

SPECIAL EDUCATION MANDATE RELIEF PROPOSALS

PUBLIC COMMENT SUBMISSION COVER SHEET – MUST BE RECEIVED NO LATER THAN JULY 25, 2011

MAIL TO:	New York State Education Department Office of Special Education 89 Washington Avenue, Room 309EB Albany, New York 12234 Attention: Public Comment – Special Education Mandate Relief Proposals	
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EMAIL TO:	SPEDPUBLICCOMMENT@MAIL.NYSED.GOV	
FROM: (Please Print or Type Requested Information)	NAME	Judi Gerson, on behalf of Cerebral Palsy Associations of NYS
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SPECIAL EDUCATION MANDATE RELIEF PROPOSALS

FROM NAME: Cerebral Palsy Associations of NYS (Please match with submission cover sheet) PAGE # _____	COMMENT SHEET FOR SPECIAL EDUCATION MANDATE RELIEF OPTIONS Submission: Must be <u>received</u> no later than July 25, 2011	Mail to: New York State Education Department Office of Special Education 89 Washington Avenue, Room 309EB Albany, New York 12234 Attention: Public Comment – Special Education Mandate Relief Proposals Fax: 518-473-5387 Email: SPEDPUBLICCOMMENT@MAIL.NYSED.GOV
COMMITTEE ON SPECIAL EDUCATION (CSE) MEMBERSHIP		
Appendix B: Proposal #1	Sections of Law and/or Regulations	
Conform the membership of CSE to the federal individualized education program (IEP) team membership by repealing the requirement that CSE membership must include a: <ul style="list-style-type: none"> • school psychologist; • parent of a student with disability; and • physician if requested by the school or parent 72 hours before the meeting. 	Education Law §4402(1)(b)(1)(a) and (b) 8 NYCRR §200.3(a)(1)	
<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose <input type="checkbox"/> No Position		
Reasons/Recommendations: For initial CSE meetings of children not previously identified, we feel it is important to maintain the required membership of the school psychologist, unless they are otherwise in attendance in another role (CSE Chairperson, for example). For annual meetings and /or for children transitioning from 4410 preschool special education with current and up-to date progress reports, the participation could be optional. In all instances, parents should be properly informed of their right to request the attendance of the psychologist, parent and / or physician.		

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Appendix B: Requirements Relating to Proposal #1	Sections of Law and/or Regulations
Repeal requirements no longer necessary if Proposal #1 is adopted: <ul style="list-style-type: none"> • Subcommittees on Special Education • Meeting notice content information relating to Subcommittees 	Education Law §4402(1)(b)(1)(d) 8 NYCRR §200.3(c)
<input type="checkbox"/> Support <input type="checkbox"/> Oppose <input checked="" type="checkbox"/> No Position	
Reasons/Recommendations: Some concern re: ability to meet required timeframes	
COMMITTEE ON PRESCHOOL SPECIAL EDUCATION (CPSE)	
Appendix B: Proposal #2	Sections of Law and/or Regulations
Align CPSE membership with the federal IEP team, by repealing the requirement that the CPSE membership must include an additional parent member, but continue the municipality representative until such time that the county no longer has a role in the provision or payment of special education to preschool students.	Education Law §4410(3)(a)(1) 8 NYCRR §200.3(a)(2)
<input checked="" type="checkbox"/> Support WITH CONDITIONS <input type="checkbox"/> Oppose <input type="checkbox"/> No Position	
Reasons/Recommendations: CP of NYS supports the repeal of this requirement only with the additional assurance that families will be properly informed of their right to invite other individuals, including another parent (or family member, friend, advocate, etc.) to attend. Parents should be given the option to request another parent’s attendance on the consent for evaluation form. Districts should maintain a list of potential parent members for this purpose. CP of NYS also recommends that the role of the municipality be clarified as a representative member only and not the primary decision-maker regarding authorized services and or program placement.	

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INDIVIDUAL EVALUATIONS	
Appendix B: Proposal #3	Sections of Law and/or Regulations
<p>Repeal the requirement that the parent selects the preschool evaluator and replace it with the requirement that the school district, after providing the parent with a list of approved evaluators, must consult with the parent regarding the selection of an evaluator that can provide a timely evaluation of the preschool child. All school districts would be approved preschool evaluators.</p>	<p>Education Law §4410(4)(b) 8 NYCRR §200.16 ©(1)</p>
<p><input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose <input type="checkbox"/> No Position</p>	
<p>Reasons/Recommendations</p> <p>The rationale for this repeal is the “significant noncompliance” for timely evaluations. However, mandate relief proposal # 4 (below) would extend the timeframe from 30 days to 60 days, aligning it with the school-age timeframe, thereby eliminating the rationale / need for this proposal.</p> <p>Since preschool special education is voluntary on the part of parents, the choice of evaluator remains important in order for them to access this voluntary entitlement. In addition, any school districts wishing to become approved evaluators can already do this by submitting an application for approval to SED.</p>	
Appendix B: Proposal #4	Sections of Law and/or Regulations
<p>Align the preschool initial evaluation timeline to be the same as the evaluation timeline for school-age students, which is 60 calendar days.</p>	<p>8 NYCRR §200.16(c)(2)</p>
<p><input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose <input type="checkbox"/> No Position</p>	

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Reasons/Recommendations SUPPORT
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Appendix B: Proposal #5a	Sections of Law and/or Regulations
<p>Adopt the federal standard for initial evaluations by repealing the requirement that each initial individual evaluation of a student suspected of having a disability must include a physical examination, individual psychological evaluation, social history, observation, other appropriate evaluations and functional behavioral assessment (FBA) when behavior impedes learning.</p> <p>Replace it with the federal requirement that the initial evaluation include an assessment of the student in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status and motor abilities.</p>	<p>Education Law §4402(1)(b)(3)(a)</p> <p>8 NYCRR §§200.1(aa), 200.4(b)(1)(i) – (v)</p>
<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose <input type="checkbox"/> No Position	
Reasons/Recommendations: <p>An assessment of “all areas relating to the suspected disability” does not ensure a comprehensive assessment of strengths and weaknesses as required by the IEP process. For children first identified, the social history and psychological evaluations remain important components to adequately diagnose / asses the student’s functioning and learning abilities. For students transitioning from 4410 preschool services who have current and to date assessments and progress reports, it may be possible to substitute a review by the psychologist to determine if additional psychological and or social history is needed.</p> <p>The classroom observation should be eliminated as a requirement for preschool students not currently enrolled in a classroom program.</p>	
Appendix B: Proposal #5b	Sections of Law and/or Regulations
<p>Repeal the requirement that establishes a process for a school psychologist to determine the need to administer an individual psychological evaluation and provide a written report when such evaluation is determined not to be necessary. (Contingent upon Proposal #5a to adopt the federal standard for individual evaluations.)</p>	<p>Education Law §4402(1)(b)(3)(a)</p> <p>8 NYCRR §200.4(b)(2)</p>
<input checked="" type="checkbox"/> Support WITH CONDITIONS <input type="checkbox"/> Oppose <input type="checkbox"/> No Position	

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Reasons/Recommendations: We support the elimination of a “written report”, but feel a review by the psychologist to determine the need for an updated evaluation should continue.	
PLANNING AND REPORTING REQUIREMENTS	
Appendix B: Proposal #6	Sections of Law and/or Regulations
Repeal the outdated requirement that the school district must provide a form to parents of certain children with disabilities who are veterans of the Vietnam War for a report to the Division of Veterans' Affairs for research purposes.	Education Law §4402(1)(b)(3)(h) Executive Law §353(15)
x Support <input type="checkbox"/> Oppose <input type="checkbox"/> No Position	
Reasons/Recommendations	
POLICIES AND PROCEDURES	
Appendix B: Proposal #7	Sections of Law and/or Regulations
Repeal the requirement for boards of education to have plans and policies for appropriate declassification of students with disabilities, while retaining the federal requirement that each student with a disability receive a reevaluation prior to a declassification recommendation.	Education Law §4402(1)(b)(3)(d-2) 8 NYCRR §200.2(b)(8)
x Support <input type="checkbox"/> Oppose <input type="checkbox"/> No Position	
Reasons/Recommendations:	
We support with assurance that parents will be properly informed of their due process rights.	
APPROVAL OF CERTAIN EARLY INTERVENTION PROGRAMS	
Appendix B: Proposal #8	Sections of Law and/or

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	Regulations
<p>Repeal the requirement that the Commissioner of Education must approve the provision of early intervention services by approved preschool providers. Transfer this responsibility to the Department of Health, which is the lead State agency for Early Intervention Services.</p>	<p>Education Law §4403(18)</p>
<p><input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose <input type="checkbox"/> No Position</p>	
<p>Reasons/Recommendations</p> <p>SUPPORT</p>	
<p>COMMISSIONER'S APPOINTMENT TO STATE SUPPORTED SCHOOLS</p>	
Appendix B: Proposal #9	Sections of Law and/or Regulations
<p>Repeal the Commissioner of Education's role in appointments to State-supported schools and the requirement that the State-supported school evaluate the student in addition to the evaluation conducted by the school district.</p>	<p>Education Law §4201 8 NYCRR §200.7(d)(1)(ii) and (iii)</p>
<p><input type="checkbox"/> Support <input type="checkbox"/> Oppose <input checked="" type="checkbox"/> No Position</p>	
<p>Reasons/Recommendations</p>	