	Program Area	Estimated Expense	2016-2017 Expense	Difference
2250.150	Instructional Salaries	\$9,041,376	\$9,467,211	(\$425,835)
2250.160	Non-instructional Salaries	\$1,724,987	\$2,311,162	(\$586,175)
2250.200	Equipment	\$11,750	\$11,750	\$0
2250.400	Contractual	\$195,114	\$43,000	\$152,114
2250.400	Legal	\$42,000	\$62,500	(\$20,500)
2250.400	Occupational/Physical Therapy	\$808,000	\$808,000	\$0
2250.401	Conference/Travel	\$2,000	\$2,000	\$0
2250.450	Materials & Supplies	\$64,000	\$64,000	\$0
2250.472	Tuition-Special Ed.	\$4,350,000	\$3,900,000	\$450,000
2250.473	Tuition-Charter School Special Ed.	\$45,000	\$45,000	\$0
2250.490	BOCES-Tuition	\$3,909,918	\$4,819,073	(\$909,155)
Total Program Costs		\$20,194,145	\$21,533,696	(\$1,339,551)

**SECTION 2-COMMITTEE ON SPECIAL EDUCATION/SUBCOMMITTEE  
OF SPECIAL EDUCATION AND COMMITTEE ON PRESCHOOL  
SPECIAL EDUCATION**

## PROCEDURES OF THE COMMITTEE ON SPECIAL EDUCATION (CSE)

### Referral

In accordance with New York Education Law Section 4402 and Part 200.2, 200.4 and 200.5 of the Commissioner's Regulations, the CSE is responsible for evaluating all school-age students suspected of having a disability, identifying a disability (or determining that no disability exists), and recommending placement and type of special education programs and/or services within sixty (60) days of the date of receipt of consent for evaluation. Referrals can be made at any time during the twelve-month year.

(a) *Referral.* A student suspected of having a disability shall be referred in writing to the chairperson of the district's Committee on Special Education or to the building administrator of the school which the student attends or is eligible to attend for an individual evaluation and determination of eligibility for special education programs and services. The school district must initiate a referral and promptly request parental consent to evaluate the student to determine if the student needs special education services and programs if a student has not made adequate progress after an appropriate period of time when provided instruction as described in section 100.2(ii) of the Commissioner's Regulations.

Referral for an initial evaluation. A referral may be made by:

- a student's parent as defined in section 200.1(ii) of the Commissioners' Regulations;
- a designee of the school district in which the student resides, or the public school district the student legally attends or is eligible to attend;
- the commissioner or designee of a public agency with responsibility for the education of the student; and/or
- a designee of an education program affiliated with a child care institution with Committee on Special Education responsibility pursuant to section 4002(3) of the Education Law.

### **Evaluations Upon Referral**

- 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 the Commissioner's Regulations, 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.
- Notwithstanding any provisions of this subdivision or section 200.1(aa) of the Commissioner's Regulations to the contrary, the Committee on Special Education may direct that additional evaluations or assessments be conducted in order to appropriately assess the student in all areas related to the suspected disabilities.

## Consideration of Special Factors

The CSE shall:

1. in the case of a student whose behavior impedes his or her learning or that of others, consider when appropriate, strategies, including positive behavioral interventions, and supports to address that behavior;
2. in the case of a student with limited English proficiency, consider the language needs of the student as such needs relate to the student's IEP;
3. in the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the CSE determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or use of Braille is not appropriate for the student;
4. consider the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode;
5. consider whether the student requires assistive technology devices and services, including whether the use of school-purchased assistive technology devices is required to be used in the student's home or in other settings in order for the student to receive a free appropriate public education;
6. include a statement in the IEP if, in considering the special factors listed above, the Committee has determined a student needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the student to receive a free appropriate public education.
7. If the Committee determines that the student is **ineligible** for special education:
  - The Committee will provide notice to the parent of the recommendation. The parent will receive procedural safeguards and a copy of the evaluation report and the documentation of determination for ineligibility,
  - The Committee will provide recommendations to the building Administrator for consideration of support services (ERSS) to address student's needs.
  - The Committee will provide the recommendations to the Board of Education.

If the student has been receiving special education services, but it is determined by the Committee on Special Education that the student no longer needs special education services and can be placed in a regular education program on a fulltime basis, the recommendation shall:

- Identify the declassification support services as identified in Section 100.1(q) if any, to be provided to the student, and/or the student's teachers; and
- Indicate the projected date of initiation of the services, the frequency of provision of the services, provided that the CSE services shall not continue for more than one year after the student enters the full-time regular education program

If the Committee determines that the student is **eligible** for special education:

- The Committee will develop a written recommendation (IEP).
- The Committee will document least restrictive environment considerations.
- The Committee will document special considerations for students whose behavior impedes learning, students who are deaf or hard of hearing, students who are blind or visually impaired, students with limited English proficiency and students who need assistive technology devices or services.

The Committee will provide notice to parents, which includes:

- A copy of the evaluation report and the documentation of determination of eligibility;
- Procedural safeguards notice; and
- Request parental consent for initial placement (including, if appropriate, initial recommendation for twelve (12) month programs and services).

Within sixty (60) school days of the receipt of consent to evaluate for a student not previously identified as having a disability, or within sixty (60) school days of the referral for review of the student with a disability, the Board of Education shall arrange for appropriate special programs and services. If a recommendation is for placement in an approved in-State or out-of-State private school, the Board shall arrange for such programs and services within thirty (30) school days of the Board's receipt of the recommendation of the Committee. Notice of the recommendation will be provided to the parent, including procedural safeguards notice. If the Board of Education disagrees with the Committee's recommendations, the Board may remand the recommendation back to the Committee for reconsideration and provide notice to the parent. The Board may also establish a second committee to develop a new recommendation for the student:

- If the Board disagrees with the recommendation of the second Committee, it may remand the recommendation back to the second Committee for additional reviews.
- The Board must accept the recommendation of the second Committee once the Board authorizes a second Committee to make a new recommendation.
- In all cases, the Board must arrange for programs and services within sixty (60) school days of receipt of consent to evaluate, except in those instances described above. The CSE must ensure that each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for the implementation of a student's IEP shall have access to a copy of the IEP; and each teacher and provider is informed of his or her specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student at no cost to the student's parents.

The School District must provide special education and related services to a student with a disability in accordance with the student's IEP and make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed in the student's IEP.

### **Annual Review, Re-Evaluation and Declassification**

An annual review will be conducted for every resident student who has been classified as having a disability. Prior to conducting any new assessments, parental consent must be obtained. Parents are notified by mail in advance of this review. Reasonable measures are taken to ensure that the parent attends the meeting. If a revision of the IEP is recommended, it must address:

- Any lack of expected progress toward the annual goals in the general curriculum, if appropriate;
- The results of any reevaluation and any information about the student provided to, or by, the parents;
- The student's anticipated needs;
- Or other matters, including a student's need for test accommodations and/or modification.

A comprehensive reevaluation is arranged at least once every three (3) years by a multidisciplinary team or group of persons, including at least one teacher or other specialists with knowledge in the area of the student's disability. The re-evaluation shall be sufficient to determine the student's individual needs, educational progress and achievement, the student's ability to participate in instructional programs in regular education and the student's continuing eligibility for special education. Reevaluations are also initiated prior to the requirement if requested by the student's parent or teacher. The results of any reevaluations must be addressed by the Committee on Special Education in reviewing and, as appropriate, revising the student's IEP. When evaluations are conducted with the purpose of determining continuing eligibility for special education the CSE will provide a copy of the evaluation report and the documentation of the determination of eligibility to the student's parent.

### **Parent consent is obtained, if any new tests will be administered.**

A variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parents, will be used in determining whether the student is or continues to be a student with a disability and content of the student's individualized education program, including information related to enabling the student to be involved in and progress in the general education curriculum. Existing evaluation data on the student will be reviewed, including evaluations and information provided by the student's parents, current classroom based assessments and observations and teacher and related service providers' observations.

### **The group may conduct its review without a meeting.**

The CSE must obtain informed parental consent prior to conducting any new test or assessment as part of a re-evaluation of a student with a disability, except the such informed parent consent need not be obtained if the district can demonstrate that it took reasonable measures to obtain such consent and the student's parent failed to respond. Reasonable measures will be defined as at least one telephone contact attempted and one additional note sent home either via mail or with the student. If the parent refuses consent, the district must resolve the matter through a mediation agreement or an impartial hearing before conducting the new test or assessment as part of the re-evaluation. If the Committee determines that no additional data is needed to determine whether the student continues to be a student with a disability, the CSE will notify the parent of that determination, and the reasons for it and the right of the parent to request an assessment to determine whether the student continues to be a student with a disability. The Committee will also indicate that it is not required to conduct such an assessment unless requested by the student's parent.

The CSE must evaluate a student with a disability in accordance with Section 614 of the IDEA (20 U.S.C. § 614) before determining that the student is no longer a student with a disability. A copy of the evaluation report and the documentation of eligibility must be provided to the student's parent.

## **Declassification of Students with Disabilities**

The recommendation to declassify students with disabilities is the responsibility of the Committee on Preschool Special Education (CPSE) and the Committee on Special Education (CSE). As declassification constitutes a significant change of identification and placement, the CPSE/CSE shall consider available evaluation data prior to making this recommendation. Should the parent specifically request a more comprehensive reevaluation prior to declassification the District shall provide one. The CPSE/CSE shall also provide prior notice, in the native language or other mode of communication of the home, to the child's parent or guardian, that a reevaluation is being sought for the purpose of considering declassification and request written consent for this evaluation.

When the CSE determines that a student no longer requires special education services, the Committee may recommend declassification support services to the student for no more than the first year in regular education. Such services may include psychological, social work, speech and language services, non-career counseling, or the assistance of a teacher aide or consultant to the classroom teacher. Continuation of test modifications upon declassification is not automatic. The CSE may determine the test modifications previously documented in a student's IEP must continue to be consistently provided to the student for the balance of his or her public school education. The school district is not required to conduct a reevaluation of a student before the termination of a student's eligibility due to graduation with a local high school or Regent's diploma or exceeding the age eligibility for a free appropriate public education.

In order to determine the nature of this reevaluation, the school staff including members of the CPSE/CSE and other qualified professionals may review the existing evaluation data on the student including evaluations provided by the parents or guardians, current class assessments, observations by teachers, reports by related services providers and other professionals. This review shall not constitute a CPSE/CSE meeting. On the basis of this review, the District may decide that no further data is needed. In this case, the CPSE/CSE shall notify the parents or guardians that further assessment has been deemed unnecessary and that they have a right to request further assessment to determine if their child continues to be a student with a disability. If the parent or guardian does not request further assessment, the CPSE/CSE may meet to review the existing information and to consider declassification. A copy of this informal evaluation report shall be made available to the parent or guardian.

In conducting its review, the CPSE/CSE will consider the student's ability to participate in instructional programs in regular education, the student's benefit from special education, and the student's continued eligibility to be identified as a child with a disability according to the criteria set forth in IDEA, the Part 200 Commissioner's Regulations and the District's existing policies and procedures. The CPSE/CSE must also consider the provision of educational and support services to the student upon declassification. Upon declassification, the CPSE/CSE shall identify any declassification support services including the projected date of initiation of such services and the duration of the CSE services. Declassification services shall be provided for no more than a year following the declassification date. Recommendations for declassification support services and appropriate evaluation information shall be forwarded to the building administrator who shall determine any additional educationally related support services, academic intervention services, or other services that may be appropriate for the child.



## **Procedures for Assessing English Language Learners (ELL Students)**

K-12 English Language Learners (ELL) intake is a two-fold process and is centralized for new entrants. One method that is used to determine the student's predominant language is the Home Language Questionnaire (HLQ). If the HLQ indicates a language other than English, an informal interview is conducted; If warranted, the student is administered the New York State Identification Test for English Language Learners (NYSITELL) to determine language proficiency. This is done for all K-12 students who are new to NYS and the United States. If a new student enrolls from New York City, then the District seeks information on ELL intake from the previous district. Student is placed on the appropriate level based on the data provided from the NYSESLAT or NYSITELL.

Students that enroll in the Ken-Ton UFSD in Pre-K are not serviced by an ESL teacher. With parental consent, these students are placed in either a monolingual or Transitional Bilingual Program based on the HLQ and informal interview. These students are flagged as possible ELLs. In June, another informal interview is conducted and used to determine if the NYSITELL should be administered.

Students who are referred for a bilingual assessment for special education purposes have usually been in the ESL program for at least two-three years. Traditionally, the referral comes from the ESL teacher who discusses his/her concerns about the student's progress with the building team with regard to the possibility of a disability interfering with the acquisition of academic and/or language skills.

Prior to referral, general education supports are attempted to determine if the student can make progress through the CSE interventions.

If the student's home language is other than English, this is noted on the referral form in order assist further appropriate evaluations can be completed. If the parents' dominant language is not English, at the CSE meeting, an interpreter can be provided for parents if their native language is other than English.

When considering if a disability is present, the CSE will consider the following factors:

- The length of time the student has been in the United States;
- The amount of instruction that the student has received in the United States as well as his or her home country;
- The length of time the student has been receiving ESL instruction;
- Attendance in school;
- The student's proficiency in his native language as well as English proficiency;
- The types of general education supports that the student has received.

In all cases, the student's educational, cultural and experiential background will be considered by the Committee to determine if these factors are contributing to the student's learning or behavioral problems. In making a determination of eligibility for special education and related services, a student may not be identified as a child with a disability if the determinant factor for such determination is limited English proficiency

## **Extended School Year (ESY) Services**

The Committee on Special Education or Committee on Preschool Special Education will determine whether a student requires extended school year special education services in order to prevent substantial regression. Substantial regression as defined by regulations would be indicated by a student's inability to maintain developmental levels due to a loss of skill, set of skill competencies or knowledge during the months of July and August. In accordance with Section 200.6(k) of the Commissioner's Regulations, students will be considered for twelve-month (12) Special Services and/or programs to prevent substantial regression if they are:

- Students whose management needs are determined to be highly intensive and require a high degree of individualized attention and intervention and who are placed in special classes;
- Students with severe multiple disabilities, whose programs consist primarily of rehabilitation and treatment
- Students who are recommended for home and hospital instruction whose special education needs are determined to be highly intensive and require a high degree of individualized attention and intervention or who have severe multiple disabilities and require primarily habilitation and treatment;
- Students whose needs are so severe that they can be met only in a seven (7) Day residential program; or
- Students receiving other special education services, who, because of their disabilities exhibit the need for a twelve-month program provided in a structured learning environment of up to twelve 12 months duration in order to prevent substantial regression.

Both quantitative and qualitative information will be reviewed by the Committee to substantiate the need for providing such services and programs. A student is eligible for a twelve-month (12) service or program when the period of review or re-teaching required to recoup the skill or knowledge level attained by the end of the prior school year is beyond the time ordinarily reserved for that purpose at the beginning of the school year. The typical period of review or re-teaching ranges between twenty (20) and forty (40) school days. As a guideline for the purpose of determining eligibility for an extended school year program, a review period of eight (8) weeks or more would indicate that substantial regression has occurred.

## **Transitional Planning Services for Students with Disabilities**

### **Definition:**

*"Transition Services"* are defined in the IDEA and Article 89 as a coordinated set of activities for a student with a disability designed within an outcome oriented process, that promotes movement from school to post-school activities including, but not limited to, post-secondary education, vocational training, integrated competitive employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include needed activities in the areas of instruction, related services, community experiences, the development of employment and other post school adult living objectives and, if appropriate, acquisition of daily living skills and functional vocational evaluation (20 U.S.C. (1401) (a) (19)).

### **Individualized Transition Plans:**

Transition Services planning for secondary students with disabilities is outcome oriented and looks toward adult life. Professionals, students and parents or other guardians work cooperatively to identify appropriate destination statements and to determine and implement plans for reaching the CSE outcomes. The student's interests and needs are kept foremost in the decision making process.

For students age fourteen (14) and older, the IEP must demonstrate the use of a coordinated set of activities as the means by which the student can achieve the long-term adult outcomes. Beginning at age fourteen (14), the focus of activity is on instruction (e.g., courses of study such as participation in advanced placement courses or a vocational education program). At age fifteen (15) or older, the coordinated set of activities must address instruction, related services, community experiences and the development of employment or other post-school adult living objectives. At all meetings for the purpose of discussing the need for transition services, the student will be invited. In addition, a representative of the agencies likely to provide or pay for transition services will be invited. Other knowledgeable school personnel (e.g., administrators, psychologist, related service provider, general education teacher) may be asked to participate in the process.

#### **The coordinated sets of activities are:**

**Instruction** – Education instruction that will be provided to the student to achieve the stated outcome(s) (e.g. general and/or special education course instruction, occupational education and advanced placement courses).

**Related Services** - As defined in Section 200.1 of the Regulations of the Commissioner of Education, such as rehabilitation counseling services, which will support the student in attaining the stated outcome(s).

**Employment and Other Post-School Adult Living Objectives** -Educational services that will be provided to the student to prepare for employment or other post-school activity. Post-school activities will determine what other skills or supports will be necessary for the student to succeed as independently as possible. Examples include participation in a work experience program, information about colleges in which the student has an interest and travel training.

**Community Experiences** – Community-based experiences that will be offered or community resources utilized as part of the student's school program, whether utilized during school hours or after school hours to achieve the stated outcome(s).

**Activities of Daily Living Skills (ADL)** (if appropriate) – ADL skills necessary to be worked on to achieve the stated outcome(s) (e.g. dressing, hygiene, self-care skills, self-medication).

**Functional Vocational Assessment** (if appropriate) – If the vocational assessment has not provided enough information to make a vocational program decision, additional assessment activities can be performed to obtain more information about the student's needs, preferences and interests.

## **Opportunities to Earn High School Diplomas**

It is the policy of the school district to encourage students with disabilities to pursue high school diplomas. Access must be provided to required courses, electives and tests as specified in Part 100 of the Regulations of the Commissioner. The Committee must consider the high school credentials the student will seek to attain: a Regent's or local high school diploma, a skills and achievement commencement credential (SACC), or a Career Development and Occupational Studies (CDOS) Commencement Credential. To ensure that students with disabilities are encouraged and assisted to achieve the credits and the skill levels necessary for attaining a diploma, the district adopts the following procedures:

1. The Committee on Special Education (CSE) will annually review the special educational needs of each student with a disability. At each annual review after the student has entered 8<sup>th</sup> grade, the CSE will make an assessment as to whether or not the student's capabilities indicate probable success in a course of study leading to a diploma, or whether his or her needs could be better met in an individualized education program designed to develop the skills needed to earn a SACC or CDOS Credential. Where appropriate, the student will participate in this decision-making process.
2. The decision will be reviewed annually. The CSE will consider the following factors:
  - current levels of achievement;
  - learning rate;
  - preference of student and family.
3. The CSE will consider if the student requires testing modifications to participate in State or district-wide assessments. The CSE modifications will be clearly stated on the student's IEP.
4. The district will offer appropriate remedial instruction for all students.
5. The CSE will identify and recommend support services and supplementary instruction necessary to assist students to benefit from credit courses.
6. If the student's special educational needs require instruction in small classes from certified special education teachers, the IEP shall so indicate and placement will be made in or outside the district in special education classes. In any such case, instruction in subjects granting credit toward graduation and a Regent's or local high school diploma will be provided in accordance with curriculum objectives and required levels of achievement determined by the special education teacher in consultation with a teacher certified in the subject being taught.

A record of the objectives and criteria for mastery will be subject to approval by the building principal and maintained in the special education office. Evaluation of student work will be completed in accordance with the individual educational needs of the student.

Prior to earning a "SACC" or "CDOS" Credential does not preclude subsequent granting of a regular diploma if passing of appropriate assessments and necessary credits are achieved before the end of the school year in which a student reaches his/her twenty-first (21) birthday. In all cases in which a SACC or CDOS is earned, parents will receive written notice that a student is entitled to receive a free, appropriate public education until the end of the school year in which he/she reaches his/her twenty-first (21) birthday or obtains a high school diploma

## **Guidelines for Issuance of the Skills and Achievement Commencement Credential**

The Board of Education and District staff shall comply with all federal and State requirements concerning the education of students with disabilities. The District subscribes to the concept that all students must be provided with quality instruction and opportunities for academic achievement. In accordance with this, it is expected that students with disabilities will be guided towards a course of study which will lead to the achievement of a high school diploma. It is recognized, however, that the achievement of this standard may be precluded for some students due to the nature or severity of their disability. The awarding of a SACC is authorized for such students under the following conditions:

A skills and achievement commencement credential may be awarded to a student who has taken the State assessment for students with severe disabilities (New York State Alternate Assessment-NYSAA), as defined in section 100.1(t)(2)(iv) of the Commissioner's Regulations, in accordance with the following provisions:

- a. **Prior to awarding the skills and achievement commencement credential**, the governing body of the Ken-Ton UFSD shall ensure that:
  1. the student has been recommended by the Committee on Special Education to take the alternate assessment in lieu of a required State assessment;
  2. such student meets the definition of a student with a severe disability as defined in section 100.1(t)(2)(iv) of the Commissioner's Regulations;
  3. the student has been afforded appropriate opportunities to participate in community experiences and development of employment and other instructional activities to prepare the student for post-secondary living, learning and employment.
- b. The credential may be issued at any time after such student has attended school for at least 12 years, excluding kindergarten, or has received a substantially equivalent education elsewhere, or at the end of the school year in which a student attains the age of 21.
- c. The credential shall be issued together with a summary of the **student's academic achievement** and functional performance, as required pursuant to section 200.4(c)(4) of the Commissioner's Regulations, that includes documentation of:
  1. the student's level of achievement and independence for each of the career development and occupational studies learning standards set forth in section 100.1(t)(1)(vii)(a), (b) and (c) of the Commissioner's Regulations including, but not limited to: career development; integrated learning; universal foundation skills that include basic skills in reading, writing, listening, speaking, math and functional math; thinking skills; personal qualities; interpersonal skills; use of technology; managing information and resources; systems skills;
  2. the student's academic skills, as measured by the State assessment for students with severe disabilities; and
  3. the student's strengths and interests and, as appropriate, other student achievements and accomplishments.

- e. If the student receiving a credential is **less than 21 years of age**, such credential shall be accompanied by a written statement of assurance that the student named as its recipient shall continue to be eligible to attend the public schools of the school district in which the student resides without the payment of tuition until the student has earned a regular high school diploma or until the end of the school year in which such student turns age 21, whichever shall occur first.

Information regarding graduation requirements, including the local diploma option and the appeals process, may be found at:

<http://www.p12.nysed.gov/specialed/gradrequirements/home.html>

### **COMMITTEE ON PRESCHOOL SPECIAL EDUCATION (CPSE)**

The Committee on Preschool Special Education (CPSE) is responsible for arranging for the evaluation of any student who is suspected of having a disability, who meets the age eligibility requirements specified in the Regulations, and is a resident of the Ken-Ton UFSD. *The evaluation process begins when a written request for evaluation is made by either:*

- The student's parent/guardian
- A professional staff member of the school district in which the student resides or the public or private school the student legally attends
- A staff member of a preschool program
- A staff member of a program serving infants and toddlers or preschool students
- A licensed physician or judicial officer
- A representative of a public agency with responsibility for the welfare, care or education of students
- A staff member of the Early Childhood Direction Center

The referral can be made at any time during the school year. It should specify the extent to which the preschool student has received any services prior to referral. A list of County approved evaluation sites will be provided to the parent. Translations will be provided as needed. In the event that consent is not provided, the Committee shall implement the District's practices for ensuring that the parents have received and understood the request for consent.

The individual evaluation of a preschool child shall include relevant functional and developmental information regarding the child's abilities and needs relating to participation in age-appropriate activities.

This evaluation will include the following, at no cost to the parent:

- A physical examination;
- An individual psychological examination, except when a school psychologist determines after an assessment that further evaluation is unnecessary;
- An educational evaluation when deemed necessary by the CPSE;
- An observation when deemed necessary by the CPSE;
- A social history; and
- Other appropriate assessments or evaluations as necessary to ascertain the physical, mental and emotional factors that contribute to the suspected disabilities.

The evaluator will use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental

factors. Tests will be administered in the student's dominant language or other mode of communication, unless it is clearly not feasible to do so. The tests will be validated for the specific purpose for which they are used and will be administered by trained personnel. Tests will be administered so as not to be racially or culturally discriminatory and to ensure that they measure the extent to which the student has a disability and needs special education, rather than measure the student's English language skills. The CPSE will arrange for specialized evaluations where necessary. The CSE assessments may include, but are not limited to: bilingual evaluations, psychiatric and neurological examinations, audiological evaluations, visual evaluations, and assistive technology assessments. Specialized evaluations are not limited to the initial evaluation process; they may be indicated at any time.

When completed, the evaluation reports will be submitted to the CPSE and a CPSE meeting will be scheduled. The parents will be provided with a copy of the summary reports prior to the meeting. The results of the evaluation will be provided to the parent in their native language or other mode of communication. Reasonable measures will be made to ensure that the parent attends the meeting. This means:

- A written notice is sent to the parent/guardian at least five days prior to the meeting, advising them of the meeting.
- At least one additional attempt is made to notify the parents/guardians. This may mean additional written notice or a telephone call.
- CPSE meetings are arranged at a mutually agreeable time.

The CPSE submits a recommendation to the Board of Education and to the parent/guardian of the preschool student within sixty (60) school days of the date of the receipt of consent. If the Committee determines the student is ineligible for the special education, written notification will indicate the reasons for the finding. If the Committee determines that a student has a disability, an Individualized Education Program, (IEP) is prepared which specifies the nature of the disability, the student's current levels of functioning, including how the disability affects the student's participation in appropriate activities, measurable annual goals, including benchmarks or short-term objectives, and the type of special education program and/or services recommended. The CPSE will seek, in every case, to recommend placement in the least restrictive environment consistent with the needs of the student. Also, the Committee shall first consider providing special education services in a setting where age-appropriate peers without disabilities are found. If, for any reason, the recommendation of the Committee differs from the preference of the parent, the report shall include the reasons for the Committee's recommendations. The notice will also indicate that, in the event that the parent/guardian does not provide consent for placement, no further action will be taken by the CPSE until such consent is obtained.

- Prior notice means written statements developed in accordance with Section 200.5(a) of the Part 200 Commissioner's Regulations, and provided to the parents/guardian of a student with a disability a reasonable time before the school district proposes to or refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student.

## **Placement**

Upon receipt of the CPSE's recommendation, the Board of Education will arrange for the student to receive appropriate special programs and services. Services will not be provided without parent's/guardian's consent but if the parent/guardian disagrees with the recommendation of the Board and prefers an alternative program, he/she may request an impartial hearing review and may appeal the decision to the State Review Officer. Review of placement decisions will be conducted in accordance with the same rules of procedural due process applicable to the placement of school aged students. Placement in an approved program will take place as soon as possible following the Board of Education's approval. If the Board of Education disagrees with the Committee's recommendation, it may ask the Committee for further review.

## **Annual Review**

An annual review will be conducted for every preschool student who has been classified as having a disability. The purpose of the annual review is to determine the appropriateness of each student's Individualized Education Program (IEP) and the need to continue or modify the student's preschool special education program. The yearly review ensures that the IEP will continue to meet the student's educational needs. In addition to the members of the CPSE, which includes the parent/guardian of the student, the student's teacher must also attend. Parents/guardians will receive a written notice, at least five (5) days prior to the meeting that indicates the time, date, location and persons expected to attend. Reasonable measures will be taken to ensure that the parent/guardian attends the meeting. This notice must also inform the parents/guardians that they may invite other persons to attend the meeting, who have knowledge or special expertise regarding the student.

## **Withdrawal of Referral**

Written consent of the parent/guardian is required prior to initiating an evaluation for a student who has not previously been identified as having a disability. In the event that parent/guardian permission is withheld, the parent shall be given the opportunity to attend an informal conference with a designated professional most familiar with the proposed evaluation. If, at this meeting the parent/guardian decides that the referral is not warranted, the referral shall be withdrawn.

## **Transitioning from CPSE to CSE:**

All preschool students with an IEP will have an annual review. At the annual review in which the CPSE will be discussing the school year the child will be eligible for kindergarten (5 years old by December 1<sup>st</sup>), if service is still required for the child to attend school, a referral will be made to the Committee on Special Education. The Committee on Special Education will hold a transition meeting to determine eligibility for special education as defined in 200.1 (zz)



## **SECTION 3-PROCEDURAL SAFEGUARDS**

**Education Law amendment requires parents to be notified of their rights to a referral and evaluation of their child.**

(2/8/15) Section 4402 of the Education Law has been amended by adding a new subdivision, effective July 1, 2015, requiring public schools to notify every parent of their rights regarding referral and evaluation of their child for the purposes of special education services or programs upon their child's enrollment in public school.

This amendment requires school districts to notify every parent or person in parental relation of their rights regarding the referral and evaluation of their child for the purposes of special education services or programs. This notification shall be provided to the parents of all students in the district (with and without disabilities) upon their child's entry into public school.

This field advisory (PDF) provides information on this change which includes the legal citation(s), a summary of the changes, an effective date, and the corresponding statutory language. The field advisory is also posted at:

<http://www.p12.nysed.gov/specialed/timely.htm>

In addition, the new requirement has been included in A Parent's Guide to Special Education in NYS (PDF).

**Due Process**

A mandatory Procedural Safeguards Notice has been provided to school districts by the New York State Education Department.

The Procedural Safeguards Notice must be provided to parents upon request and upon:

- initial referral of the child for evaluation;
- request for an impartial due process hearing or mediation;
- a decision to suspend or move a child for discipline reasons that would result in a disciplinary change in placement.

The first time in a school year when the school district receives a copy of a State complaint Informed Consent (CSE and CPSE)

**“Consent” means:**

the parent has been fully informed, in his or her native language or other mode of communication, of all information relevant to the activity for which consent is sought, and has been notified of the records of the student which will be released and to whom they will be released;

the parent understands and agrees in writing to the activity for which consent is sought; and the parent is made aware that the consent is voluntary on the part of the parent and may be revoked at any time except that, if a parent revokes consent, that revocation is not retroactive (I.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

**Written Parental Consent is Required Prior to:**

Initial Evaluation -Upon receipt of a referral to the CSE/CPSE of a student who is suspected of having disability, parental consent for evaluation is requested. The parent is contacted by a representative of the CSE/CPSE regarding the referral. The reason for the referral and the evaluation process are explained. The parent is also provided with a copy of due process rights. If the parent does not consent, the parent is invited to an informal conference to discuss the evaluation process. Outreach efforts are made, when necessary, to ensure the parent has received and understands the request for consent. If the parent of a preschool child does not provide consent for initial evaluation, no further action will be taken by the by the CPSE until such consent is obtained. If the parent of a school-age child does not provide consent for an initial evaluation within 30 days of the dated receipt of the referral, the

chairperson will document attempts to obtain parental consent and may request that the Board of Education initiate an impartial hearing

**Initial Provision of Special Education Services** –If the CSE/CPSE determines the student has a disability and recommends special education services, parental consent to initiate placement is requested. The parent is provided with a copy of due process rights. If a parent refuses to give written consent, the District may not deny the parent or child any other service, benefit, or activity of the school district, except for the recommended special education service. Translations are provided as necessary. Parents are given the opportunity for further discussion with the Chairperson of the CSE or school staff, if needed. Outreach efforts are made, when necessary, to ensure the parent has received and understands the request for consent for placement. If the parent of a preschool child does not provide consent for the initial provision of special education services, no further action will be taken by the CPSE until such consent is obtained.

**Initial Provision of a Twelve (12) Month Program or Service** -The procedures detailed above apply.

**Reevaluation** -Parental consent will be requested prior to conducting a reevaluation of the student with a disability; however, the district may proceed with the reevaluation if the parent guardian does not respond and reasonable measures have been taken to obtain such consent.

Reasonable measures are interpreted as:

- a written notice is sent to the parent requesting consent for the reevaluation;
- at least two additional attempt is made to notify the parents; this may mean an additional written notice or a telephone call.

**Requests for Records/Other Communications with Non-District Personnel**

Parent consent is requested pursuant to IDEA and FERPA:

- See section on **Special Education Records: Access and Accessibility** for further information in this regard.

Parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation or administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.

Parental consent is required for a functional behavioral assessment.

## **INDEPENDENT EDUCATIONAL EVALUATIONS REGULATION**

Parents of disabled children have the right under federal and State regulations to obtain an independent evaluation at public expense under certain conditions.

### **Independent Educational Evaluation**

An independent educational evaluation means an evaluation conducted by a qualified examiner(s), as defined in 34 CFR 300.12 who is not employed by the school district responsible for the education of the disabled child or child who is thought to be educationally disabled.

If the parent disagrees with the evaluation conducted by the school district, the parent has a right to obtain an independent educational evaluation at public expense. The district may request the parent to specify the areas of disagreement with the district's valuation.

The school district may initiate an impartial hearing to show that its evaluation is appropriate, and if the Hearing Officer determines that the school's evaluation is appropriate, the parent would not have the right to a publicly funded independent evaluation or the right to reimbursement for an independent educational evaluation they may have already obtained.

### **Public Expense**

The district has established reimbursement rates for independent evaluators based on the reasonable and customary rates charged by providers within close geographical proximity to the district, as defined below. The school district will not pay more the \$1,800.00 for an independent educational evaluation that meets the requirements under Commissioner's Regulations (except for highly specialized evaluations, which be funded at a cost no higher than \$2,000.00) which may require an individual psychological evaluation, a physical examination, a social history, and other suitable examinations and evaluations as required by a student's IEP to ascertain the physical, mental, and emotional factors which contribute to a suspected educational disability.

### **Geographical Range**

The school district will not consider at public expense, independent evaluators outside the counties of Erie and Niagara, absent exceptional circumstances. Requests for exemptions to this policy should be forwarded in writing the Chairperson of the Committee on Special Education

### **Districts List of Evaluators**

The district has established a comprehensive list of qualified professionals in private practice or employee of other public agencies to whom parents may go to secure an independent evaluation. This list of independent evaluators which includes professionals in all areas of a child's suspected disability can be obtained from the special education department. Any evaluator used must possess current license or certification from the New York State Education Department in the area of evaluation.

### **Responsibilities**

When an independent educational evaluation is requested and approved by the school, and an independent evaluator is selected by the parent from the approved list, it then becomes the responsibility of that professional to contact the District to arrange for payment, dates of classroom visitation, and discussion with school staff.

## **SECTION 4-DISCIPLINE**

## SCHOOL CONDUCT AND DISCIPLINE

In accordance with the Regulations of the Commissioner of Education, the Ken-Ton UFSD has adopted and implemented a written policy on school conduct and discipline designed to promote responsible student and staff behavior. A copy of the policy is on the District website and is available for review by any resident of the district at <https://www.ktufsd.org/domain/1694>

The Board of Education is committed to maintaining a school district which provides students and staff with productive, satisfying, and wholesome learning environments. Essentially, this means that relationships are such that teachers can teach and students can learn. The Board is also committed to protecting First Amendment freedoms within the school system; however, lawlessness in any form will not be tolerated. The district will not permit students to engage in any conduct intended to destroy personal or school property, disrupt or interfere with teaching, research, service, administrative or disciplinary functions, or any district-sponsored or approved activity.

### DISCIPLINE OF STUDENTS WITH DISABILITIES

The Ken-Ton UFSD Board of Education recognizes that it may be necessary to suspend, remove or otherwise discipline students with disabilities to address disruptive or problem behavior. The Board also recognizes that students with disabilities enjoy certain procedural protections whenever school authorities intend to impose discipline upon them. The Board is committed to ensuring that the procedures followed for suspending, removing or otherwise disciplining students with disabilities are consistent with the procedural safeguards required by applicable laws and regulations.

Students with disabilities who are in the Ken-Ton UFSD are generally expected to meet standards for school conduct and are subject to District-wide policy. When a student with a disability repeatedly violates school rules, the student will be re-evaluated by the Committee on Special Education to determine whether the inappropriate conduct is related to the disability and whether a change in services or placement is appropriate. When the conduct is related to the disability, students with disabilities will be treated in accordance with their individual educational needs.

For a student with a disability, they will be provided all of their rights and protections under Education Law §3214.

Disciplinary change in placement means a suspension or removal from a student's current education placement that is either:

1. For more than ten (10) consecutive school days; or
2. For a period of ten (10) consecutive days or less if the student is subjected to a series of suspensions or removals that constitute a pattern because they cumulate to more than 10 school days in a school year and because of such factors as the length of each suspension or removal, the total amount of time the student is removed and the proximity of the suspensions or removals to one another.

**Authority of School Personnel** -School personnel may change the placement of a student with a disability to the extent that such alternatives would be applied to students without disabilities:

1. To an appropriate interim alternative educational setting, or suspension, for not more than ten (10) consecutive school days; and
2. To an appropriate interim alternative education setting (IAES) for not more than 45 days if the child brings a weapon or knowingly possesses/uses, sells or solicits illegal drugs, or otherwise cause serious bodily injury while at school or a school function.

The Superintendent of Schools may order a change in a placement of a student with a disability to an IAES directly or upon recommendation of a hearing officer even when the CSE determines that the student's behavior is a manifestation of the student's disability. The setting shall be determined by the CSE.

### **Referral to Law Enforcement and Judicial Authorities**

In accordance with the provisions of IDEA and its implementing regulations:

- a. The district may report a crime committed by a child with a disability to appropriate authorities, and such action will not constitute a change of the student's placement.
- b. The superintendent shall ensure that copies of the special education and disciplinary records of a student with disabilities are transmitted for consideration to the appropriate authorities to whom a crime is reported.

**Manifestation Determination Review** -If any of the disciplinary actions above are contemplated or if a disciplinary action involving a change in placement for more than 10 school days is contemplated for a student with a disability who has engaged in any behavior that violated any rule or code of conduct of the Ken-Ton UFSD that applies to all children: (1) not later than the date on which the decision to take that action is made, the parents shall be notified of that decision and of all procedural safeguards accorded under this section; and (2) immediately, if possible, but in no case later than 10 school days after the date on which the decision to suspend or change placement, a meeting of the CSE and other qualified personnel will be scheduled to determine the relationship between the student's disability and the behavior subject to the disciplinary action.

In carrying out the review, the CSE or school-based manifestation team may determine that the behavior of the student was not a manifestation of such student's disability only if the CSE first consider(s) in terms of the behavior subject to disciplinary action, all relevant information, including: evaluation and diagnostic results, including such results and other relevant information supplied by the parents of the student; observations of the student; and the child's IEP and placement; and then determines that: in relationship to the behavior subject to disciplinary action, the student's IEP and placement were appropriate and the special education services, supplementary aids and services and behavior intervention strategies were provided consistent with the student's IEP and placement; the student's disability did not impair the ability of the student to understand the impact and consequences of the behavior subject to disciplinary action; and the student's disability did not impair the ability of the student to control the behavior subject to disciplinary action.

A special education student may be suspended by a building principal more than once during a school year, but a series of short-term suspensions adding up to ten (10) days in the same school year may be considered a change in placement, requiring prior evaluation and CSE review. Therefore, building principals, in consultation with the chairperson of the CSE, will monitor the total days and pattern of suspensions with respect to each special education student. If a student has already been suspended on multiple occasions, or if his/her behavior suggests that a "revolving door" pattern of suspensions is developing, the principal is expected to consult with the CSE before again suspending a student for disciplinary reasons.

**Determination of Setting** -An interim educational setting in which a student is placed by either school personnel or a hearing officer shall: (1) be selected to enable the student to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the IEP, that will enable the student to meet the IEP goals; and (2) include services and modifications designed to address the behavior described above so that it does not recur.

**Parent Notice of Disciplinary Removal** -No later than the date on which a decision is made to change the placement of a student with a disability to an IAES, or a decision is to impose a suspension or removal that constitutes a disciplinary change in placement, the parent shall be notified of the decision and shall be provided the procedural safeguards notice.

**Parent Appeal**-If the parent disagrees with a determination that the student's behavior was not a manifestation of the student's disability or with any decision regarding placement, the parent may request a hearing. The Ken-Ton UFSD shall arrange for an expedited hearing in any case described in this section when requested by a parent.

In reviewing a decision with respect to the manifestation determination, the Impartial Hearing Officer shall determine whether the public agency has demonstrated that the student's behavior was not a manifestation of such student's disability consistent with the requirements for a manifestation determination review. In reviewing to place a student in an interim alternative educational setting, the hearing officer shall apply the standards indicated in "Determination of Setting".

When a parent requests a hearing to challenge the interim alternative educational setting or the manifest determination, the student shall remain in the interim alternative educational setting pending the decision of the Impartial Hearing Officer or until the expiration of the time period discussed in sections "Authority of School Personnel" and "authority of a Hearing Officer", whichever occurs first, unless the parent and the Ken-Ton UFSD agree otherwise.

If the student is placed in an interim alternative educational setting and school personnel propose to change the student's placement after the expiration of the interim alternative educational placement, during the pendency of any proceeding to challenge the proposed change in placement, the student shall remain in the current placement (the student's placement prior to the interim alternative educational setting), except where the student is again placed in an IAES by an Impartial Hearing Officer in an expedited hearing described below.

**Authority of an Impartial Hearing Officer** -An Impartial Hearing Officer may order a change in placement of a student with a disability to an appropriate interim alternative educational setting, in a dangerous situation, for not more than 45 days if the Impartial Hearing Officer:

1. determines that the Ken-Ton UFSD has demonstrated substantial evidence that maintaining the current placement is likely to result in injury to the student or to others;
2. considers the appropriateness of the student's current placement;
3. considers whether the district has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and
4. determines that the interim alternative educational setting meets the requirements.

**Expedited Hearing** If school personnel maintain that it is dangerous for the student to be in the current placement during the pendency of the due process proceedings, the district may request an expedited hearing. An expedited due process hearing shall be completed within fifteen (15) business days of receipt of the request for a hearing, provided that the impartial hearing officer may grant specific extensions of times at the request of either the school district or the parent. The impartial hearing officer shall mail a copy of the written, or at the option of the parents, electronic findings of fact and the decision to the parents, Board of Education and VESID within 5 business days after the last hearing date, but in no event later than 45 calendar days after receipt of the request for a hearing, without exceptions or extension. In determining whether the student may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards indicated in "Authority of a Hearing Officer".

Notwithstanding anything in this policy, if the Superintendent concludes that the student's presence in school creates a substantial likelihood of danger to himself or others, the school district will seek injunctive relief in a State or federal court with respect to a change of placement pending the outcome of review proceedings.



## **Protections for Students Not Yet Eligible for Special Education and Related Services.**

A student who has not yet been determined to be eligible for special education under this part and who has engaged in behavior that violated any rule or code of conduct of the district, including any behavior described above, may assert any of the provisions described herein if the district had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. A district shall be deemed to have knowledge that a child is a child with a disability if:

- The parent of the student has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to personnel of the district that the student is in need of special education or related services. The behavior or performance of the student demonstrates the need for such services;
- The parent of the student has requested an evaluation of the student; or
- The teacher of the student or other personnel of the district, has expressed concern about behavior or performance of the student to the CSE or other personnel of the district.

If the district determines that there is no basis for knowledge that a student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as students without disabilities who engaged in comparable behaviors. If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures under section "Authority of School Personnel" or "Authority of Hearing Officer" above, the evaluation shall be conducted in an expedited manner. An expedited evaluation shall be completed no later than fifteen (15) school days after receipt of the request for evaluation. The CSE shall make a determination of eligibility of the student in a meeting held no later than five (5) school days after completion of the expedited evaluation. If the student is determined to be a student with a disability, taking into consideration information from the evaluation and information provided by the parents, the district shall provide special education and related services in accordance with the provisions of this part, except that, pending the results of the evaluation, the student shall remain in the education placement determined by school authorities, which can include suspension.

**SECTION 5-MISCELLANEOUS**

The Board delegates to the Superintendent of Schools the responsibility for establishing administrative regulations for the selection of instructional materials, equipment and textbooks, and for periodically reviewing their effectiveness, and report findings to the Board. Instructional materials, including software and Internet access, shall be selected by the appropriate certificated personnel in accordance with procedures determined by the Superintendent of Schools or his/her designee. The Superintendent of Schools shall recommend all instructional equipment, textbooks and materials to the Board of Education for adoption.

### **Plan to Ensure Availability of Instructional Materials in Alternative Formats**

Effective May 16, 2002, section 200.2 of the Regulations of the Commissioner was amended to implement [Chapter 377 of the Laws of 2001](#). As a result of Chapter 377 and the implementing regulations, each board of education (BOE) and each Board of Cooperative Educational Services (BOCES) must establish a plan to ensure that every student with a disability who needs his or her instructional materials in an alternative format will receive those materials at the same time that they are available to non-disabled students.

“Alternative format” is defined to mean any medium or format for the presentation of instructional materials, other than a traditional print textbook, which is needed to assure access to text material. It would include but not limited to, Braille, large print, open and closed caption, audio, or an electronic file in a format compatible with alternative format conversion software that is appropriate to meet the needs of the individual student.

### **Identification of the Needs of Students Residing in the District**

Advance planning in the selection and ordering of books will help ensure that students with disabilities receive their instructional materials at the same time as other students in their classes.

- If the CSE determines that a student needs his or her instructional materials in an alternative format, the IEP will specify the accommodations for the individual student and any related instruction and/or assistive technology devices needed for the student to access the alternative format materials.
- When a new student enters the District, the placement officer will review the student’s previous IEP to determine if the IEP has specified the need for materials to be provided in an alternative format. If the need is specified, the District will either provide the necessary software or hardware needed for the conversion or arrange for the purchase or conversion of the materials. This provision will be reviewed at the District’s initial CSE meeting for the student.
- The CSE should review the following considerations in making such recommendations:
  - a. What alternative format is needed?
  - b. What instruction is needed for the student to use the alternative format materials?
  - c. What assessment technology devices or services are needed for the student to access the alternative format materials?
  - d. What test accommodations might a student need related to alternative formats?
  - e. What supports for school personnel may be needed related to the alternative format(s) recommended?
  - f. What assistance do the parents need to help them acquire skills necessary to support the child’s use of the instructional materials and/or related assistive technology devices?

### **Identification and Register of Children with Disabilities (Child Find)**

The Ken-Ton UFSD recognizes its responsibility to provide a free and appropriate public education to eligible students with disabilities within its geographical boundaries. The School District of residence is required to locate and identify all students with disabilities who reside in the District, including children with disabilities who are homeless or wards of the State, and children with disabilities attending private schools or who are home schooled, and who are in need of special education and related services (with the exception of students with disabilities who are parentally placed in nonpublic schools outside of the district of residence).

Child find is the practical method the public school district will use to identify, locate and evaluate students suspected of having disabilities who are parentally placed in nonpublic schools. The child find activities must be similar to activities undertaken for students with disabilities in its public schools and must be completed in a time period comparable to that for other students attending public schools in the school district.

These procedures apply to highly mobile children with disabilities and children that are suspected of being a child with a disability under 34 CFR 300.7 and in need of special education, even though they are advancing from grade to grade. (34 CFR 300.125)

Procedures include, but are not limited to:

1. providing public awareness to inform citizens of educational opportunities available to individuals with disabilities.
2. maintaining documentation of the public awareness efforts to inform the public and parents within the school district jurisdiction, including private and religious schools, of the availability of special education services.
3. maintaining a list or “dissemination network,” including community agencies and facilities, individuals, and locations that received child find information.
4. distributing information regarding availability of services.
5. consulting annually with private or religious schools, to determine the number of students identified as eligible for special education and related services, regardless as to whether or not they are receiving services.
6. determining those individuals who receive special education and those individuals who do not receive needed services.
7. posting child find notices annually in locations around the District and within the city.
8. screening activities will be implemented for all Kindergarten students, all enrolled students new to the district, and those students who transfer to the District without sufficient records.

### **AVAILABILITY OF COPIES OF THIS POLICY**

*The District Special Education Plan is on file in the Office of the Superintendent of Schools, Special Education and Student Services Office, as well as on the District's Website.*

<https://www.ktufsd.org/Page/1>