

**PUBLIC COMMENT**  
**BY**  
**NEW YORK STATE CONGRESS OF PARENTS AND TEACHERS**  
**NEW YORK STATE PTA®**

The New York State Education Department, Office of Vocational and  
Educational Services for Individuals with Disabilities (VESID)  
Information and Public Comment Sessions  
on the Reauthorization of the  
Individuals with Disabilities Education Improvement Act (IDEA) 2004  
and the "Special Education Regulatory Reform Proposal"  
March 9, 2005

New York State  
**PTA**  
*everychild.onevoice.*

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March 9, 2005

VESID  
Special Education Policy and Partnerships Unit  
Room 1624  
One Commerce Plaza  
Albany, New York 12234  
Attention: Pat Geary, Associate

Dear Committee Members:

On behalf of the 377, 000 members of the New York State Congress of Parents and Teachers, more commonly referred to as the New York State PTA® (NYS PTA), we thank you for the opportunity to provide you with our members' concerns regarding the implementation of changes to be made by the New York State Education Department (NYSED) relative to new requirements in the reauthorization of "Individuals with Disabilities Education Improvement Act" (IDEA 2004) and to submit comments and questions on "Special Education Regulatory Reform and Recognition and Sanctions for School Districts."

It is our mission to assure excellence in education for all children and youth and promote parent involvement; as such we hope that our comments and questions will be of assistance.

Respectively submitted,

Penny Leask, President  
Maria Fletcher, Vice President  
Stephanie A. Fehr, Education Chairman  
Josephine Macchia, Special Education Chairman  
Rhea Vogel, Legislation Chairman

## **PART I**

### **Comment on the Reauthorization**

#### **of the Individuals with Disabilities Education Act 2004**

First we would like to acknowledge and express our appreciation that New York State has always exceeded many of the mandated regulations included in IDEA. It is our sincere hope that this established policy and practice is one that will be maintained even as federal law has been eroded in this most recent reauthorization.

We are concerned about some items included in IDEA, which we consider not to be beneficial to students with disabilities, which would set a standard of service to this population of students that would be below the standard of service which currently exists here in New York State. New York State PTA seeks to encourage the continuation of delivery of services to students with disabilities in New York State and further, we urge the improvement of such services to enable our children to have the tools to reach high goals, achieve and attain academic success.

Our first concern is the construction of the Individual Education Plan (IEP) Team. The current reauthorization of IDEA does not provide for the mandate of a Parent Member, which does seem contradictory as the federal government has acknowledged the importance of parental involvement and has included provisions requiring it in the No Child Left Behind Act (NCLB.)

Maintaining the Parent Member as a mandated member of the official Committee on Pre-School Special Education (CPSE) and Committee on Special Education (CSE) is of paramount importance. Current New York State Education Department (NYSED) regulations provide for Parent Members on CPSE/CSE committees and further require

that in the event a parent/guardian does not want the Parent Member in attendance, then he/she must sign an official waiver. We believe that this right to waive the Parent Member's attendance should be one that is ONLY extended to the parent/guardian of the disabled student.

The process of the CPSE/CSE committee is one that is unfamiliar, overwhelming, isolating and often frightening for parents. It is important that parents have a person to contact, who like themselves is the parent of a disabled child, to help them through this process. Raising a disabled child presents many challenges. Keeping abreast of changes in regulations and laws pertaining to Special Education is very difficult. The Parent Member is a valuable asset to the parent of the disabled child and helps these parents navigate this very complex terrain. Additionally, Parent Members must be able to communicate with the parents in their native language.

The Parent Member provides consistency of parent involvement, supports the school/faculty component and facilitates communication between the parent and faculty members thereby easing possible stress to all parties involved in the CPSE/CSE process. Keeping the Parent Member affirms the Parent Partnership Policy established in 1991 by our Board of Regents, which emphasizes parental involvement in schools utilizing a variety of strategies.

During discussions and hearings that occurred in 2002 prior to the reauthorization IDEA 2004, NYSED expressed that the IEP Team be maintained with every component as required in the previous reauthorizations. It is a concern of New York State PTA that the failure of the federal government to incorporate the Parent Member as a component of the IEP Team in this recent reauthorization might influence NYSED to diminish this

requirement for the composition CPSE/CSE Committees in New York State. We appeal to NYSED not to reduce any of its requirements regarding any component members of the CPSE/CSE committees.

In order to provide for a consistent level of participation by Parent Members on CPSE/CSE committees, training is an essential component. A well-trained Parent Member is better able to assist the team, reduce and help manage conflict and make for more efficient meetings thus reducing costs and minimizing staff time spent at meetings.

Currently statewide, training of Parent Members is provided primarily by the Bureau of Cooperative Educational Services (BOCES) through their Special Education Training and Resource Center (SETRC) departments. However, other training opportunities exist, including those offered through Parent Information Centers and other local stakeholders. NYSED has proposed that such training become the responsibility of each local school district. We feel that these trainings should not be conducted only by the local school district. Allowing local training will result in a lack of consistency of information received and in the knowledge and skills acquired. This could result in an obfuscation of the Parent Member role thus diminishing the benefit of the Parent Member on the CPSE/CSE committee.

At a minimum NYSED should continue the trainings in their current format and not relinquish its responsibility to insure qualified members of CPSE/CSE committees. Preferably, all members of the CPSE/CSE team should be trained by SETRC, and as a team. This would provide consistent information and knowledge of the laws, regulations, and process and facilitate the best service for students with disabilities (SWD) and their families. New York State Vocational and Education Services for Individuals with

Disabilities (VESID) has developed training materials consisting of video tapes and manuals which provide consistent information and knowledge on the role of the Parent Member.

Nationally, PTA supports the continuation of and creation of additional Parent Resource Centers that can provide training of IEP Teams and assistance to parents concerned with understanding their disabled child and the process that they are engaged in. In some parts of the state SETRC is currently a major component of the Parent Resource Centers established and sponsored by the U.S. Department of Education.

Inclusion of the classroom teacher as a mandated member of the CPSE/CSE committee is essential and this requirement must not be removed from current NYSED policy and practice regardless of any lesser requirements allowed within the federal law. These meetings are the ONLY time that parents, teachers, and service providers who work with students with disabilities can meet together to discuss the student's achievement, social, emotional and behavioral needs. Without one component of the team, there cannot be a complete picture of the student's actual progress and performance within the classroom. Classroom teachers are involved in planning and assessing students with disabilities' progress and are a significant voice in the growth of these students.

IDEA provides that any member of the IEP Team may have their attendance deemed unnecessary if the member's related area of service is not being discussed or modified. However, this is conditional on the agreement between the school district and the parent of the disabled student and would require the parent's written consent. In the event that the IEP Team member's area of service is to be discussed or modified their excusal from attendance would require that they supply a written report to the CPSE/CSE

committee, agreement for the excusal between the school district and the parent of the disabled student and the parent's written consent. Such requirements for written waivers from parents in these instances should not unnecessarily cause delays to scheduling of CPSE/CSE committee meetings.

Whether or not written documents submitted by the classroom teacher as a substitute for attendance the CPSE/CSE committee meeting can be beneficial to the discussion about the needs of the student is a concern for New York State PTA. A thorough understanding of what is or is not working in the classroom is facilitated by interactive face to face communication between the teacher and the committee. Only then can goals be written to determine the specific needs of the student with disabilities so as to provide the least restrictive environment as well as the proper strategies for academic, physical, social and emotional growth. Accordingly, we urge NYSED to develop a policy that does not allow for such non-attendance or excusals.

NY State PTA acknowledges the need for flexibility in scheduling to allow for parent, teacher and other committee member's availabilities for CPSE/CSE committee meetings and stresses the need for this understanding in materials that it distributes to its members. Regardless of the challenges that such scheduling may incur, this should not be a reason to diminish the importance of the teacher's or any CPSE/CSE committee member's attendance.

Of great concern to our members are the changes in IDEA with regard to the elimination of Annual Reviews excepting those for children with significant cognitive disabilities, allowing IEP modifications without the convening of the CPSE or CSE committee and permitting Multi-Year IEPs. The significance of Annual Reviews for

those students under the age of 18 is supported by National PTA. The Annual Review, which is the current practice in New York State, allows for the discussion of student growth or regression, and provides for the subsequent implementation of strategies relative to these changes as well as correlative grade level curriculum adjustments.

Requiring a face-to-face meeting for the CPSE/CSE committee with the parent of the disabled child permits a true discussion about the needs and services for the student and is a crisis preventative. Further, without an Annual Review, parents are precluded from being truly involved in this process. The typical parent-teacher conference cannot be the forum for this type of involvement nor was it designed to provide the parent of a student with disabilities with sufficient opportunity to discuss the scope of the plans involved to insure their student's success. NYSED must not permit the elimination of this critical element.

IDEA allows amendments and modifications to a student's IEP subsequent to the annual meeting without convening an additional CPSE/CSE committee meeting or sub-committee meeting. We do not believe that any changes should be implemented or that such changes can be beneficial without complete discussion. Allowing changes without a meeting would be detrimental to the process and could in fact result in increased hearings after the fact. New York State PTA urges NYSED to keep policies that protect disabled students and their parents from being excluded as full partners in the IEP process.

In an effort to conserve time and paper, IDEA permits the employment of the Multi-Year IEP. All students change and grow rapidly; they are children. Properly monitoring that growth and change, whether progressive or regressive in a disabled student is critical to providing that student with a Free and Appropriate Education

Placement (FAPE). Further, laws and regulations and the funding that follows them can change from year to year.

Annual Reviews are the minimum that we should accept. Many of our members feel that even this is not sufficient to adequately monitor and adjust to a student's development. National PTA maintains that Multi-Year IEP's should not be allowed for students under the age of 18 because it will decrease the flow of information to parents, decrease parental involvement, and may cause some parents to forego their right to an Annual Review.

Multi-Year IEPs are an impediment to adequate accountability measures used to insure that disabled students are meeting adequate yearly progress and will do nothing to insure that the disabled student is not a child that is left farther behind than his non-disabled counterparts.

PTA supports the continuation of NYSED's requirements for short-term objectives, long-term goals and Annual Reviews for all disabled students with IEPs. Without these measures a disabled student's progress cannot be adequately ascertained. Further, these measures allow for necessary, regular and consistent information on the student's growth and weaknesses that will assist in helping the student reach the long term goals as determined by his/her IEP.

With regard to these concerns, the New York State PTA's position is clear. The IEP, its Team, the CPSE/CSE committee and all of the component members, including the Parent Member and the classroom teacher, as it is constructed here in New York State is the central means available to families to protect and insure the rights of their student with disabilities. Accordingly we urge NYSED to exceed the required mandates in IDEA

2004 as they are a minimum standard and not a standard of excellence to which NYSED aspires to.

New York State PTA appeals to NYSED to work hard to maintain as a priority the protection of students who are in need of discipline. Under the current IDEA, protections against cessation of education services are preserved. Measures must be in place to insure that classroom assignments and homework information is made available to students in temporary discipline situations. We believe that the understanding of the student's disorder and the symptoms of the disorder must always be taken into account when dealing with a discipline issue. PTA supports provisions in IDEA that require the IEP Team to consider whether a student's behavior resulted from their disability and further, to determine if the conduct resulted from failure to provide the behavioral interventions or other services required in the IEP.

School districts must have guidelines for alternative placements of students who are expelled or placed on long-term suspension. These guidelines should include requirements for appropriate recommendations from professionals, involvement of the student's parents, sensitive and clear communication about the placement with the parents in their native language, involvement of the IEP Team and the directive to act quickly to minimize the time out of school for the disabled child. Taking away the opportunity to learn from a child who has behaved improperly does not increase good behavior and may even increase negative behaviors.

The 2004 reauthorization of IDEA did not include any new classification categories. PTA and its members have long advocated for the addition of the separate category of classification to IDEA for Attention Deficit Disorder/Attention Deficit

Hyperactivity Disorder (ADD/ADHD) and for it to be specifically included in the Other Health Impaired (OHI) category if it cannot be listed as a specific disorder category on its own. We now have better knowledge of this disorder and improved methods for diagnosis. The number of affected children is alarming, and that these students need for services is denied to them is truly a sad deficiency of the current IDEA.

While we do acknowledge that without the federal recognition of ADD/ADHD as a classification category there is no federal funding for services for those students identified with the disorder, we hope that NYSED will see the need to press for such recognition. New York could, in fact, surpass IDEA and recognize this disorder, and that would mean a great benefit for this group of students and would go far to help insure their success.

While Congress continues to increase the amount of funding appropriated for IDEA, full funding at the authorized amount of 40% has yet to become a reality. We have not yet even seen half of what was originally promised. True, this lack of funds makes the New York State's task of providing disabled students all the rights and protections afforded to them under the current laws and regulations that much more difficult. But insuring that all schools comply with these laws and providing quality professional development to teachers and professionals who work with disabled students is essential.

We believe that New York State leads the nation in ensuring the rights and services for children with disabilities as provided in Part 200 and 200.1 of the Commissioner's Regulations. New York State VESID has received many constructive suggestions for improving the existing Part 200 and 200.1 Regulations and should move

forward with an improvement process to establishing regulations in New York State that truly reflect the needs of student with disabilities so that none are left behind.

## **PART II**

**Comments and questions on:**

### **Special Education Regulatory Reform and Recognition and Sanctions for School Districts**

Subsequent to a series of public discussions and forums held in January 2004, NYSED/VESID has proposed several changes to regulations governing services to students with disabilities. We are now being afforded the opportunity for further comment on this proposal, which we appreciate. It is indicated that this proposal is intended to provide improvements and enhancements to current Special Education Regulations. New York State PTA recognizes the efforts of NYSED and its commitment to improving achievement levels of students with disabilities through these proposed reforms. We do, however, have some questions about these reforms and seek clarification on their implementation and impact.

#### **Integrated, Co-Teaching Special Class Option**

The inclusion of special education students within the mainstream setting of a regular classroom is a desirable arrangement for most students, but not appropriate for all.

- Will separate placements be maintained for those students who could not be in an integrated setting because their disability is too severe?

- Will this proposed reform require highly qualified special educators to be used in the co-teaching model?
- Will there be funding directed specifically to offset additional/different staffing patterns to enable this model?
- What is the maximum ratio of students with disabilities to non-disabled students, and is there flexibility built in for smaller school districts?

### **Indirect Support by Related Service Providers**

The proposal of temporary support services for students who no longer require direct service will provide for a smooth transition for these students and afford them the greatest chance for maintaining skills and reduce regression.

- What accountability measures will be in place to insure that indirect services are appropriately delivered and their providers monitored?
- What measures will be put in place to assure that communication with the parent and the disabled student continues through this transition period?

### **Staff-to-Student Ratios in Special Classes**

Having a situation that would allow support staff to exceed the number of students requiring services in a classroom may be a less than efficient use of staff, and could be problematic and costly for schools.

- If schools are given greater flexibility in making these assignments, is there any provision to provide for additional training to insure that qualified personnel are always used?
- What measures will be in place to assure parents of disabled students that require extensive services that staff placed in the classroom with their student is adequately trained to provide these services?

### **Requirements for Minimum Levels of Service**

Services provided to students with disabilities should enhance the student's academic opportunities for success and not compete with the time the student is required to spend on core academic subjects. We recognize that schools need some flexibility in creating a student's schedule to best meet that student's needs, particularly on the middle and secondary levels.

- If regulations regarding minimum levels of service requirements are repealed, what accountability measures will be in place to insure that districts continue to provide adequate levels of service?
- How will compliance be determined if no minimums are required?

### **Maximum Chronological Age and Achievement Ranges in Special Classes**

We acknowledge the need for more latitude in placing students ages 15 and older in groupings that reflect academic achievement and not necessarily chronological age.

- What provisions will be in place to assure that all aspects of the student's disability are taken into account to insure appropriate placement?

## **Required Formats for IEPs and Due Process Notices**

Standardization of IEP forms and other due process notices will have a beneficial effect for parent awareness.

- What measures will be put in place to insure usage of the new standardized forms?
- What, if any, measures are being taken to provide translations of these new standardized forms to the different languages spoken in New York State?

## **Notices Relating to Achievement Levels in Special Classes**

While we understand the need for the reduction of paperwork, and the need to be appropriate in matters of confidentiality, parents and the CPSE/CSE committee need, and should have information about the range of achievement levels within the student's class.

- If this information is not provided, what measures will be in place to inform the CPSE/CSE committee and the parent of the disabled student with regard to what level of class the student is being placed in?

## **II. Consequences for Performance: Recognition and Sanctions**

### **Recognition and Rewards**

Schools that are providing a high level of services to students with disabilities should be recognized and rewarded.

- Will information about these high performing schools be published on the school's NY State report card? If so, what type of data is being considered for publication?

### **Consequences and Sanctions**

- Will information about these low performing, unacceptable schools be published on the school's NY State report card? If so, what type of data is being considered for publication?
- Will low performing, unacceptable and non-compliant schools be given additional training by VESID to help them move forward?

We thank NYSED for allowing us to present public comment concerning the implementation of new requirements as per the Reauthorization of IDEA 2004 as well as "Special Education Regulatory Reform and Recognition and Sanctions for School Districts." We hope that any future changes to comply with the new mandates as set forth in the federal laws will be sensitive, responsive and inclusive of the needs of students with disabilities. We are available to be of help, and welcome any further questions you may have with regard to the material contained herein.