



New Jersey Department of Education, Office of Nonpublic School Services

**Guidelines for Auxiliary and Remedial Services (Chapters 192 and 193)
for Nonpublic School Students
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Disclaimer

The information contained in this document is informational only, and is not intended to be construed as, or relied upon, as legal advice.

Part I
Chapter 192 (Auxiliary Services) and Chapter 193 (Remedial Services)
Statutes and Administrative Code

Purpose

This guidance document provides the statutes and administrative code related to the Chapter 192 and 193 programs. In addition, it provides New Jersey Department of Education (NJDOE) policies and guidelines for implementation of the programs. The education statutes (N.J.S.A. 18A) can be accessed via the [Rutgers University School of Law - Newark](#) website: [Chapter 192 \(18A:46A et seq.\)](#) and [Chapter 193 \(18A:46 et seq.\)](#). Readers can also access the [Administrative code for Chapters 192 and 193](#) as well as the [NJDOE Nonpublic School Services FAQ](#).

Chapter 192 (Auxiliary Services) Statutes

18A:46A-1. Intent of Legislature

The Legislature hereby finds and determines that the welfare of the State requires that present and future generations of school age children be assured opportunity to develop to the fullest their intellectual capacities. It is the intent of this Legislature to insure that the State shall furnish on an equal basis auxiliary services to all pupils in the State in both public and nonpublic schools.

L. 1977, c. 192, s. 1, effective Aug. 25, 1977.

18A:46A-2. Definitions

As used in this act:

- a. "Commissioner" means the State Commissioner of Education.
- b. "Nonpublic school" means an elementary or secondary school within the State, other than a public school, offering education for grades kindergarten through 12, or any combination of them, wherein any child may legally fulfill compulsory school attendance requirements and which complies with the requirements of Title VI of the Civil Rights Act of 1964 (P.L.88-352).
- c. "Auxiliary services" means compensatory education services for the improvement of students' computation skills; compensatory education services for the improvement of students' communication skills; supportive services for acquiring communication proficiency in the English language for children of limited English-speaking ability; and home instruction services.
- d. (Deleted by P.L.1990, c.52).

- e. "Compensatory education services" means preventive and remedial programs offered during the normal school day, or in programs offered beyond the normal school day or during summer vacation, which are integrated and coordinated with programs operated during the regular school day and year. The programs shall be approved by the State Board of Education, supplemental to the regular programs and designed to assist pupils who have academic needs that prevent them from succeeding in regular school programs.

L. 1977, c. 192, s. 2; amended 1990, c. 52, s. 62; 1991, c. 128, s. 2.

18A:46A-3. Auxiliary services to nonpublic school children

In the 1977-78 school year, and each school year thereafter each board of education of a district in which a nonpublic school is located shall provide for the receipt of auxiliary services by children between the ages of five and 20 residing in the State and enrolled full-time in a nonpublic school located within the district.

For the purposes of this act, a child who boards at a school in a district in which his parents do not maintain a residence shall not be considered a resident of the district.

L. 1977, c. 192, s. 3, effective Aug. 25, 1977. Amended by L. 1984, c. 122, s. 1, effective Aug. 8, 1984.

18A:46A-4. Services to eligible children

Auxiliary services shall be provided only to those children who would be eligible for such services if they were enrolled in the public schools of the State.

L. 1977, c. 192, s. 4; amended 1990, c. 52, s. 63.

18A:46A-5. Consent required; location

Auxiliary services shall be provided only upon the consent of the parent or guardian and shall be provided in a location determined by the local board of education.

L. 1977, c. 192, s. 5; amended 1998, c. 12, s. 1.

18A:46A-6. Cost of transportation; State aid

If the provision of services pursuant to this act requires transportation or the maintenance of vehicular classrooms, the board of education of the district in which a nonpublic school is located shall provide for such transportation and maintenance, and the cost shall be paid from additional State aid received by the district for the purpose of this act.

L. 1977, c. 192, s. 6, effective Aug. 25, 1977. Amended by L. 1984, c. 122, s. 2, effective Aug. 8, 1984.

18A:46A-7. Contracts for auxiliary services

Any board of education may contract with an educational improvement center, an educational services commission or other public or private agency, other than a church or sectarian school, approved by the commissioner for the provision of auxiliary services. Prior to any change in the provision of these services, the board shall provide timely and meaningful consultation with appropriate nonpublic school representatives, including parents.

L. 1977, c. 192, s.7; amended 1990, c.52, s. 64; 1999, c. 364, s. 2.

18A:46A-8. Cost of limitations

No more than 6% of the aid received by any district pursuant to this act shall be used by such district for administration of the act, and no more than 18% of such aid shall be used to rent facilities needed to implement the provisions of this act.

L. 1977, c. 192, s. 8, effective Aug. 25, 1977.

18A:46A-9. Calculation of cost by commissioner

The apportionment of State aid among local school districts shall be calculated by the commissioner as follows:

- a. The per pupil aid amount for providing the equivalent service to children of limited English-speaking ability enrolled in the public schools, shall be \$1274.03. The appropriate per pupil aid amount for compensatory education shall be \$628.71.
- b. The appropriate per pupil aid amount shall then be multiplied by the number of auxiliary services received for each pupil enrolled in the nonpublic schools who were identified as eligible to receive each auxiliary service as of the last school day of June of the prebudget year, to obtain each district's State aid for the next school year.
- c. The per pupil aid amount for home instruction shall be determined by multiplying the base per pupil amount by a cost factor of 0.0037 by the number of hours of home instruction actually provided in the prior school year.

Amended 1984, c. 122, s. 3; 1990, c. 52, s. 65; 1991, c. 128, s. 3; 1996, c. 138, s. 78; 2007, c. 260, s. 74.

18A:46A-10. Report of nonpublic school children; anticipated number to be served

Annually, on or before November 5, each board shall file a report on the number of such pupils who have been identified as eligible to receive each auxiliary service as of the last school day in October.

L. 1977, c. 192, s. 13; amended 1984, c.122, s. 4; 1990, c. 52, s. 66.

18A:46A-12. Notice of amount apportioned to district

By December 15 the commissioner shall notify each district of the amount of aid apportioned to it pursuant to this act for the next school year and each district shall include such amount in its budget for the next school year.

L. 1977, c. 192, s. 15; amended 1990, c. 52, s. 67.

18A:46A-13. Monthly payments

In the 1978-79 school year and each year thereafter, aid pursuant to this act shall be payable in equal amounts beginning on the first day of September and on the first day of each month during the remainder of the school year. If a local board of education requires funds prior to the first payment, the board shall file a written request with the commissioner stating the need for the funds. The commissioner shall review each request and forward the requests for which need has been demonstrated to the appropriate officials for payment.

L. 1977, c. 192, s. 16, effective Aug. 25, 1977. Amended by L. 1984, c. 122, s. 5, effective Aug. 8, 1984.

18A:46A-14. Reduction of state aid

In the event the expenditure incurred by any district is less than the amount of State aid received, the district shall refund the unexpended State aid after the completion of the school year. These refunds shall be paid no later than by December 1. In any year, a district may submit a request for additional aid pursuant to P.L.1977, c. 192 (C.18A:46A-1 et seq.). If the request is approved and funds are available from refunds received from school districts from the prior year, payments for the additional aid shall be made immediately from those funds.

L. 1977, c. 192, s. 17, effective Aug. 25, 1977. Amended by L. 1984, c. 122, s. 6, effective Aug. 8, 1984.

18A:46A-15. Limit of expenditure

In any year, no district shall be required to make expenditures for the purposes of this act in excess of the amount of State aid received pursuant to this act for that year.

L. 1977, c. 192, s. 18, effective Aug. 25, 1977.

18A:46A-16. Apportionment of appropriation

If in any year the amount of State aid appropriated is insufficient to carry out in full the provisions of this act, the commissioner shall apportion such appropriation among the districts in proportion to the State aid each district would have been apportioned had the full amount of State aid been appropriated.

L. 1977, c. 192, s. 19, effective Aug. 25, 1977.

18A:46A-17. Severability

If any provision of this act or the application of such provision to any person or circumstance is

declared invalid, such invalidity shall not affect other provisions of this act which may be given effect; and to this end, the provisions of this act are declared to be severable.

L. 1977, c. 192, s. 20, effective Aug. 25, 1977.

Chapter 193 (Remedial Services for Handicapped Children) Statutes

18A:46-19.1. Intent of legislature

The Legislature hereby finds and determines that the security and welfare of the State require that all school-age children be assured the fullest possible opportunity to develop their intellectual capacities. In order to achieve this objective it is the intent of this Legislature to require that the State and local communities identify and provide remedial services for handicapped children in both public and nonpublic schools.

L. 1977, c. 193, s. 1, effective Aug. 25, 1977.

18A:46-19.2. Definitions

As used in this act:

- a. "Commissioner" means the State Commissioner of Education.
- b. "Nonpublic school" means an elementary or secondary school within the State, other than a public school, offering education for grades kindergarten through 12, or any combination of them, wherein any child may legally fulfill compulsory school attendance requirements and which complies with the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352).

L. 1977, c. 193, s. 2, effective Aug. 25, 1977.

18A:46-19.3. Scope of facilities and programs

The provision of facilities and programs pursuant to chapter 46 of Title 18A of the New Jersey Statutes shall apply only to children enrolled in the public schools of the State except as specifically provided by law.

L. 1977, c. 193, s. 5, effective Aug. 25, 1977.

18A:46-19.4. Services of certified speech correctionist

Each board of education shall provide for the services of a certified speech-language specialist for each child attending a nonpublic school located in the school district and classified pursuant to N.J.S.18A:46-8 as requiring the services of a certified speech-language specialist.

L. 1977, c. 193, s. 6; amended 1991, c.128, s. 4.

18A:46-19.5. Services for nonpublic school children

Services for children enrolled in nonpublic schools shall be provided only upon the consent of the parent or guardian and shall be provided in a location determined by the local board pursuant to rules and regulations of the State board.

L. 1977, c. 193, s. 7; amended 1998, c. 12, s. 2.

18A:46-19.6. Cost of transportation state aid

If the provision of services, pursuant to this act requires transportation or the maintenance of vehicular classrooms, the board of education of a district in which a nonpublic school is located shall provide for such transportation and maintenance and the cost shall be paid from State aid received by the district for the purpose of this act.

L. 1977, c. 193, s. 8, effective Aug. 25, 1977. Amended by L. 1984, c. 120, s. 1, effective Aug. 8, 1984.

18A:46-19.7. Contracts for speech correction services

A board of education may contract with an educational improvement center, an educational services commission or other public or private agency approved by the commissioner other than a church or sectarian school, for the provision of examination, classification and speech correction services required by this act. Prior to any change in the provision of these services, the board shall provide timely and meaningful consultation with appropriate nonpublic school representatives, including parents.

L. 1977, c. 193, s. 9; amended 1999, c. 364, s. 1.

18A:46-19.8. Costs and provisions for speech correction services¹²

- a. On November 5 of each year, each board of education shall report the number of nonpublic school children who attended a nonpublic school located within the district who were identified as eligible to receive examination, classification, and speech correction services pursuant to this act during the previous school year. The number of these pupils requiring an initial evaluation or reevaluation for examination and classification shall be multiplied by \$990.73. The number of these pupils requiring an annual review for examination and classification shall be multiplied by \$297.06. The number requiring speech correction shall be multiplied by \$786.70. These products shall be added to determine the estimated cost for providing examination, classification, and speech corrections services to nonpublic school children during the next school year. Each board of education shall report the number of nonpublic school children who attended a nonpublic school located within the district, who were identified as eligible for supplementary instruction services during the preceding school year. The number of

¹ All costs provided in statute can be superseded by funding amounts in the annual appropriations act. Refer to the [New Jersey Department of the Treasury](#) for the most current fiscal budget and the annual notice from the NJDOE indicating prorated amounts for nonpublic school services.

² Notwithstanding the title of this statutory citation, the content of the statute includes costs and provisions for *all* 193 services, not only speech correction.

these pupils shall be multiplied by \$752.41. This product shall be added to the estimated cost for providing examination, classification and speech correction services.

In preparing its annual budget, each board of education shall include as an expenditure the estimated cost of providing services to nonpublic school children pursuant to P.L.1977, c.193 (C.18A:46-19.1 et al.).

In preparing its annual budget, each board of education shall include as a revenue State aid in an amount equal to the estimated cost of providing services to nonpublic school children pursuant to P.L.1977, c.193 (C.18A:46-19.1 et al.).

During each school year, each district shall receive an amount of State aid equal to 10% of the estimated cost on the first day in September and on the first day of each month during the remainder of the school year. If a board of education requires funds prior to September, the board shall file a written request with the Commissioner of Education stating the need for the funds. The commissioner shall review each request and forward those for which need has been demonstrated to the appropriate officials for payment. In the event the expenditures incurred by any district are less than the amount of State aid received, the district shall refund the unexpended State aid after completion of the school year. The refunds shall be paid no later than December 1. In any year, a district may submit a request for additional aid pursuant to P.L.1977, c.193 (C.18A:46-19.1 et al.). If the request is approved and funds are available from refunds of the prior year, payment shall be made in the current school year.

- b. For the purposes of the report provided pursuant to subsection a. of this section, a board of education shall include a pupil enrolled in a nonpublic school located within the district who does not reside in the State in the number of pupils requiring an initial evaluation or reevaluation for examination and classification or requiring an annual review for examination and classification.

Notwithstanding the provisions of N.J.S.A. 18A:46-6, N.J.S.A. 18A:46-8, or any other section of law to the contrary, a school district may use State aid received pursuant to the provisions of P.L.1977, c.193 (C.18A:46-19.1 et al.) for the initial evaluation or reevaluation for examination and classification or annual review for examination and classification of a nonpublic school pupil who is not a resident of the State.

L. 1977, c. 193, s. 14; amended 1984, c. 120, s. 2; 1991, c. 128, s. 5; 1996, c. 138, s. 75; 2010, c. 71.

18A:46-19.9. Severability

If any provision of this act or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect; and, to this end, the provisions of this act are declared to be severable.

L. 1977, c. 193, s. 16, effective Aug. 25, 1977.

18A:46-19.10. Certain state funds excluded from minimum funding requirement calculation under IDEA

State funds appropriated pursuant to P.L.1977, c.193 (C.18A:46-19.1 et seq.) to provide special education and related services to students enrolled in nonpublic schools shall not be included by a school district in the calculation of the minimum funding requirement for nonpublic school students under the "Individuals with Disabilities Education Act," 20 U.S.C. s. 1400 et seq.

L. 2001, c. 230.

Chapters 192 and 193 Administrative Code

6A:14-6.2 Provision of programs and services provided under N.J.S.A. 18A:46A-1 et seq. and 18A:46-19.1 et seq.

- (a) The board of education of the district in which the nonpublic school is located shall provide to nonpublic school students the programs and services required by this subchapter by itself, or through joint agreements with other boards of education or through contracts with educational services commissions or with clinics and agencies approved under [N.J.A.C. 6A:14-5](#).
- (b) Specifications for contracts to provide programs and services covered by this subchapter shall be approved by the county superintendent of schools.
- (c) Identification, evaluation, determination of eligibility, development of service plans and the provision of speech and language services, home instruction and supplementary instruction shall be provided according to this [chapter](#).
- (d) English as a second language shall be provided according to N.J.S.A. 18A:46A-2c.
- (e) Compensatory education shall be provided according to N.J.S.A. 18A:46A-2e.
- (f) All special education programs and services required by this subchapter shall be provided with parental consent in accordance with N.J.A.C. 6A:14-2.3.
- (g) Those procedural safeguards available to nonpublic school students with disabilities and their parents as specified by Federal law and rules under Part B of the IDEA shall apply.

1. The right to request mediation or a due process hearing applies only to the location, identification, evaluation, determination of eligibility, and reevaluation of students with disabilities enrolled in nonpublic schools.
 - i. For the services provided, the service plan for a student with a disability enrolled in a nonpublic school shall include the components described in [N.J.A.C. 6A:14-3.7\(e\)1 through 6, \(e\)8 and \(e\)14 through 16](#).
 2. Disputes regarding the provision of services to a particular nonpublic school student with a disability shall be addressed through the complaint procedures according to [N.J.A.C. 6A:14-9.2](#).
- (h) Personnel providing a program or service under this subchapter shall be highly qualified and shall meet appropriate certification and if required, licensing requirements. Personnel shall not be employed by the nonpublic school in which the student is enrolled with the exception of personnel providing the types of instruction specified in [N.J.A.C. 6A:14-5.1\(c\)2ii and iii](#).
- (i) Programs and services for nonpublic school students shall be provided in facilities approved by the Department of Education through its county superintendent of schools according to N.J.S.A. 18A:46-5 and [18A:46-19.5](#).
- (j) Public and nonpublic school students may be grouped for speech correction and the other instructional programs provided under this subchapter, when appropriate.
- (k) When the provision of programs and/or services under this subchapter requires transportation or the maintenance of vehicular classrooms, the board of education of the district in which the nonpublic school is located shall provide the transportation and maintenance and the cost shall be paid from State aid received under this subchapter.
- (l) The board of education of the district in which the nonpublic school is located shall maintain all records of nonpublic school students receiving programs and/or services under this subchapter according to [N.J.A.C. 6A:32](#).

6A:14-6.3 Fiscal management provided under N.J.S.A. 18A:46A-1 et seq. and 18A:46-19.1 et seq.

- (a) Each board of education of the district in which the nonpublic school is located shall provide programs and services under this subchapter at a cost not to exceed the amount of State aid funds.
- (b) Each board of education of the district in which the nonpublic school is located shall maintain an accounting system for nonpublic programs and services according to [N.J.A.C. 6A:23A-16 through 22](#).

- (c) At the close of each school year, the board of education shall report to the Department of Education the total district cost for programs and services provided under this subchapter.
- (d) Each board of education of the district in which the nonpublic school is located shall receive State aid for programs and services required by this subchapter for the succeeding school year as available from appropriated funds for nonpublic school programs and services.

6A:14-6.4 End of the year report provided under N.J.S.A. 18A:46A-1 et seq. and 18A:46-19.1 et seq.

- (a) Annually, the board of education shall submit to the Department of Education a report describing the programs and services provided under this subchapter.
- (b) The end of the year report shall include the numbers of nonpublic school students provided each program or service and such other information as may be required by the Department of Education.

Part II
Guidelines for Implementation
Chapters 192 and 193

Introduction

Auxiliary Services, commonly referred to as Chapter 192 programs, provide nonpublic school students with services designed to assist pupils who have academic needs that prevent them from succeeding in regular school programs, including compensatory education (*supplemental* to the regular programs) for the improvement of math and language arts literacy skills, English as a second language and home instruction.

Remedial services, commonly referred to as Chapter 193 programs, provide nonpublic school students with evaluation and classification for determination of eligibility for special education services, and with limited services (explained in depth in Part IV) that are *supplemental* to federal IDEA programs.

Chapter 192 and Chapter 193 programs are provided to eligible students who are enrolled full-time in grades K through 12 in nonpublic elementary and secondary schools in New Jersey.

Summary of Services

Pursuant to administrative code at [N.J.A.C. 6A:14-6.2\(c\) – \(e\)](#), the following auxiliary/Chapter 192 services are available:

- Compensatory instruction in math and language arts (supplementary to regular instruction)
- English as a Second Language (ESL)
- Home instruction

Pursuant to administrative code at [N.J.A.C. 6A:14-6.2\(c\)](#), the following remedial/Chapter 193 services are available:

- Evaluation and classification to determine eligibility for special education
- Supplementary instruction in math and language arts
- Speech-Language evaluation and services, including determination of eligibility for speech services (for students referred for speech evaluation *only*) and the provision of speech services

Note: LEAs are required to use the entire proportionate share of [IDEA-B funds](#) to provide for services to students with disabilities parentally placed in private (nonpublic) schools. State (Chapter 193) and local funds may supplement and in *no case* supplant the proportionate share, according to [34 CFR §300.133\(d\)](#). Funding for evaluation (initial evaluation, reevaluation, annual evaluation, and speech-only evaluation) to determine eligibility for special education services is provided *only through Chapter 193 and not through IDEA*, while all other special

education services for nonpublic school students must be provided through IDEA funds *before* 193 funds are expended.

Summary of General Eligibility Requirements

By law, 192 and 193 services are available only to students who meet all of the following criteria, with an exception noted below (see Notes):

- Are enrolled full-time in grades K-12 in a nonpublic elementary or secondary school located in New Jersey
- Have parents or a guardian who live in New Jersey

Notes:

- 1) When a student boards at a nonpublic school, the public school district in which the parent(s) reside is considered the child's district of residence.
 - 2) Non-resident students who attend a nonpublic school located in New Jersey *are eligible* to receive Chapter 193 evaluation and classification services and speech correction evaluation, but not speech correction services (pursuant to N.J.S.A. 18A:46-19.8(b))³. Non-resident students are *not eligible* for the additional Chapter 193 services (i.e., special education supplementary instruction and speech correction services that may be available through IDEA), and may *not* receive any Chapter 192 services.
- Are between the ages of five and twenty for Chapter 192 services, and between five and twenty-one for Chapter 193 services
Note: Kindergarten students must meet the age requirements of the district where the nonpublic school is located in order to be eligible to receive services. Typically, a student must be 5 years old by October 15 of the current school year to be eligible.
 - Meet the criteria for eligibility as determined by the NJDOE for the specific service (see Part III and Part IV for specific eligibility criteria)
 - Have parent or guardian consent by their signature on the student application for the Chapter 192 and Chapter 193 services (407-1 form)

Student Application for Services

During the school year, the parent or guardian of a nonpublic school student must request Chapter 192 and Chapter 193 services by completing a signed student application (407-1 form) and submitting it according to the instructions from the district.

Submission of the student application does not make the student eligible for the Chapter 192 or Chapter 193 services. The public school district responsible for Chapter 192 and 193 services must approve eligibility according to the specific eligibility requirements for each allowable

³ The provision of evaluation and classification services to non-NJ resident students through 193 ensures that districts will receive funding to provide the federally required services to these nonpublic school students.

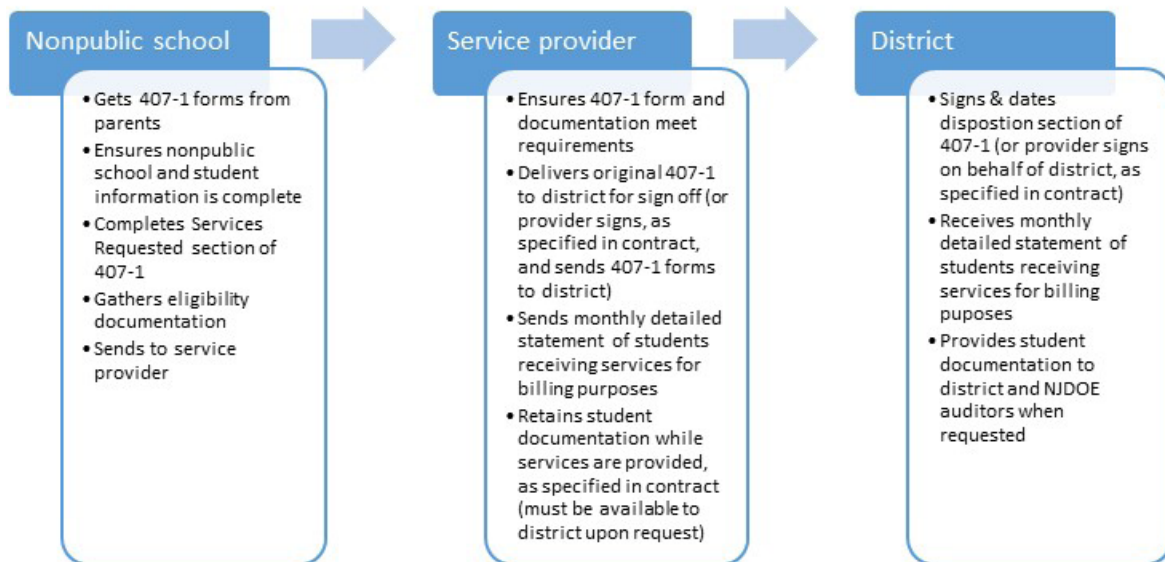
service by completing the disposition section of the student application stating whether the services will be provided.

Student Application Process

A new student application (407-1 form) for each student must be completed and submitted *each year* before services can be provided. A separate 407-1 must be filled out for each type of service requested. Template 407-1 forms are provided on the [NJDOE Nonpublic School Services website](#). Districts and third-party providers may use these forms or create custom forms that include all the requested information.

The suggested process described below assumes the district is contracting with a service provider to process 407-1 forms and related documentation and provide Chapter 192/193 services to nonpublic school students. Alternatively, the district may choose to perform all or some of the administrative functions and/or provide the student services directly; in this case, the district will perform some or all of the functions of both provider and district described herein. Each service provider and district may have its own processes; providers and districts should work together on the processes they will use to facilitate communication, 407-1 processing and timely service delivery to students.

Figure 1: Districts that use a third party provider to process 407-1 forms and deliver services



Nonpublic school processes

The nonpublic school should transmit the bulk of the signed student applications and eligibility documentation to either the local public school district or service provider (according to the

instructions from the district) no later than *June 15*⁴ for services in the upcoming school year. Any applications received after this date should be sent to the district/provider as soon as possible. A separate application must be provided for each service. Student applications cannot include requests for multiple services.

Service provider processes

The provider receives the 407-1 forms and supporting documentation from the nonpublic schools. The provider should check that all information and documentation have been provided, and determine if documentation meets the criteria. The provider may choose to use the [407-1 Eligibility Documentation Checklist](#) as part of the documentation review process.

The district may give the provider authority to sign the disposition section of the 407-1 form. The authority given should be detailed in the contract between the district and third-party provider. Providers that sign off on 407-1 forms should do so *within five working days* after receipt from the nonpublic school so that services can be provided promptly. In the event that funding is not available and a request for additional funding is necessary (see the “ADDL” link on the [NJDOE Homeroom webpage](#)), providers must wait until districts confirm available funding before signing off on the 407-1 forms and providing the services⁵.

The provider should send the district a monthly detailed statement of the students receiving services for billing purposes.

District processes

As noted above, the district will determine if the provider has the authority to sign the disposition section of the 407-1 form in lieu of the district. The authority given should be detailed in the contract between the district and third-party provider. If the district signs off on the forms, it should do so *within five working days* after receipt⁶, except in cases when additional funding is requested. In the event that funding is not available and a request for additional funding is necessary, districts must confirm available funding before signing off on the 407-1 forms and submitting them to providers for services to begin.

The district should receive the original 407-1 forms and a detailed statement of students receiving services before making payment for services to the provider. The NJDOE Office of Nonpublic Services has created a [192/193 tracking spreadsheet](#) that districts may use to keep track of each nonpublic student and service, including documentation provided, service dates, and vendor billing dates.

⁴ Refer to the recommended timeline in Appendix H.

⁵ Please note that sign off on 407-1 forms may be delayed when additional funds are requested for the student, since such payments are made by the NJDOE on a monthly basis.

⁶ Districts with more than 10,000 nonpublic students receiving services may use a more flexible processing timeline so long as it does not cause undue delay in the delivery of services to students.

For record-keeping and audit purposes, the district is responsible for maintaining and providing for the security of all records of nonpublic school students receiving services in accordance with *N.J.A.C. 6A:32-7.1 et seq.* If the district contracts with a service provider, the service provider may retain student records as specified in the contract with the district while services are being provided. The Chapter 192/193 original student records must be returned to the district when the programs are terminated and the student is no longer eligible for services. In addition, the district must provide all the student documentation (either hard copy or electronic) to the auditor when requested.

Staff Requirements

The public school district is responsible for staffing either internally or through a contract with another district, an educational services commission, [an approved clinic or agency](#), or personnel of the nonpublic school (with the exception noted in the paragraph below). Any nonpublic school staff contracted to provide services shall not provide service for the clinic or agency during the hours of that individual's nonpublic school employment, pursuant to [N.J.A.C. 6A:14-5.2 \(a\)3i](#). The NJDOE maintains a [directory of approved clinics and agencies](#) that have met specified criteria according to [N.J.A.C. 6A:14-5](#) and are approved to contract with public school districts to provide Chapter 192 and Chapter 193 services. The staff providing the Chapter 192 and Chapter 193 services must be appropriately certified (see Appendix G).

According to [N.J.A.C. 6A:14-5.1\(c\)2ii,iii](#) and [N.J.A.C. 6A:14-6.2 \(h\)](#), districts may contract with personnel employed by the nonpublic school to provide the following types of instruction:

- Supplementary instruction, speech language services and home instruction for students determined eligible for such services; and
- English as a second language according to [N.J.A.C. 6A:15](#) and compensatory education according to [N.J.S.A. 18A:46A-2e](#) for students eligible for such services.

Note that evaluation, determination of eligibility, classification and the development of a service plan are not included among the types of instruction or services that may be provided by personnel employed by the nonpublic school and contracted with the district, in accordance with [N.J.A.C. 6A:14-6.2 \(h\)](#).

Clinic and agency approval, required under [N.J.A.C. 6A:14-5](#), ensures that the agency has personnel certified and is licensed according to State statutes and rules; has conducted the criminal history check of each professional; has an adequate accounting system according to generally accepted accounting principles; has a system for the collection, maintenance, confidentiality and access of student records; and maintains a service log with specified information.

The public school district or service provider must direct and supervise the instructional services. During the time of instruction, the public school district or service provider must ensure that religious matter is not introduced.

Contracts with a Third-Party Provider

Districts retain complete responsibility for administering and overseeing the Chapter 192/193 program and ensuring students receive the appropriate services, pursuant to [N.J.S.A. 18A:46A-1 et seq.](#) and [18A:46-19.1 et seq.](#) and [N.J.A.C. 6A:14-6.2 et seq.](#), regardless of whether they contract with a third-party provider or provide the services directly. Entering into an agreement with a provider *does not relinquish district responsibility for the oversight* of Chapter 192 and Chapter 193 services.

Third party contracts established between the district and the provider should include the following:

- The scope and nature of services
- The cost and method of payment for services
- Professional staff, facilities and student records for services
- Details of administration of the programs to be provided
- A budget with the following costs outlined:
 - administration
 - per student amounts for each service
 - total program

It is recommended that multi-year contracts not exceed three years. Contracts should be reviewed annually to ensure providers are providing services as contracted.

Annual Consultation Requirement

The school district is required to provide annual consultation, as well as “timely and meaningful consultation with appropriate nonpublic school representatives, including parents” *prior* to any change in the provision of services, pursuant to [N.J.S.A. 18A:46-19.7](#) and [18A:46A-7](#).

The goal of *timely* and *meaningful* consultation is to reach agreement on how to provide effective programs for eligible students. Toward that end, the NJDOE recommends that discussions occur between the appropriate district administrator and the head of the nonpublic school and or his/her designee in a timeframe suitable to understand the students’ needs and properly arrange for services to begin as close to the start of the school year as possible. If competitive contracting for services is to occur, the consultation should occur no later than the end of March to have sufficient time to receive and consider the bids. In addition, the district and nonpublic schools are encouraged to consult on other issues that may arise throughout the year.

Districts that contract with a third party provider may wish to invite the provider to the consultation meetings. Third party providers may coordinate the scheduling of the meetings to enable their attendance, but the NJDOE strongly advises that the local school district representative also attend the meetings since the district is responsible for the delivery of services to the nonpublic schools.

The NJDOE has developed a [consultation form](#) to guide the discussions between the district/third party provider and the nonpublic school designees, including the following topics:

- The total amount of funds allocated to the nonpublic school for the upcoming school year (not available until July, after the State budget is passed)
- The total amount of administrative fees anticipated
- The time, place and format of services
- The methods of student assessment for both evaluative and formative purposes and the means by which the results will be communicated to both the nonpublic school and parents of the nonpublic school students
- The amount of funds remaining mid-way and near the end of the year, with sufficient time for the funds to be used in an efficient and effective manner

The NJDOE recommends the consultation to discuss a change in provider of services include the following:

- Input from the nonpublic school administrator and/or designee and parents regarding their level of satisfaction with the current provider and any concerns relative to the delivery and quality of services and outcomes desired. Input from parents may be gathered through a survey, a face-to-face meeting or through the nonpublic school administrator.
- The board's reasons why it wants to change the provider
- A listing of providers being considered and their suitability for the students' needs

Once a decision to change providers has been made, and prior to the effective date of the change in service, the nonpublic school must be notified.

The district is responsible for retaining letters of correspondence, notices of consultation and signed consultation forms.

Telephone conferencing is acceptable, provided the district obtains a signature from the nonpublic school administrator on the consultation form acknowledging the discussion of the required topics.

Ongoing Communication Between District/Provider and Nonpublic School

Ongoing communication regarding any changes or updates that impact the delivery of services to nonpublic school students is critical to the success of the program. For example, the nonpublic school administrator must be provided with the schedule of services delivered

to students during school hours. If services are not to be provided according to the schedule, the nonpublic school administrator must be informed of such.

Location

The public school district is responsible for determining the site for the instructional services, according to [N.J.S.A. 18A:46-19.5](#).

The public school district and service provider are permitted to provide the Chapter 192 and Chapter 193 instructional services in a sectarian nonpublic school in accordance with the provisions summarized below⁷.

Before providing the Chapter 192 and Chapter 193 instructional services in a sectarian nonpublic school, the public school district or service provider must ensure that the space for instruction within the school has the appropriate certificate of occupancy and health and fire inspection certificates. The public school district or service provider shall not use Chapter 192/193 funds to repair, remodel or perform construction on the nonpublic school building in order to prepare the facility for the provision of these services.

If the public school district or service provider is utilizing a trailer or mobile unit placed on nonpublic school property to provide the Chapter 192 and 193 services, the trailer or mobile unit must be approved by the County Superintendent in accordance with [N.J.A.C. 6A:26-6.1 et seq.](#) The facility approval requires a certificate of occupancy and also health and fire inspection certificates. Trailers and mobile units for Chapter 192 and Chapter 193 services must be accessible to individuals with disabilities in accordance with the Barrier Free Code of the Uniform Construction Code ([N.J.A.C. 5:23-7.1 and 7.2 \(a\)](#)).

Student Transportation to Location and Maintenance of Vehicular Classrooms

The public school district must request funds through the Report of Nonpublic Auxiliary and Handicapped Services (listed in Homeroom as Ch 192-193; due in November of the prior year) to provide students with transportation to and from the instruction area and/or to provide the maintenance of the vehicular classrooms, if needed. See the [Fiscal Management](#) section below for more information on requesting these funds.

Student Records

The public school district must maintain and provide for the security of the Chapter 192 and/or Chapter 193 records of nonpublic school students receiving services in accordance with NJ records retention policy [N.J.A.C. 6A:32-7.1 et seq.](#) Records should be retained for seven years as

⁷ As decided in [Agostini v. Felton](#) (1997) and in accordance with [IDEA Sec. 300.139\(a\)](#).

specified in New Jersey's records retention policy⁸. If the public school district contracts with a service provider, the service provider may retain student records while services are being provided. The district maintains access to an electronic version or the original 407-1 forms. All other files for the students may be maintained at the service provider until the end of the year, or when the programs are terminated and the student is no longer eligible for services, when all files should be sent to the public districts. The provider should retain a copy of the cover page of the student's service plan (SP) and 407-1 form for record-keeping purposes.

For each student requesting Chapter 192 services, the fully completed 407-1 form must include test scores and other eligibility criteria and the back-up data must be available upon request. The district and service provider may be asked to provide evidence that the scores were compiled and reviewed. For students classified under 193, the 407-1 form must list the student's classification and the SP must be available.

Electronic record keeping is an alternative to paper files. The same rules apply to electronic record keeping as to paper files. Third-party providers should obtain an agreement with the district(s) they contract with in regard to electronic files.

Please see the *Chapter 192/193 Procedures for State Aid Audit* in [Appendix F](#) for detailed information on the documentation that must be maintained by the school district.

Fiscal Management

Funding

In accordance with [N.J.S.A. 18A:46-19.8](#) and [18A:46A-9\(b\)](#), to obtain Chapter 192 and Chapter 193 state funds for the next school year, the public school district must submit the [Report of Nonpublic Auxiliary and Handicapped Services](#) (listed in Homeroom as *Ch192-193*) in November of the present school year to the NJDOE Office of School Funding. The report contains the following information:

- The number of nonpublic school students identified to receive services under Chapter 192 during the prior school year
- The number of nonpublic school students identified to receive services under Chapter 193 during the prior school year
- Anticipated cost of transportation and/or maintenance of vehicular classrooms required for nonpublic school students to receive services for the next school year

Additional Funds

In accordance with [N.J.S.A. 18A:46-19.8](#) and [18:46A-14](#), the public school district must request additional state funds to provide services for *additional pupils identified* under the provisions of Chapters 192 and 193. It is to be used only when the present funding level is insufficient to provide services for the *additional students identified*. If requests for

⁸ When a document is used as a support for a State aid application, it becomes an audit support document and records retention requires seven year retention.

additional funding are approved and funds are available from refunds of the prior year, payment will be made in the current school year. The public school district must submit the [Request for Additional Funding Under the Provisions of Chapters 192/193](#) (listed in Homeroom as “ADDL”) to the NJDOE Office of School Funding to obtain approval.

Funding Limitations

In accordance with [N.J.S.A. 18A:46A-8](#), the public school district is permitted no more than six percent of the state funds received by the district under *Chapter 192* for administration of the program and no more than 18 percent of those funds for rent/facilities. With regard to *Chapter 193*, the public school district is permitted no more than six percent of the state funds received by the district for administration⁹. The public school district must provide the services to nonpublic school students at a cost not to exceed the amount of the state funds received by the district for the programs.

Project Completion Report

In accordance with [N.J.A.C. 6A:14-6.4\(a\) and \(b\)](#), the public school district must submit the [Nonpublic Student Services Project Completion Report](#) (listed in Homeroom as *NPCR*) in the fall.

In accordance with [N.J.A.C. 6A:14-6.3\(b\)](#), the public school district must maintain an accounting system for the Chapter 192 and Chapter 193 programs and services according to the financial accounting procedures of the NJDOE Office of School Funding. If the expenditures are less than the state funds received by the district for the programs, N.J.S.A. 18A:46A-14 requires the public school district to return the unexpended state funds to the NJDOE no later than December 1 following the close of the school year.

Specific Responsibilities of Nonpublic Schools

The nonpublic school must:

- Submit the [Nonpublic School Enrollment Data Report](#) (search for “*NonPublic Enrollment*” in Homeroom) to the Office of Educational and Information Technology each year in the fall. The NJDOE will send out an email to registered nonpublic schools notifying them when the report is open for submission.
- Keep its contact and location information current with the Office of Nonpublic School Services. If a nonpublic school moves to a new district, it is critical to notify the NJDOE and update the information so that funds will be redirected to the new district of location. If the funding allocation from the NJDOE is sent to the old district, the nonpublic school must work with the two districts to either have the funds transferred to the new district or seek an agreement with the old district to continue the provision of services for the current school year. This may cause a delay in receiving services.

⁹ As decided by OAL DKT. NO. EDU 8786-04 Monmouth-Ocean Educational Services Commission v. New Jersey Department of Education, Monmouth Superintendent of Schools, 2005 and the [Commissioner’s decision](#).

- Carefully review its school entitlement notice when received in July and notify NJDOE of any errors. Changes will be at the discretion of NJDOE.

Part III

Chapter 192 Services: Eligibility and Service Requirements

The following are eligibility guidelines based on NJDOE policy and, where cited, statute and code.

Compensatory Education

Compensatory education services are available to an eligible student in English language arts (ELA) literacy (reading and writing) and mathematics, and are supplementary to the regular instruction in these subject areas. A student is eligible if the public school district or provider determines, based on the criteria listed below, that the student has academic needs that prevent the student from succeeding academically in regular school programs¹⁰. The nonpublic school is responsible for administering any assessments and providing to the local district or third-party provider all information for determining eligibility, as described below. Students must be tested annually to determine continued eligibility for services.

Eligibility Criteria for Students in Grades 3 – 12

If a student in grades 3-12 exhibits poor class performance, including low/failing classroom test grades in language arts literacy and/or mathematics, the student may be assessed for eligibility for compensatory education services.

Types of Assessments

Nonpublic schools must use either of the following types of assessments to determine eligibility for Chapter 192 services:

1. A valid and reliable commercial, norm-referenced, standardized instrument that assesses basic academic skills, is administered systematically, is based on objective data, and yields a national percentile score (NP), or
2. a New Jersey state-administered standardized criterion-based assessment for which the level of proficiency needed to meet academic expectations has been established.

IQ tests such as the Stanford Binet do not meet these criteria. College admissions tests such as the SAT and ACT and college admissions practice tests like the PSAT are not appropriate for this purpose.

Nonpublic schools should use the following questions to determine whether the assessment is appropriate for 192 Compensatory Education Eligibility for Students in Grades 3 – 12. If the answer is yes to all of the applicable questions, the assessment is appropriate. It is the responsibility of the nonpublic school to use an assessment that meets these criteria.

1. Is the primary purpose of the assessment to assess *basic* academic skills?

¹⁰ “Regular school programs” is intended to mean those in which instruction is equivalent to that provided in the public schools for children of similar grades and attainments. Learn about [NJ Student Learning Standards](#) for every grade span.

2. If the NJ state-administered assessment is *not* used, is the assessment a valid and reliable commercial, norm-referenced, standardized instrument?
3. For ELA assessments, does it include both reading and writing so that it yields a comprehensive score?
4. Does the assessment yield a national percentile score (NP)?

A comprehensive score in either ELA or math must be obtained for each student to determine eligibility for services. Nonpublic schools provide results of the standardized test to the local school district or third-party provider to determine eligibility for Chapter 192 services.

Age and Timing of Assessment

If a nonpublic school is using a testing instrument that is not the most current version of the instrument, the nonpublic school may use the older version for up to two years but then must transition to the most recent version of the test.

If the student's application for services is submitted before February 1, the nonpublic school can use the student's assessment results from the previous spring to determine eligibility for Chapter 192 services. If the student does not have a test score from the previous spring, then the student must take an assessment in the current school year. If the student's application for services is submitted on or after February 1, a current assessment should be used.

Score Criteria for Norm-Referenced Assessments of Basic Skills

In grades 3 - 12, a student must score *below* the 40th national percentile (NP) on a valid and reliable commercial, norm-referenced, standardized instrument that assesses basic academic skills, is administered systematically, and is based on objective data.

If a student in grades 3-12 exhibits poor class performance, including low/failing test grades in ELA and/or mathematics, and did not score below the 40th percentile but did score below the 50th percentile, then eligibility for services will be determined by educationally related objective criteria that may be agreed upon during the consultation, including at least two of three measures, listed below:

1. Samples of student's work collected over time (minimum 30 days in school in the current grade) that demonstrate need in a specific content area (math and/or ELA), including performance based assessments
 - a. If the student was serviced the previous year, "application to continue service" should be noted, and a sampling of the previous year's work must be submitted for the student to start services. If the 407-1 for a student serviced the prior year is submitted after Nov. 1, then the current schoolyear work should be included.
 - b. The district may establish a minimum number of work samples that must be submitted.
 - c. Work samples must be original, include student's name and be graded appropriately.

- d. All work must be in the subject (math or ELA) that the student needs services in and *must be in English*.
2. Tests and/or projects
 - a. Tests must have accurate scores.
3. Report card grades (low/failing)
 - a. Report cards must show academic level in subject for which services are being requested (i.e. math grades, writing grades, reading grades).

Score Criteria for New Jersey State Assessments

The NJDOE establishes the proficiency level needed on the state assessments to meet the requirements. The proficiency level needed for 192 eligibility in 2019 is as follows: a student is determined to be eligible for support in ELA and/or mathematics if his/her scores fall below Level 3 (scale score of 725) on the appropriate subject area of the Partnership for Assessment of Readiness for College and Careers (PARCC).

Eligibility Criteria for Students in Grades K – 2

To assess young children’s strengths, progress, and needs, assessment methods that are developmentally appropriate, and culturally and linguistically responsive must be used. These assessments should be drawn from children’s performance during daily activities. Because of variability in early development and due to limited test-taking skills in grades K-2, determination of eligibility must be based on multiple measures of the child’s performance. The school district may provide guidance on what should be included in the child’s portfolio of evidence.

Kindergarten students can gain entrance in the program after 30 days in school and evidence of need, which should include an observational assessment (e.g., Developmental Tasks for Kindergarten Readiness II, DTKR-II), developmental screenings (e.g., Early Screening Inventory for Kindergarten, ESI-K) and samples of work to establish an academic baseline, according to requirements agreed upon in the consultation. It is also recommended that a reading screening (e.g., Developmental Reading Assessment, DRA2) be given mid-year and end-of-year during the kindergarten year to support the students’ early language and literacy acquisition and differentiation of instruction as needed.

Over the course of the kindergarten year, a portfolio of student’s work will be collected to provide evidence of eligibility for services in first grade. By the end of the kindergarten year, the portfolio should include an observational assessment done at the end of the year, work samples collected over time, report cards, and teacher recommendations from both the classroom teacher and Comp Ed teacher, and any other documents agreed upon in the consultation.

For students in grades 1 and 2, the assessments used to determine eligibility will include information from at least three of four measures, as defined below:

1. Teacher and parent survey, interviews, observational assessments
 - b. Teacher observation form is to be a reflective, narrative piece of evidence that reflects individual student academic (not behavioral) need.
2. Work samples collected over time, including performance based assessments
 - a. If the student was serviced the previous year, “application to continue service” should be noted, and a sampling of the previous year’s work must be submitted for the student to start services. If the 407-1 for a student serviced the prior year is submitted after Nov. 1, then the current schoolyear work should be included.
 - b. The district may establish a minimum number of work samples that must be submitted.
 - c. Work samples must be original, include student’s name and be graded appropriately.
 - d. All work must be in the subject (math or reading/writing) that the student needs services in and must be in English.
3. Developmental screenings
4. Report cards, tests, projects
 - a. Test must have an accurate score.
 - b. Report cards must show academic level in subject for which services are being requested (i.e. math grades, writing grades, reading grades).

The nonpublic school is responsible for the following:

- Identifying the appropriate assessments to use based on the four eligibility measures listed above, with approval by the district.
- Determining the content of a portfolio of evidence that demonstrates the child’s areas of need, with approval by the district.
- If three of the four eligibility measures listed above are met, providing a copy of the portfolio to the local school district by June 30 for audit purposes.

NOTE: Definition of terms is provided in [Appendix B](#). Acceptable performance-based assessments, developmental screenings, and reading screening examples can be found in [Appendix C](#). [Appendix D](#) includes a list of best practice methods for supports for students in kindergarten through grade 3.

Record Keeping

The original or an electronic version of the student’s assessment results and/or other educational documentation used to determine student eligibility for services must be made available at the request of the NJDOE. If the district or service provider is unable to produce these documents an audit finding may result in a recovery of funds.

Providing Services

To provide Chapter 192 compensatory education, a certified teacher of the public school district or the service provider develops and implements an individual student improvement plan for the students in need of compensatory education. The student improvement plan may be kept by the service provider, but must be returned to the district if the provider is terminated. An individual student improvement plan in reading, writing and/or mathematics addresses the student's needs, instructional program (goals and measurable objectives, frequency and duration, and also teaching techniques, materials, and resources), evaluation procedures that are used to measure progress toward performance standards, and exit criteria (at or above the minimum level of proficiency in ELA and/or mathematics and multiple assessment criteria in addition to test scores).

English as a Second Language Services

In accordance with [N.J.A.C. 6A:15.1 et seq.](#), English as a second language (ESL) services are available to an eligible student identified as limited English proficient. The student develops proficiency in English language skills in the areas of aural comprehension, speaking, reading and writing. A teacher appropriately certified as a teacher of English as a second language from the public school district or service provider must provide the service.

Eligibility Criteria

1. The student's native language must be other than English
 - a. The student's native language means the language first acquired by the student, the language most often spoken by the student or the language most often spoken in the student's home, regardless of the language spoken by the student.
2. The student must score below the cut-off level of English language proficiency on a [Department-approved language proficiency test](#)
 - a. The NJDOE mandates the use of a state-approved language proficiency test. [State-approved English language proficiency tests and the corresponding standards](#) for determining limited English proficient are available on the Bilingual/ESL Education webpage.
 - b. New Jersey public school districts that receive Title III funds for limited English proficient (LEP) students must assess the English Language proficiency progress of these students with the ACCESS for ELLs™ language proficiency test. Information on the [ACCESS for ELLs™ test](#) may be obtained on the Bilingual/ESL Education webpage. The public school district/service provider that provides language assistance services to LEP nonpublic school students must annually assess the progress that these students make in learning English. The public school district/service provider may choose either the

ACCESS for ELLs™ test or continue to use one of the other department-approved tests.

3. The student must have at least one other indicator, including:
 - a. Assessment of English reading level, assessment of academic performance in English, input of teaching staff members responsible for the educational program of the pupil, and any other assessments agreed upon in the consultation

Providing Services

The parent(s) or guardian(s) must be notified by letter in their native language to ensure their understanding of the process, their rights, and information needed on the 407-1 form.

To provide Chapter 192 English as a second language services, a certified teacher of the public school district or service provider develops and implements an individual student improvement plan for the students in English as a second language. An individual student improvement plan for English as a second language addresses:

- The student’s needs assessment in English language skills (aural comprehension, speaking, reading, and writing)
- Instructional program (goals and measurable objectives, frequency and duration, and also teaching techniques, materials and resources)
- Exemptions from standardized testing in English, if applicable
- Evaluation procedures that are used to determine progress toward performance objectives
- The criteria for exiting the ESL program: at or above the cut-off level of English language proficiency on the department-approved language proficiency test and assessed on the basis of multiple indicators which at a minimum must include classroom performance, the student’s reading level in English, the judgments of teaching staff members responsible for the educational program of the student, and performance on achievement tests in English.

Home Instruction

Eligibility Criteria

According to [N.J.A.C. 6A:16-10.1](#), home Instruction aid is available for nonpublic school pupils unable to attend school due to “a temporary or chronic health condition or a need for treatment that precludes participation in their usual education setting.” The pupil must be unable to attend school for more than 10 consecutive school days or 20 cumulative school days because of illness or injury. To document eligibility for home instruction, a letter from the student’s physician must include documentation of the illness or injury and a recommendation for home instruction with start and end dates. The district physician must verify the need for home instruction or provide reasons for denial.

Providing Services

The public school district responsible for the Chapter 192 home instruction must ensure that home instruction is provided as soon as the student is determined eligible, but in no case later than five school days after determination. The public school district/service provider must provide home instruction that meets the requirements of the nonpublic school in which the student is enrolled full-time, *excluding religious studies*. Home instruction services must be provided by an appropriately certified general education teacher (see Appendix G) who may be employed by the public school district directly, through online services, or through contract with another district board of education, educational services commission, jointure commission, approved clinic or agency or employee of the nonpublic school. If the services are provided with an independent contractor who is also a nonpublic school employee, the services cannot be provided during the hours of that employee's nonpublic school employment.

If home instruction services are not rendered, at no fault of the district or provider, home instruction may be terminated.

Home instruction may be provided for a period up to 60 calendar days, after which the student must be evaluated by the child study team. If the child study team specifies that home instruction is needed in the service plan, only those services covered by Chapter 193 may be provided. If the child study team does not specify the need for home instruction, then a letter from the student's physician must document the continued need for home instruction. The district physician must verify the continued need for home instruction or provide reasons for denial.

Part IV

Chapter 193 Services: Eligibility and Service Requirements

The following are eligibility requirements and guidelines based on NJDOE policy and, where cited, statute and code.

Referral, Evaluation and Determination of Eligibility

Rules and procedures for identification/referral, evaluation, determination of eligibility, and reevaluation, included in Chapter 193 ([N.J.A.C. 6A:14-6.2](#)), are also covered under the federal [Individuals with Disabilities Education Act of 2004 \(IDEA\)](#) and New Jersey Administrative Code for special education (N.J.A.C.6A:14). Please reference those laws when appropriate.

Referral for Initial Evaluation

In accordance with [N.J.A.C. 6A:14-3.3](#), referral and evaluation procedures are provided for the purpose of determining eligibility for special education and related services and for developing a service plan. Once a student application (407-1 form) for Chapter 193 services is submitted to the local public school district or service provider, the student is considered to have been referred.

When a school age student is referred for an *initial evaluation* to determine eligibility for special education programs and services, the full Child Study Team (CST), parent and regular education teacher who has knowledge of the student's educational performance must meet within 20 calendar days of the receipt of the student application (407-1 form) to determine whether an evaluation is needed.

The CST, parent and regular education teacher will review the existing evaluation data on the student, including evaluations and information provided by parents, current classroom-based assessments, and the observations of teachers and related service providers. On the basis of that review, they will determine whether an evaluation is warranted.

If an evaluation is warranted, the CST will determine the nature and scope of the evaluation and identify what additional data, if any, are needed. A determination will then be made on which CST members and/or specialists will conduct the evaluation.

Parents will receive a written notice of the meeting and a copy of "[Parental Rights in Special Education](#)," which relates to the nonpublic services that are included under IDEA: identification, evaluation, determination of eligibility, and reevaluation [See [6A:14-6.2 \(g\)](#)] The notice of the meeting must be sent early enough to ensure parental participation.

The meeting notice must be written in language understandable to the general public and in the native language of the parent, unless it is clearly not feasible. The notice must include: a description of the action proposed or denied; an explanation of such action; a description of

any options considered and the reason why the options were rejected; a description of the procedures, tests, records or reports and factors used to propose or deny an action; a description of any other factors relevant to the proposal or refusal; and a copy of the [short procedural safeguards statement](#). Written notice regarding the determination(s) and proposed action(s) with the short procedural safeguards statement must be sent to parents within 15 calendar days of the determination.

After parental consent to the initial evaluation is obtained, the evaluation, determination of eligibility for special education and related services, and if eligible, the development and implementation of the service plan for the student must be completed within 90 calendar days.

A case manager must be assigned to a student when it is determined that an initial evaluation will be conducted. A CST member or speech-language specialist, when acting as a member of the CST, must be designated and serve as the case manager for each student with a disability. The case manager will coordinate the development, monitoring and evaluation of the effectiveness of the student's services plan. The case manager will also facilitate communication between home and school and will coordinate the annual review and reevaluation process.

Initial Evaluation

According to [N.J.A.C. 6A:14-3.4](#), an initial evaluation of a student for Chapter 193 must consist of a multi-disciplinary assessment in all areas of suspected disability. Such evaluation must include *at least two assessments* conducted by at least two members of the CST in those areas in which they have appropriate training or are qualified through their professional licensure or educational certification and other specialists in the area of disability as required or as determined necessary¹¹. The evaluation must:

- Be conducted in the language or form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally unless it is not feasible to do so;
- Include valid and reliable assessments which are administered by trained personnel in accordance with protocols and instructions of the producer of the assessment; and
- Include standardized test(s) and a functional behavior assessment, an assessment of the language needs of a child with limited English proficiency, assessment of the student's communication needs, and assessment of the need for assistive technology devices and services.

The parent(s) or guardian(s) must receive a copy of the evaluation reports at least 10 days prior to the eligibility conference.

¹¹ If the CST determines to accept an evaluation completed by an outside agency, that evaluation counts as one of the two assessments required for payment for an initial evaluation or reevaluation.

All CST evaluations must be complete by June 30 of the current school year to bill in the current year. If the evaluation is not complete by June 30, the entire evaluation is billed in the new school year.

CST evaluations must be complete to receive payment. Partial evaluations will not be reimbursed.

Eligibility Criteria

The student must be determined eligible in accordance with [N.J.A.C. 6A:14-3.5](#), as follows:

(a) When an initial evaluation is completed for a student age three through 21, a meeting according to [N.J.A.C. 6A:14-2.3\(k\)1](#) shall be convened to determine whether the student is eligible for special education and related services. A copy of the evaluation report(s) and documentation and information that will be used for a determination of eligibility shall be given to the parent not less than 10 calendar days prior to the meeting.

If eligible, the student must have a service plan developed in accordance with [N.J.A.C. 6A:14-6.1\(f\)1](#) and [N.J.A.C. 6A:14-6.2\(g\)1i](#). The service plan must include the following components, in accordance with [N.J.A.C. 6A:14-3.7\(e\)1-6, 8, 14-16](#):

- A statement of student's present levels of academic achievement and functional performance, including how the student's disability affects the student's involvement and progress in the general education curriculum;
- A statement of measurable annual goals that are related to the core curriculum content standards through the general education curriculum unless otherwise required according to the student's educational needs;
- Short-term objectives to enable the student to be involved in and progress in the general educational curriculum and to meet the educational needs resulting from the student's disability;
- A statement of special education and related services and supplemental aids and services that are provided to the student, or statement of program modifications or supports that are provided for school personnel on behalf of the student to advance to the annual goals, to be involved in and progress in the general education curriculum, to participate in extracurricular and other nonacademic activities, and to be educated and participate with other students with disabilities and nondisabled students;
- A statement, as appropriate, of integrated therapy services to be provided addressing the student's individualized needs in his or her educational setting;
- An explanation of the extent, if any, to which the student will not participate with nondisabled students in the general education class;
- A statement of the projected date for the beginning of services and modifications, and the anticipated frequency, location and duration of services and modifications;
- Beginning at least three years before the child reaches age 18, a statement that the child has been informed of the rights under [N.J.A.C. 6A:14.1 et seq.](#) that will transfer to the student on reaching age of majority;
- A statement of how the student's progress toward annual goals will be measured; and

- A statement of how the student’s parents will be regularly informed of the student’s progress toward the annual goals and the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year, and the parents of the student are informed of the progress as often as parents of a nondisabled student are informed of their child’s progress.

Annual Review

In accordance with [N.J.A.C. 6A:14-3.7\(i\)](#), annually, or more often if by parent request and district approval, a service plan must be reviewed in an annual evaluation meeting that includes: the parent, not less than one CST member who can interpret the instructional implications of the evaluation results, at least one general education teacher of the student who is knowledgeable about the student’s educational performance, not less than one special education teacher or service provider, the case manager who is a CST member, other appropriate individuals at the discretion of the parent or public agency, a representative of the public agency (who may be the case manager) and the student when appropriate. A district may request parent consent to excuse a team member whose area is not being discussed, in accordance with “[Parental Rights in Special Education](#).”

An annual review may not take place within six months of a reevaluation unless the parent requests it in writing and submits a 407-1 form and the district determines conditions warrant it (i.e., concerns over the student’s academic performance or a change in the student’s behavior), as documented on the 407-1 form, notwithstanding parent rights to request mediation or a due process hearing in accordance with “[Parental Rights in Special Education](#).”

Reevaluation

Reevaluations must be conducted in accordance with [N.J.A.C. 6A:14-3.8](#), as follows:

- Must complete a multi-disciplinary reevaluation (must be two or more different tests to qualify for funding) to determine whether the student continues to be a student with a disability.
- Must be conducted within three years of the previous classification.
- May be conducted sooner than three years if conditions warrant or if the student's parent or teacher requests the reevaluation based on concerns over the student's educational performance. However, reevaluation shall *not* be conducted prior to the expiration of one year from the date the parent is provided written notice of the determination with respect to eligibility in the most recent evaluation or reevaluation, unless the parent and district both agree that a reevaluation prior to the expiration of one year as set forth above is warranted.
- Must be conducted within 60 days of the date the parent provides consent for the assessments to be conducted.
- If a parent provides written consent and the district board of education agrees that a reevaluation is unnecessary, the reevaluation may be waived. If a reevaluation is waived,

the date of the parent's written consent will constitute the date upon which the next three-year period for conducting a reevaluation will begin.

- As part of any reevaluation, the evaluation team must determine the nature and scope of the reevaluation according to a review of the existing evaluation data on the student and then identify what additional data, if any, are needed.
- If a parent or evaluation team rejects additional testing as part of the reevaluation, that determination may not be overridden by a request for an early evaluation.

At the time a student is determined to no longer need Chapter 193 services, but may not be ready for regular instruction without additional support, the CST may recommend that the student receive Chapter 192 services for one year. The CST recommendation will take the place of test score requirements for up to one year of Chapter 192 services.

Supplementary Instruction

In accordance with [N.J.A.C. 6A:14-4.6](#), supplementary instruction is provided to a student with a disability classified as eligible for special education and related services as *an addition to* the primary instruction for the subject being taught. *It may not replace the instruction provided by the general education teacher.* The program of supplementary instruction must be specified in the service plan. An appropriately certified general education teacher provides supplementary instruction individually or in groups limited in number according to [N.J.A.C. 6A:14-4.6 \(m\)](#).

Eligibility Criteria

- The student must be determined eligible in accordance with [N.J.A.C. 6A:14-3.5](#).
- For the services provided, the student must have a services plan developed in accordance with [N.J.A.C. 6A:14-6.2 \(g\)1i](#) and [N.J.A.C. 6A:14-3.7\(e\)1-6, 8](#), and [14-16](#).

If the student is evaluated by a child study team and found eligible for supplemental instruction, a separate 407-1 form with the required service plan documentation (electronic access or hard copy of program description and related services pages) must be provided for the student to receive services. Given the need to begin supplemental instruction shortly after evaluation, the 407-1 for supplemental instruction must be approved quickly.

To document eligibility for supplementary instruction, attach a copy of the program description and any related services pages from the student services plan.

Speech-Language Evaluation or Services

In accordance with [N.J.A.C. 6A:14-3.6](#), speech-language services include language, articulation, voice, and fluency. Speech-language services are provided to a classified student as an addition to the regular instructional program. The program of speech-language services must be specified in the services plan. An appropriately certified speech-language specialist provides speech-language services individually or in groups not to exceed five students.

Eligibility Criteria

- The student must be determined eligible in accordance with [N.J.A.C. 6A:14-3.6](#). The evaluation for a speech disorder shall be conducted according to [N.J.A.C. 6A:14-3.4\(g\)](#).
- For the services provided, the student must have a service plan developed in accordance with N.J.A.C 6A:14-3.7 (e)1-6, 8,14-16.

The 407-1 application form is for the parent/guardian to request speech-language evaluation or services for his/her child, *when the student requires speech-language evaluation or services only* (no other 193 evaluation or services are being requested or provided).

If a student is evaluated and found eligible for speech-language *services*, a separate 407-1 with the required service plan documentation must be provided for the student to receive services; however, if the provider evaluates for speech *and* the student is found eligible for services, the **provider may bill for either the evaluation or the service, not both**. (Funding is provided to the district for either the speech evaluation or the services, as explained in the following section.)

To document eligibility for speech-language services, attach a copy of the program description and any related services pages from the student services plan.

Reporting and Funding

Evaluation and Reevaluation

A district cannot use Chapter 193 funds for a child study team meeting unless one or more of the services delineated in statute is included (see N.J.S.A. 18A:46-19 et seq). There is no State funding source for a child study team meeting alone. An evaluation that is funded under Chapter 193 must include all of the requirements enumerated in [N.J.A.C. 6A:14-3.4\(f\)](#).

A reevaluation that is funded under Chapter 193, like an initial evaluation, must include at least two assessments. The parameters around the assessments are defined in [N.J.A.C. 6A:14-3.4\(f\)](#). A district cannot use Chapter 193 funds for a child study team meeting alone.

Speech-Language Evaluation or Services

If a student is referred for evaluation when the suspected disability is a disorder of voice, articulation and/or fluency *only*, then the “speech correction” funding amount (as provided in N.J.S.A. 18A:46-19.8) should be used. If it is determined that the child is eligible for speech correction *services*, then the district/provider *cannot charge an additional amount* to the 193 program for those services (though IDEA may cover those services). In other words, both the speech evaluation/reevaluation and the services are included in the statutory amount provided.

Note: If available, IDEA funds may be used to provide speech services, thus allowing the full per pupil dollar amount for speech-language services to be expended on the speech-only

evaluations. The use of IDEA funds must be discussed separately during the consultation process between the school district and the nonpublic school.

If a student (resident or nonresident) is referred for an initial evaluation or reevaluation to determine eligibility for special education programs and services, including speech, then the “initial evaluation or reevaluation” funding amount should be used. The full child study team, including a speech-language specialist, must be convened.

Appendix A
Selected Referenced Statutes and Code¹²

18A:46-8. Classification of disabled, handicapped children; report to parent or guardian.

Each board of education shall provide for the examination and classification of each child residing in the district and identified pursuant to N.J.S.18A:46-6, except that the board of education of a county vocational school district shall provide for the examination and classification of each child who is attending the county vocational school on a full-time basis and is identified pursuant to N.J.S.18A:46-6. Such examination and classification shall be accomplished according to procedures prescribed by the commissioner and approved by the State board, under one of the following categories: intellectually disabled, visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted, autistic, multiply handicapped or pre-school handicapped. The examination and classification of such nonpublic school children shall be in a location determined by the local board of education of the district in which the nonpublic school is located and approved by the commissioner pursuant to rules and regulations promulgated by the State board.

The classification of communication handicapped shall be made by the basic child study team and an approved speech correctionist or speech pathologist, without child study consultation. Such children shall be reported to the basic child study team. The proposed classification shall be reported to the parent or guardian of the child and an opportunity provided, prior to implementation of the classification, for consultation by such parent or guardian with the appropriate special educational services personnel of the district. Pursuant to rules of the State board, the parent or guardian shall also be provided an opportunity for further review of the classification in the Department of Education.

Amended. L. 1977, c. 193, s. 4; L. 1977, c. 415; L. 1978, c. 46; L. 1981, c. 415, s. 8; L. 1984, c. 123, s. 2; L. 1990, c. 52, s. 57; L. 2010, c. 50, s. 15.

6A:14-3.3 Location, referral and identification

- (a) Each district board of education shall develop written procedures for students age three through 21, including students attending nonpublic schools located within the district regardless of where they reside, who reside within the local school district with respect to the location and referral of students who may have a disability due to physical, sensory, emotional, communication, cognitive or social difficulties.

1. The requirements of this section apply to highly mobile students with disabilities, such as migrant and homeless students, and to students who may have a disability even though they are advancing from grade to grade.

¹² Not all referenced statute and code are applicable to nonpublic schools.

2. The activities undertaken to locate nonpublic school students with disabilities shall be comparable to activities undertaken to locate public school students with disabilities. In addition, each district board of education shall consult with appropriate representatives of nonpublic school students on how to carry out these activities.
 - i. For preschool age students enrolled in early childhood programs, the child-find obligations, including evaluation for eligibility for special education and related services, shall be the responsibility of the district of residence of the parent of the student.
 - ii. For nonpublic elementary or secondary school students, the child-find obligations shall be the responsibility of the district of attendance in accordance with N.J.A.C. 6A:14-6.1.
 3. The procedures shall include:
 - i. Utilizing strategies identified through the Intervention and Referral Services program according to N.J.A.C. 6A:16-8, as well as other general education strategies;
 - ii. Referral by instructional, administrative and other professional staff of the local school district, parents and state agencies, including the New Jersey Department of Education and agencies concerned with the welfare of students.
 - iii. Evaluation to determine eligibility for special education and related services; and/or
 - iv. Other educational action, as appropriate.
- (b) Interventions in the general education setting shall be provided to students exhibiting academic difficulties and shall be utilized, as appropriate, prior to referring a student for an evaluation of eligibility for special education and related services.
1. Within Abbott districts, the system of assessment and interventions within general education programs according to N.J.A.C.6A:10A-3.1 shall be implemented for all students who have reading as their primary area of difficulty.
- (c) The staff of the general education program shall maintain written documentation, including data setting forth the type of interventions utilized, the frequency and duration of each intervention, and the effectiveness of each intervention.
1. When it is determined through analysis of relevant documentation and data concerning each intervention utilized that interventions in the general education program have not adequately addressed the educational difficulties, and it is believed that the student may have a disability, the student shall be referred for evaluation to determine eligibility for special education programs and services under this chapter.

2. A determination whether or not to conduct an evaluation shall be made in accordance with (e) below.
- (d) A direct referral to the child study team may be made when it can be documented that the nature of the student's educational problem(s) is such that evaluation to determine eligibility for special education services under this chapter is warranted without delay.
1. The parent may make a written request for an evaluation to determine eligibility for services under this chapter. Such a request shall be considered a referral and shall be forwarded without delay to the child study team for consideration.
- (e) When a preschool age or school age student is referred for an initial evaluation to determine eligibility for special education programs and services under this chapter, a meeting of the child study team, the parent and the regular education teacher of the student who is knowledgeable about the student's educational performance or, if there is no teacher of the student, a teacher who is knowledgeable about the district's programs, shall be convened within 20 calendar days (excluding school holidays, but not summer vacation) of receipt of the written request. This group shall determine whether an evaluation is warranted and, if warranted, shall determine the nature and scope of the evaluation, according to N.J.A.C. 6A:14-3.4(a). The team may also determine that an evaluation is not warranted and, if so, determine other appropriate action. The parent shall be provided written notice of the determination(s), which includes a request for consent to evaluate, if an evaluation will be conducted, according to N.J.A.C. 6A:14-2.3.
1. To facilitate the transition from early intervention to preschool, a child study team member of the district board of education shall participate in the preschool transition planning conference arranged by the designated service coordinator from the early intervention system. The district representative at the transition planning conference shall:
 - i. Review the Part C Early Intervention System Individualized Family Service Plan;
 - ii. Provide the parents written district registration requirements;
 - iii. Provide the parents written information on available district programs for preschool students, including options available for placement in general education classrooms; and
 - iv. Provide the parent a form to utilize to request that the district board of education invite the Part C service coordinator from the Early Intervention System to the initial IEP meeting for the child after a determination of eligibility.
 2. Preschoolers with disabilities shall have their IEPs implemented no later than age three. To assure that preschoolers with disabilities have their initial IEPs

implemented no later than age three, a written request for initial evaluation shall be forwarded to the district at least 120 days prior to the preschooler attaining age three.

- i. For a child receiving Early Intervention System services, the form to request that the district board of education invite the Part C service coordinator from the Early Intervention System to the initial IEP meeting for the child after a determination of eligibility shall be submitted to the district board of education with the request for initial evaluation.
 3. When a preschool age child is referred for an initial evaluation, a speech-language specialist shall participate as an additional member of the child study team in the meeting to determine whether to evaluate and the nature and scope of the evaluation.
 - i. If it is determined that a speech-language assessment will be conducted, it may be utilized as one of the two required assessments in N.J.A.C. [6A:14-3.4\(f\)](#).
 4. For students ages five to 21, when the suspected disability includes a language disorder, the child study team, the parent, a speech-language specialist and the general education teacher of the student who has knowledge of the student's educational performance or if there is no teacher of the student, a teacher who is knowledgeable about the district's programs shall participate in the meeting to decide whether to evaluate and the nature and scope of the evaluation.
 5. For students ages five to 21, when the suspected disability is a disorder of voice, articulation and/or fluency only, the decision to evaluate and the determination of the nature and scope of the evaluation shall be according to (e) above, except that the meeting shall include the speech-language specialist, the parent and the general education teacher of the student who has knowledge of the student's educational performance or if there is no teacher of the student, a teacher who is knowledgeable about the district's programs.
- (f) When it is determined that an evaluation for eligibility for services under this chapter is warranted, the student shall be considered identified as potentially a student with a disability. If the student is removed for disciplinary action, limitations on the amount of time the student is removed and the requirement to provide services shall be consistent with procedures in N.J.A.C. 6A:14-2.8. Additionally, in accordance with 20 U.S.C. § 1415(k)(5), protections for children not yet eligible for special education and related services shall apply. (See chapter Appendix A.)
- (g) Audiometric screening according to N.J.A.C. 6A:16-2.2(k)3 shall be conducted for every student referred to the child study team for a special education evaluation.

- (h) Vision screening shall be conducted by the school nurse for every student referred to the child study team for a special education evaluation.
- (i) The New Jersey Department of Education incorporates by reference the provisions of the Individuals with Disabilities Education Act of 2004 at 20 U.S.C. § 1412(c)3 and its implementing regulations at 34 CFR §§ 300.1 et seq. regarding child find. (See chapter Appendix E.)

6A:14-3.4 Evaluation

- (a) The child study team, the parent and the regular education teacher of the student who has knowledge of the student's educational performance or if there is no teacher of the student, a teacher who is knowledgeable about the district's programs shall:
 - 1. Review existing evaluation data on the student including evaluations and information provided by the parents, current classroom-based assessments and observations, and the observations of teachers and related services providers, and consider the need for any health appraisal or specialized medical evaluation;
 - 2. On the basis of the review in (a)1 above identify what additional data, if any are needed to determine:
 - i. Whether the student has a disability under this chapter;
 - ii. The present levels of academic and functional achievement and related developmental needs, and educational needs of the student; and
 - iii. Whether the student needs special education and related services; and
 - 3. Determine which child study team members and/or specialists shall conduct each assessment that is part of the evaluation.
- (b) Prior to conducting any assessment as part of an initial evaluation, the district shall request and obtain consent to evaluate according to N.J.A.C. 6A:14-3.3(e).
- (c) If the parent refuses to provide consent to conduct the initial evaluation, the district may file for a due process hearing pursuant to N.J.A.C. 6A:14-2.7 to compel consent to evaluate.
- (d) The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.
- (e) After parental consent for initial evaluation of a preschool age or school age student has been received, the evaluation, determination of eligibility for services under this chapter, and, if eligible, development and implementation of the IEP for the student shall be completed within 90 calendar days.

1. If the parent repeatedly fails or refuses to produce the child for the evaluation, the time period above shall not apply.
 2. If a child enrolls in the school of a district board of education after an initial evaluation was undertaken by another district board of education, but before it was completed, and the new district is making progress so as to ensure a prompt completion of the evaluation, and the district and parent agree to a specific modified timeframe for completing the evaluation, the agreed-upon timeframe for completing the evaluation shall be applied.
 3. If initial evaluation of a preschool age child is warranted, the district board of education shall take steps to ensure that consent to evaluate is obtained without delay.
- (f) An initial evaluation shall consist of a multi-disciplinary assessment in all areas of suspected disability. Such evaluation shall include at least two assessments and shall be conducted by at least two members of the child study team in those areas in which they have appropriate training or are qualified through their professional licensure or educational certification and other specialists in the area of disability as required or as determined necessary. Each evaluation of the student shall:
1. Be conducted in the language or form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally, unless it is not feasible to do so;
 2. Apply standards of validity, reliability and administration for each assessment by trained personnel in accordance with the protocols and instructions of the producer of the assessment;
 3. Include, where appropriate, or required, the use of a standardized test(s) which shall be:
 - i. Individually administered;
 - ii. Valid and reliable;
 - iii. Normed on a representative population; and
 - iv. Scored as either standard score with standard deviation or norm referenced scores with a cutoff score;
 4. Include a functional assessment of academic performance and, where appropriate, a functional behavioral assessment, an assessment of the language needs of a child with limited English proficiency, assessment of the student's communication needs, and assessment of the need for assistive technology devices and services. Each of the following components shall be completed by at least one evaluator:

- i. A minimum of one structured observation by one evaluator in other than a testing session;
 - (1) In the case of a student who is suspected of having a specific learning disability, one evaluator shall observe the student's academic performance in the general education classroom;
 - (2) In the case of a student of preschool age, a child study team member in an environment appropriate for a child of that age;
 - ii. An interview with the student's parent;
 - iii. An interview with the teacher(s) referring the potentially disabled student;
 - iv. A review of the student's developmental/educational history including records and interviews;
 - v. A review of interventions documented by the classroom teacher(s) and others who work with the student; and
 - vi. One or more informal measure(s) which may include, but not be limited to, surveys and inventories; analysis of work; trial teaching; self-report; criterion referenced tests; curriculum based assessment; and informal rating scales; and
5. Beginning at age 14, or younger if appropriate, include assessment(s) to determine appropriate postsecondary outcomes.

(g) When the suspected disability is a disorder of articulation, voice or fluency according to N.J.A.C. 6A:14-3.6(b), the speech-language specialist shall:

- 1. Meet with the parent and the student's general education teacher who is knowledgeable about the student's educational performance or, if there is no general education teacher, a general education teacher who is knowledgeable about the district's programs to review existing data on the student including evaluations and information provided by the parents, current classroom-based assessments and observations, and the observations of teachers and related services providers;
- 2. Obtain consent to conduct the evaluation according to N.J.A.C. 6A:14-3.3(e)5;
- 3. Conduct an assessment according to (f)1 through 4 above. The assessment shall include written information from the classroom teacher of the educational impact created by the speech problem. Such assessment shall fulfill the requirement for multi-disciplinary evaluation as required in (d) above; and
- 4. Prepare a written report of the results according to (h) below.

(h) A written report of the results of each assessment shall be prepared. At the discretion of the district, the written report may be prepared collaboratively by the evaluators or

each evaluator may prepare an individually written report of the results of his or her assessments. Each written report shall be dated and signed by the individual(s) who conducted the assessment and shall include:

1. An appraisal of the student's current functioning and an analysis of instructional implication(s) appropriate to the professional discipline of the evaluator;
2. A statement regarding relevant behavior of the student, either reported or observed and the relationship of that behavior to the student's academic functioning;
3. If an assessment is not conducted under standard conditions, the extent to which it varied from standard conditions;
4. When a student is suspected of having a specific learning disability, the documentation of the determination of eligibility shall include a statement of:
 - i. Whether the student has a specific learning disability;
 - ii. The basis for making the determination;
 - iii. The relevant behavior noted during the observation;
 - iv. The relationship of that behavior to the student's academic performance;
 - v. Educationally relevant medical findings, if any;
 - vi. If a severe discrepancy methodology is utilized, whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services;
 - vii. The determination concerning the effects of environmental, cultural or economic disadvantage;
 - viii. Whether the student achieves commensurate with his or her age;
 - ix. If a response to scientifically based interventions methodology is utilized, the instructional strategies utilized and the student-centered data collected with respect to the student; and
 - x. Whether there are strengths or weaknesses, or both, in performance or achievement relative to intellectual development in one of the following areas that require special education and related services;
 - (1) Oral expression;
 - (2) Listening comprehension;
 - (3) Written expression;
 - (4) Basic reading skill;
 - (5) Reading fluency skills;
 - (6) Reading comprehension;
 - (7) Mathematics calculation; and
 - (8) Mathematics problem solving;

5. Additionally, each team member shall certify in writing whether his or her report is in accordance with the conclusion of eligibility of the student. If his or her report does not reflect the conclusion of eligibility, the team member must submit a separate statement presenting his or her conclusions; and
 6. When a response to scientifically based interventions methodology is utilized to make the determination of whether the student has a specific learning disability, the district board of education shall:
 - i. Ensure that such methodology includes scientifically based instruction by highly qualified instructors, and that multiple assessments of student progress are included in the evaluation of the student;
 - ii. Not be required to include more than the assessment conducted pursuant to the district's response to scientifically based intervention methodology in the evaluation of a student; and
 - iii. If the parent consents in writing, extend, as necessary, the time to complete an evaluation pursuant to (c) above.
- (i) When conducting an initial evaluation or reevaluation, the reports and assessments of child study team members or related services providers from other public school districts, Department of Education approved clinics or agencies, educational services commissions or jointure commissions or professionals in private practice may be submitted by the parents to the child study team for consideration. Each report and assessment shall be reviewed and considered by the child study team member or related services provider with relevant knowledge or expertise. A report or component thereof may be utilized as a required assessment, if the assessment has been conducted within one year of the evaluation and the child study team determines the report and assessment meet the requirements of (h) above.
- (j) Upon receipt of a written referral to the child study team, the school nurse shall review and summarize available health and medical information regarding the student and shall transmit the summary to the child study team for the meeting according to (a) above to consider the need for a health appraisal or specialized medical evaluation.

6A:14-3.5 Determination of eligibility for special education and related services

- (a) When an initial evaluation is completed for a student age three through 21, a meeting according to [N.J.A.C. 6A:14-2.3\(k\)1](#) shall be convened to determine whether the student is eligible for special education and related services. A copy of the evaluation report(s) and documentation and information that will be used for a determination of eligibility shall be given to the parent not less than 10 calendar days prior to the meeting. If eligible, the student shall be assigned the classification "eligible for special education and related services." Eligibility shall be determined collaboratively by the participants described in [N.J.A.C. 6A:14-2.3\(k\)1](#).

- (b) In making a determination of eligibility for special education and related services, a student shall not be determined eligible if the determinant factor is due to a lack of instruction in reading, including the essential components of reading instruction, or math or due to limited English proficiency.
- (c) A student shall be determined eligible and classified "eligible for special education and related services" under this chapter when it is determined that the student has one or more of the disabilities defined in (c)1 through 14 below; the disability adversely affects the student's educational performance and the student is in need of special education and related services. Classification shall be based on all assessments conducted including assessment by child study team members and assessment by other specialists as specified below.
1. "Auditorily impaired" corresponds to "auditorily handicapped" and further corresponds to the Federal eligibility categories of deafness or hearing impairment. "Auditorily impaired" means an inability to hear within normal limits due to physical impairment or dysfunction of auditory mechanisms characterized by (c)1i or ii below. An audiological evaluation by a specialist qualified in the field of audiology and a speech and language evaluation by a certified speech-language specialist are required.
 - i. "Deafness"--The auditory impairment is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification and the student's educational performance is adversely affected.
 - ii. "Hearing impairment"--An impairment in hearing, whether permanent or fluctuating which adversely affects the student's educational performance.
 2. "Autistic" means a pervasive developmental disability which significantly impacts verbal and nonverbal communication and social interaction that adversely affects a student's educational performance. Onset is generally evident before age three. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routine, unusual responses to sensory experiences and lack of responsiveness to others. The term does not apply if the student's adverse educational performance is due to emotional disturbance as defined in (c)5 below. A child who manifests the characteristics of autism after age three may be classified as autistic if the criteria in this paragraph are met. An assessment by a certified speech-language specialist and an assessment by a physician trained in neurodevelopmental assessment are required.
 3. "Intellectually disabled" means a disability that is characterized by significantly below average general cognitive functioning existing concurrently with deficits in adaptive behavior; manifested during the developmental period that adversely

affects a student's educational performance and is characterized by one of the following:

- i. "Mild intellectual disability" means a level of cognitive development and adaptive behavior in home, school, and community settings that are mildly below age expectations with respect to all of the following:
 - (1) The quality and rate of learning;
 - (2) The use of symbols for the interpretation of information and the solution of problems; and
 - (3) Performance on an individually administered test of intelligence that falls within a range of two to three standard deviations below the mean.
 - ii. "Moderate intellectual disability" means a level of cognitive development and adaptive behavior that is moderately below age expectations with respect to the following:
 - (1) The ability to use symbols in the solution of problems of low complexity;
 - (2) The ability to function socially without direct and close supervision in home, school and community settings; and
 - (3) Performance on an individually administered test of intelligence that falls three standard deviations or more below the mean.
 - iii. "Severe intellectual disability" means a level of functioning severely below age expectations whereby in a consistent basis the student is incapable of giving evidence of understanding and responding in a positive manner to simple directions expressed in the child's primary mode of communication and cannot in some manner express basic wants and needs.
4. "Communication impaired" corresponds to "communication handicapped" and means a language disorder in the areas of morphology, syntax, semantics and/or pragmatics/discourse which adversely affects a student's educational performance and is not due primarily to an auditory impairment. The problem shall be demonstrated through functional assessment of language in other than a testing situation and performance below 1.5 standard deviations, or the 10th percentile on at least two standardized language tests, where such tests are appropriate, one of which shall be a comprehensive test of both receptive and expressive language. When the area of suspected disability is language, assessment by a certified speech-language specialist and assessment to establish the educational impact are required. The speech-language specialist shall be considered a child study team member.
- i. When it is determined that the student meets the eligibility criteria according to the definition in (c)4 above, but requires instruction by a speech-language specialist only, the student shall be classified as eligible for speech-language services.

- ii. When the area of suspected disability is a disorder of articulation, voice or fluency, the student shall be evaluated according to N.J.A.C. 6A:14-3.4(g) and, if eligible, classified as eligible for speech-language services according to N.J.A.C. 6A:14-3.6(a).
5. "Emotionally disturbed" 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 due to:
- i. An inability to learn that cannot be explained by intellectual, sensory or health factors;
 - ii. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
 - iii. Inappropriate types of behaviors or feelings under normal circumstances;
 - iv. A general pervasive mood of unhappiness or depression; or
 - v. A tendency to develop physical symptoms or fears associated with personal or school problems.
6. "Multiply disabled" corresponds to "multiply handicapped" and "multiple disabilities," and means the presence of two or more disabling conditions, the combination of which causes such severe educational needs that they cannot be accommodated in a program designed solely to address one of the impairments. Multiple disabilities includes cognitively impaired-blindness, cognitively impaired-orthopedic impairment, etc. The existence of two disabling conditions alone shall not serve as a basis for a classification of multiply disabled. Eligibility for speech-language services as defined in this section shall not be one of the disabling conditions for classification based on the definition of "multiply disabled." Multiply disabled does not include deaf-blindness.
7. "Deaf/blindness" means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for students with deafness or students with blindness.
8. "Orthopedically impaired" corresponds to "orthopedically handicapped" and means a disability characterized by a severe orthopedic impairment that adversely affects a student's educational performance. The term includes malformation, malfunction or loss of bones, muscle or tissue. A medical assessment documenting the orthopedic condition is required.
9. "Other health impaired" corresponds to "chronically ill" and means a disability characterized by having limited strength, vitality or alertness, including a heightened alertness with respect to the educational environment, due to chronic

or acute health problems, such as attention deficit disorder or attention deficit hyperactivity disorder, a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes or any other medical condition, such as Tourette Syndrome, that adversely affects a student's educational performance. A medical assessment documenting the health problem is required.

10. "Preschool child with a disability" corresponds to preschool handicapped and means a child between the ages of three and five who either:
 - i. Is experiencing developmental delay, as measured by appropriate diagnostic instruments and procedures, in one or more of the areas in (c)10i(1) through (5) below, and requires special education and related services. When utilizing a standardized assessment or criterion-referenced measure to determine eligibility, a developmental delay shall mean a 33 percent delay in one developmental area, or a 25 percent delay in two or more developmental areas.
 - (1) Physical, including gross motor, fine motor and sensory (vision and hearing);
 - (2) Intellectual;
 - (3) Communication;
 - (4) Social and emotional; and
 - (5) Adaptive; or
 - ii. Has an identified disabling condition, including vision or hearing, that adversely affects learning or development and who requires special education and related services.
11. "Social maladjustment" means a consistent inability to conform to the standards for behavior established by the school. Such behavior is seriously disruptive to the education of the student or other students and is not due to emotional disturbance as defined in (c)5 above.
12. "Specific learning disability" corresponds to "perceptually impaired" and means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.
 - i. A specific learning disability can be determined when a severe discrepancy is found between the student's current achievement and intellectual ability in one or more of the following areas:
 - (1) Basic reading skills;
 - (2) Reading comprehension;
 - (3) Oral expression;
 - (4) Listening comprehension;

- (5) Mathematical calculation;
 - (6) Mathematical problem solving;
 - (7) Written expression; and
 - (8) Reading fluency.
- ii. A specific learning disability may also be determined by utilizing a response to scientifically based interventions methodology as described in N.J.A.C. 6A:14-3.4(h)6.
 - iii. The term severe discrepancy does not apply to students who have learning problems that are primarily the result of visual, hearing, or motor disabilities, general cognitive deficits, emotional disturbance or environmental, cultural or economic disadvantage.
 - iv. The district shall, if it utilizes the severe discrepancy methodology, adopt procedures that utilize a statistical formula and criteria for determining severe discrepancy. Evaluation shall include assessment of current academic achievement and intellectual ability.

13. "Traumatic brain injury" corresponds to "neurologically impaired" and means an acquired injury to the brain caused by an external physical force or insult to the brain, resulting in total or partial functional disability or psychosocial impairment, or both. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech.

14. "Visually impaired" corresponds to "visually handicapped" and means an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness. An assessment by a specialist qualified to determine visual disability is required. Students with visual impairments shall be reported to the Commission for the Blind and Visually Impaired.

6A:14-3.6 Determination of eligibility for speech-language services

(a) "Eligible for speech-language services" means a speech and/or language disorder as follows:

- 1. A speech disorder in articulation, phonology, fluency, voice, or any combination, unrelated to dialect, cultural differences or the influence of a foreign language, which adversely affects a student's educational performance; and/or
- 2. A language disorder which meets the criteria of N.J.A.C. 6A:14-3.5(c)4 and the student requires speech-language services only.

- (b) The evaluation for a speech disorder shall be conducted according to N.J.A.C. 6A:14-3.4(g). Documentation of the educational impact of the speech problem shall be provided by the student's teacher. The speech disorder must meet the criteria in (b)1, 2, and/or 3 below and require instruction by a speech-language specialist:
1. Articulation/phonology: On a standardized articulation or phonology assessment, the student exhibits one or more sound production error patterns beyond the age at which 90 percent of the population has achieved mastery according to current developmental norms and misarticulates sounds consistently in a speech sample.
 2. Fluency: The student demonstrates at least a mild rating, or its equivalent, on a formal fluency rating scale and in a speech sample, the student exhibits disfluency in five percent or more of the words spoken.
 3. Voice: On a formal rating scale, the student performs below the normed level for voice quality, pitch, resonance, loudness or duration and the condition is evident on two separate occasions, three to four weeks apart, at different times.
- (c) When the initial speech-language evaluation is completed, classification shall be determined collaboratively by the participants at a meeting according to [N.J.A.C. 6A:14-2.3\(k\)1](#). The speech-language specialist who conducted the evaluation shall be considered a child study team member at the meeting to determine whether a student is eligible for speech-language services. A copy of the evaluation report(s) and documentation of eligibility shall be given to the parent not less than 10 calendar days prior to the meeting.
- (d) The IEP shall be developed in a meeting according to N.J.A.C. 6A:14- 2.3(k)2. The speech-language specialist shall be considered the child study team member, the individual who can interpret the instructional implications of evaluation results and the service provider at the IEP meeting. The speech-language specialist shall not be excused from an IEP meeting pursuant to [N.J.A.C. 6A:14-2.3\(k\)10](#). The speech-language specialist may serve as the agency representative at the IEP meeting.
- (e) When a student has been determined eligible for speech-language services and other disabilities are suspected or other services are being considered, the student shall be referred to the child study team.

6A:14-3.7 Individualized education program¹³

Applicable to nonpublics: 6A:14-3.7(e)1-6

- (e) With the exception of an IEP for a student classified as eligible for speech-language services, the IEP shall include, but not be limited to:

¹³ 6A:14-6.2(g)1: For the services provided, the service plan for a student with a disability enrolled in a nonpublic school shall include the components described in 14-3.7(e)1-6, (e)8, (e)14-16

1. A statement of the student's present levels of academic achievement and functional performance, including, but not limited to:
 - i. How the student's disability affects the student's involvement and progress in the general curriculum; or
 - ii. For preschool students, as appropriate, how the disability affects the student's participation in appropriate activities;
2. Where appropriate, a statement of detailed measurable annual academic and functional goals that shall, as appropriate, be related to the core curriculum content standards through the general education curriculum unless otherwise required according to the student's educational needs, or appropriate, student specific, functional needs. For all students, the annual academic and functional goals shall be measurable and apprise parents and educational personnel providing special education and related services to the student of the expected level of achievement attendant to each goal.
3. Such measurable annual goals shall include benchmarks or short-term objectives related to:
 - i. Meeting the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum; and
 - ii. Meeting each of the student's other educational needs that result from the student's disability;
4. A statement of the special education and related services and supplementary aids and services that shall be provided for the student, or on behalf of the student. Such special education and related services and supplementary aids and services shall be based, to the extent practicable, on peer reviewed research. A statement of the program modifications or supports for school personnel that shall be provided for the student:
 - i. To advance appropriately toward attaining the measurable annual academic and functional goals;
 - ii. To be involved and progress in the general education curriculum according to (e)1 above and to participate in extracurricular and other nonacademic activities; and
 - iii. To be educated and participate with other students with disabilities and nondisabled students;
5. A statement, as appropriate, of any integrated therapy services to be provided addressing the student's individualized needs in his or her educational setting;

6. An explanation of the extent, if any, to which the student shall not participate with nondisabled students in the general education class and in extracurricular and nonacademic activities;

Not applicable to nonpublics: 6A:14-3.7(e)7

7. A statement of any individual modifications in the administration of Statewide or districtwide assessments of student achievement needed for the student to participate in such assessment.
 - i. If the IEP team determines that the student shall not participate in a particular general Statewide or districtwide assessment of student achievement (or part of such an assessment), a statement of why that assessment is not appropriate for the student according to N.J.A.C. 6A:14-4.10 and a statement of how that student shall be assessed and which assessment methodology is appropriate for the student;

Applicable to nonpublics: 6A:14-3.7(e)8

8. A statement which specifies the projected date for the beginning of the services and modifications described in (e)4 above, and the anticipated frequency, location, and duration of those services and modifications;

Not applicable to nonpublics: 6A:14-3.7(e)9-13

9. Beginning at age 14, a statement of the State and local graduation requirements that the student shall be expected to meet. The statement shall be reviewed annually. If a student with a disability is exempted from, or there is a modification to, local or State high school graduation requirements, the statement shall include:
 - i. A rationale for the exemption or modification based on the student's educational needs which shall be consistent with N.J.A.C. 6A:14-4.11; and
 - ii. A description of the alternate proficiencies to be achieved by the student to qualify for a State endorsed diploma.
10. A statement of student's transition from an elementary program to the secondary program which shall be determined by factors including number of years in school; social, academic and vocational development; and chronological age;
11. Beginning with the IEP in place for the school year when the student will turn age 14, or younger if determined appropriate by the IEP team, and updated annually:
 - i. A statement of the student's strengths, interests and preferences;
 - ii. Identification of a course of study and related strategies and/or activities that:
 - (1) Are consistent with the student's strengths, interests, and preferences; and

- (2) Are intended to assist the student in developing or attaining postsecondary goals related to training, education, employment and, if appropriate, independent living;
 - iii. As appropriate, a description of the need for consultation from other agencies that provide services for individuals with disabilities including, but not limited to, the Division of Vocational Rehabilitation Services in the Department of Labor and Workforce Development; and
 - iv. As appropriate, a statement of any needed interagency linkages and responsibilities;
12. Beginning with the IEP in place for the school year when the student will turn age 16, or younger if deemed appropriate by the IEP team, a statement consisting of those elements set forth in (e)11 above and appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and, if appropriate, independent living and the transition services including a course of study needed to assist the child in reaching those goals.
- i. The transition services as defined in IDEA shall consist of a coordinated set of activities for a student with a disability that is designed within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation, and be based on the individual student's needs, taking into account the student's strengths, preferences and interests. In addition to the above, transition services shall include:
 - (1) Instruction;
 - (2) Related services;
 - (3) Community experiences;
 - (4) The development of employment and other post-school adult living objectives; and
 - (5) If appropriate, acquisition of daily living skills and functional vocational evaluation;
13. The person(s) responsible to serve as a liaison to postsecondary resources and make referrals to the resources as appropriate. If the student with disabilities does not attend the IEP meeting where transition services are discussed, the district board of education or public agency shall take other steps to ensure that the student's preferences and interests are considered;

Applicable to nonpublics: 6A: 14-3.7(e)14-16

14. Beginning at least three years before the student reaches age 18, a statement that the student and the parent have been informed of the rights under this chapter that will transfer to the student on reaching the age of majority;
15. A statement of how the student's progress toward the annual goals described in (e)2 above will be measured;
16. A statement of how the student's parents will be regularly informed of their student's progress toward the annual goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year. The parents of a student with a disability shall be informed of the progress of their child at least as often as parents of a nondisabled student are informed of their child's progress; and

Not applicable to nonpublics: 6A:14-3.7(e)17

17. For students in an out-of-district placement, the IEP shall set forth how the student will participate with nondisabled peers in extracurricular and nonacademic activities, and delineate the means to achieve such participation, including, if necessary, returning the student to the district in order to effectuate such participation.

6A:14-3.7 Individualized education program

- (i) Annually, or more often if necessary, the IEP team shall meet to review and revise the IEP and determine placement as specified in this subchapter.
 1. The annual review of the IEP for a preschool student with disabilities shall be completed by June 30 of the student's last year of eligibility for a preschool program.
 2. The annual review of the IEP for an elementary school student with disabilities shall be completed by June 30 of the student's last year in the elementary school program. The annual review shall include input from the staff of the secondary school.

6A:14-3.8 Reevaluation

- (a) Within three years of the previous classification, a multi-disciplinary reevaluation shall be completed to determine whether the student continues to be a student with a disability. Reevaluation shall be conducted sooner if conditions warrant or if the student's parent or teacher requests the reevaluation. However, a reevaluation shall not be conducted prior to the expiration of one year from the date the parent is provided written notice of the determination with respect to eligibility in the most recent evaluation or reevaluation, unless the parent and district both agree that a reevaluation prior to the expiration of one year as set forth above is warranted. When a

reevaluation is conducted sooner than three years from the previous evaluation as set forth above, the reevaluation shall be completed in accordance with the timeframes in (e) below.

1. If a parent provides written consent and the district board of education agrees that a reevaluation is unnecessary, the reevaluation may be waived. If a reevaluation is waived, the date of the parent's written consent shall constitute the date upon which the next three-year period for conducting a reevaluation shall commence.
- (b) As part of any reevaluation, the IEP team shall determine the nature and scope of the reevaluation according to the following:
1. The IEP team shall review existing evaluation data on the student, including: Evaluations and information provided by the parents; Current classroom based assessments and observations; and Observations by teachers and related services providers; and
 2. On the basis of that review, and input from the student's parents, the IEP team shall identify what additional data, if any, are needed to determine:
 - i. Whether the student continues to have a disability according to N.J.A.C. 6A:14-3.5(c) or 3.6(a);
 - ii. The present levels of academic achievement and functional performance and educational and related developmental needs of the student;
 - iii. Whether the student needs special education and related services, and the academic, developmental, functional and behavioral needs of the student and how they should appropriately be addressed in the student's IEP; and
 - iv. Whether any additions or modifications to the special education and related services are needed to enable the student with a disability to meet annual goals set out in the IEP and to participate, as appropriate, in the general education curriculum.
 3. If the IEP team determines that no additional data are needed to determine whether the student continues to be a student with a disability, the district board of education:
 - i. Shall provide notice according to N.J.A.C. 6A:14-2.3 to the student's parents of that determination and the right of the parents to request an assessment to determine whether the student continues to be a student with a disability; and
 - ii. Shall not be required to conduct such an assessment unless requested by the student's parents;

4. If additional data are needed, the IEP team shall determine which child study team members and/or specialists shall administer tests and other assessment procedures to make the required determinations in (b)2i through iv above.
- (c) Prior to conducting any assessment as part of a reevaluation of a student with a disability, the district board of education shall obtain consent from the parent according to N.J.A.C. 6A:14-2.3.
1. Individual assessments shall be conducted according to N.J.A.C. 6A:14-3.4(f)1 through 5 or 3.4(g), as appropriate.
- (d) A reevaluation shall be conducted when a change in eligibility is being considered, except that a reevaluation shall not be required before the termination of a student's eligibility under this chapter due to graduation or exceeding age 21.
- (e) Unless the parent and district board of education agree to waive a reevaluation, all requirements of this section for performing a reevaluation shall, as applicable, be completed within 60 days of the date the parent provides consent for the assessments to be conducted as part of the reevaluation or by the expiration of the three year timeframe from completion of the prior evaluation or reevaluation, whichever occurs sooner.
- (f) When a reevaluation is completed:
1. A meeting of the student's IEP team according to [N.J.A.C. 6A:14-2.3\(k\)2 or 3.6\(c\)](#) shall be conducted to determine whether the student continues to be a student with a disability. A copy of the evaluation report(s) and documentation of the eligibility shall be given to the parent at least 10 days prior to the meeting.
 2. If the student remains eligible, an IEP team meeting according to [N.J.A.C. 6A:14-2.3\(k\)2](#) or 3.6(d) shall be conducted to review and revise the student's IEP.
- (g) By June 30 of a student's last year of eligibility for a program for preschoolers with disabilities, a reevaluation shall be conducted and, if the student continues to be a student with a disability, the student shall be classified according to N.J.A.C. 6A:14-3.5(c) or 3.6(a).90

6A:14-4.6 Program criteria: supplementary instruction and resource programs

- (a) Supplementary instruction is provided to students with disabilities in addition to the primary instruction for the subject being taught. The program of supplementary instruction shall be specified in the student's IEP.

- (b) Supplementary instruction in (a) above shall be provided individually or in groups according to the chart at (m) below. Supplementary instruction may be provided in a general education class or in a pull-out classroom that meets the requirements of N.J.A.C. 6A:26-6. Instruction in more than one subject may be provided in a pull-out program of supplemental instruction.
- (c) A teacher providing supplementary instruction shall be appropriately certified either for the subject or the level in which instruction is given.
- (d) In-class resource programs and pull-out replacement resource programs are programs of specialized instruction organized around a single subject and are provided to students with disabilities by an appropriately certified teacher of students with disabilities. Instruction in more than one subject may be provided in a pull-out resource program.
- (e) Resource programs shall offer individual and small group instruction to students with disabilities. Resource programs may be provided in a general education class or in a pull-out classroom that meets the requirements of N.J.A.C. 6A:26-6. When a resource program is provided, it shall be specified in the student's IEP. Resource programs shall provide instruction as defined in (i) and (j) below. In-class resource teachers may provide support and replacement instruction at the same time in accordance with the group size limits for in-class support in (m) below. Pull-out support and pull-out replacement shall not be provided by the same teacher at the same time.
- (f) If the resource program solely serves students with a visual impairment, the teacher shall be certified as a teacher of blind or partially sighted. If the resource program solely serves students with an auditory impairment, the teacher shall be certified with the appropriate teacher of the deaf and/or hard of hearing certificate.
- (g) A teacher of supplementary instruction and a resource program teacher shall be provided time on a regular basis for consultation with appropriate general education teaching staff.
- (h) An in-class resource program or an in-class program of supplementary instruction may be provided up to the student's entire instructional day. At the elementary level, replacement pull-out resource classes may be provided for up to no more than three subject areas per day. At the secondary level, replacement pull-out resource classes may be provided for up to the entire instructional day.
- (i) In an in-class resource program, the student shall be provided modifications to the instructional strategies or testing procedures or other specialized instruction to access the general education curriculum in accordance with the student's IEP. The primary instructional responsibility for the student in an in-class resource program shall be the

general education teacher unless otherwise specified in the student's IEP. An in-class resource program shall be provided in the student's general education class at the same time as the rest of the class. A student receiving an in-class resource program or an in-class program of supplementary instruction shall be included in activities such as group discussion, special projects, field trips and other regular class activities as deemed appropriate in the student's IEP.

- (j) In a pull-out replacement resource program, the general education curriculum and the instructional strategies may be modified based on the student's IEP. The resource program teacher shall have primary instructional responsibility for the student in the replacement resource program and shall consult with the general classroom teacher as appropriate.
- (k) The age span in an approved single-subject pull-out resource program shall not exceed three years in elementary programs, and shall not exceed four years in secondary programs.
- (l) When organizing a pull-out replacement resource class, the district board of education shall consider the commonality of the instructional needs for the subject area being taught according to the levels of academic achievement, learning characteristics and management needs of the students to be placed in the class. The resource program teacher shall provide the primary instruction for the students in the class.
- (m) Group sizes for supplementary instruction and resource programs shall not exceed the limits listed below. Group size may be increased with the addition of an instructional aide, except where noted, according to the following:

	Preschool/Elementary	Preschool/Elementary	Secondary	Secondary
<u>Resource and Supplementary Instruction</u>	No Aide	Aide Required	No Aide	Aid Required
In-class	8	-	10	-
Pull-out support and supplemental instruction				
Single subject	6	7 to 9	9	10 to 12
Multiple subject	6	7 to 9	6	7 to 9
<u>Replacement Resource</u>	No Aide	Aide Required	No Aide	Aid Required
Pull-out				
Single subject	6	7 to 9	9	10 to 12

- (n) The maximum number of students with disabilities that shall receive an in-class resource program shall be eight at the preschool or elementary level, and ten at the secondary level. The option to increase the group size of an in-class program of supplementary instruction in accordance with N.J.A.C. 6A:14-4.9 shall be prohibited.
- (o) Pull-out support and pull-out replacement resource programs shall not be provided at the same time by the same teacher. The group size of a pull-out replacement resource program may be increased in accordance with N.J.A.C. 6A:14-4.9. The option to increase the group size for multiple subject supplementary instruction according to N.J.A.C. 6A:14-4.9 shall be prohibited.
- (p) Secondary programs shall be in schools in which any combination of grades six through 12 are contained and where the organizational structure is departmentalized for general education students.
- (q) For the 2006-2007 and 2007-2008 school years, multiple-subject replacement pull-out resource programs may be operated in accordance with the provisions of this section for a maximum of four students in any such program at both the elementary and secondary levels. The four student limit shall not be excepted pursuant to N.J.A.C. 6A:14-4.9. Beginning July 1, 2008, multiple-subject pull-out resource programs shall no longer be operated.

6A:14-5.1 General requirements

- (a) Each district board of education, independently or through joint agreements, shall employ or contract with child study teams as set forth in N.J.A.C. 6A:14-3.1(b), speech correctionists or speech-language specialists and other school personnel in numbers sufficient to ensure provision of required programs and services pursuant to this chapter.
 - 1. Joint agreements for child study team services may be entered into with local education agencies including other local school districts, educational services commissions, jointure commissions and county special services school districts.
 - 2. A district board of education may supplement child study team services with additional teams through contracts or joint agreements.
 - 3. If a vacancy occurs on a child study team(s) because of an absence of a member or members of the team(s) for an identified period of time, the district may, for the duration of any such vacancy, contract with a clinic or agency, an individual or another district board of education for those services that were provided by the absent team member(s).

(b) When a district board of education provides its educational program through another New Jersey public school district, responsibility for the requirements of this chapter shall be according to the following:

1. In a sending-receiving relationship pursuant to N.J.S.A. 18A:38-1 et seq., when all the students of one or more grades of a district board of education attend school(s) operated by other district boards of education, the receiving district board of education shall be responsible for determining the eligibility of those students and developing and implementing their IEPs.
2. When individual students are placed by a district board of education in a school operated by another district board of education, a contractual agreement shall be made between district boards of education which specifies responsibility for providing instruction, related services and child study team services to students with disabilities.

(c) For the services listed below, district boards of education may contract with private clinics and agencies approved by the Department of Education, private professional practitioners who are certified and licensed according to State statutes and rules, and agencies or programs that are certified, approved or licensed by the Department of Human Services or by the Department of Health to provide counseling or mental health services. For the related services listed in (c)1iii and v below, approved private schools for students with disabilities may contract with private clinics and agencies approved by the Department of Education, private professional practitioners who are certified and licensed according to State statutes and rules, and agencies or programs that are certified, approved or licensed by the Department of Human Services or by the Department of Health to provide counseling or mental health services. All instructional, child study team and related services personnel provided by approved clinics and agencies and private professional practitioners shall be fully certified. No instructional, child study team and related services personnel provided by approved clinics and agencies, or private professional practitioners, may, if a certification is required for the discipline under which they are providing services, provide services under this subsection if certified through the emergency certification process.

1. For public school students:
 - i. Independent child study team evaluations according to N.J.A.C. 6A:14-2.5;
 - ii. Child study team services to supplement existing local district services;
 - iii. Related services;
 - (1) Certified occupational therapy assistants and others employed in a supportive role to licensed and, where applicable, certified providers of related services, shall work under the supervision of an appropriately licensed and, where applicable, certified provider of such services.

- (2) Physical therapy assistants shall work in the presence and under the supervision of a certified physical therapist.
 - (3) Specialists in behavior modification or other disciplines for which there is no license or certification shall hold, at a minimum, a bachelors degree in education, psychology or a related field from an accredited institute of higher education and shall work under the supervision of certified district board of education personnel.
 - iv. Home instruction; and
 - v. Speech-language services provided by a speech-language specialist when a district or private school for students with disabilities is unable to hire sufficient staff to provide the service.
2. For students attending nonpublic schools, the district in which the facility is located may contract for the following services:
- i. Evaluation, determination of eligibility, classification and the development of a service plan;
 - ii. Supplementary instruction, speech-language services and home instruction for students determined eligible for such services; and
 - iii. English as a second language according to N.J.A.C. 6A:15 and compensatory education according to N.J.S.A. 18A:46A-2e for students eligible for such services.
- (d) District boards of education may purchase services listed under (c)1 and 2 above from Department of Education approved clinics and agencies with prior written notice to the Department of Education through its county office according to the following:
- 1. Notice of the intent to purchase services shall include the proposed terms of the contract;
 - 2. The notice shall be effective for one year; and
 - 3. Districts are not required to provide prior notice to the Department of Education when contracting for an independent child study team evaluation in accordance with N.J.A.C. 6A:14-2.5.
- (e) District boards of education may contract for medical diagnostic services with medical clinics and agencies approved by another New Jersey State agency or appropriate state agencies outside of New Jersey.

6A:14-5.2 Approval procedures for clinics or agencies

- (a) For the purposes of approval by the Department of Education, a clinic or agency shall consist of three or more professionals. Initial approval of a clinic or agency shall require, but not be limited to, submission and evaluation of the following:

1. A valid certificate of incorporation or certificate of formation. Where appropriate, any licenses or permits required by ordinances in effect within the state, county, or municipality where the clinic or agency provides its services shall be provided;
2. A description of the scope and nature of services to be offered;
3. A list of professional staff that will provide services. The list shall verify each individual's certification and license, if a certification and/or license is required for the discipline in which services are being provided, and the function he or she shall fulfill;
 - i. Professional staff employed by a clinic or agency who work full time for a district board of education, approved private school for students with disabilities or nonpublic school shall not provide service for the clinic or agency during the hours of that individual's public school or, as applicable, approved private school or nonpublic school employment;
 - ii. An employee of a district board of education, approved private school for students with disabilities or nonpublic school shall not provide service as an employee of a clinic or agency to a student who is the responsibility of his or her employing district board of education or enrolled in his or her approved private school for students with disabilities or nonpublic school;
4. Assurance that the clinic or agency has conducted the criminal history check of each professional according to N.J.S.A. 18A:6-7.1;
 - i. The clinic or agency shall submit to the Department of Education and maintain documentation of the information regarding the criminal history record check;
5. Assurance that the facility or facilities in which the services are being provided meet applicable building and other regulatory standards;
6. Assurance of an adequate accounting system according to generally accepted accounting principles;
7. Assurance of a system for the collection, maintenance, confidentiality and access of student records which is according to N.J.A.C. 6A:32; and
8. Assurance of the maintenance of a log, which includes, but is not limited to:
 - i. A list of services provided;
 - ii. The date, time and location of the services provided; and
 - iii. The names of the professional staff providing each service.

(b) Any clinic or agency denied approval by the Department of Education may appeal the approval decision to the Commissioner of Education for a hearing according to N.J.A.C. 6A:3. Such hearing shall be governed by the provisions of the Administrative Procedure Act (see N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., as implemented by N.J.A.C. 1:1).

(c) An approved clinic or agency may amend the services provided or the location of its facilities by obtaining prior written approval from the Office of Special Education Programs.

1. To amend the services provided, the agency or clinic shall submit the following:
 - i. A revised description of the scope and nature of services to be offered;
 - ii. A list of professional staff that will provide these services. The list shall verify each individual's certification and license, if one is required and the function he or she will fulfill; and
 - iii. Assurance that the criminal history record check has been conducted according to N.J.S.A. 18A:6-7.1.
2. To amend the location of the facilities, the agency or clinic shall submit an assurance that the facility or facilities in which the services are to be provided meet applicable building and other regulatory standards as required in (a)5 above.

(d) When a professional staff member leaves or a new professional staff member is hired, the approved clinic or agency shall provide the Office of Special Education Programs written notification within seven calendar days of the change.

(e) Failure to comply with any requirement of this section may result in the loss of approval.

6A:14-6.1 Equitable participation under IDEA Part B

(f) If a nonpublic school student with a disability will receive special education or related services from the district of attendance, the district shall:

1. Initiate and conduct meetings according to [N.J.A.C. 6A:14-2.3\(k\)](#) to develop, review and revise a service plan for the student.

6A:15-1.1 General requirements

(a) The purpose of this chapter is to:

1. Ensure that all limited English proficient (LEP) students as defined in this chapter are provided with a free, appropriate public education pursuant to N.J.S.A. 18A:35-15 to 26;
2. Ensure that the rights of LEP students are protected;

3. Ensure the provision of bilingual education and related services;
4. Assist district boards of education in providing educational services to LEP students; and
5. Ensure the evaluation of the effectiveness of the education of LEP students.

(b) The rules of this chapter shall apply to all district boards of education providing funded educational programs and services to LEP students.

(c) The Department shall:

1. Administer the provisions of this chapter;
2. Provide technical assistance to each district board of education in the implementation of bilingual, ESL, and English language services programs; and
3. Coordinate and monitor in conjunction with the county offices of education the local, State and Federal programs designed to meet the educational needs of LEP students.

6A:15-1.2 Definitions

The following words and terms shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

“Bilingual education program” means a full-time program of instruction in all courses or subjects that a child is required by law or rule to receive, given in the native language of LEP students enrolled in the program and also in English; in the aural comprehension, speaking, reading, and writing of the native language of LEP students enrolled in the program, and in the aural comprehension, speaking, reading, and writing of English; and in the history and culture of the country, territory, or geographic area that is the native land of the parents of LEP students enrolled in the program, and in the history and culture of the United States.

“Bilingual part-time component” means a program alternative in which students are assigned to mainstream English program classes but are scheduled daily for their developmental reading and mathematics instruction with a certified bilingual teacher.

“Bilingual resource program” means a program alternative in which students receive on an individual basis daily instruction from a certified bilingual teacher in identified subjects and with specific assignments.

“Bilingual tutorial program” means a program alternative in which students are provided one period of instruction from a certified bilingual teacher in a content area required for graduation and a second period of tutoring in other required content areas.

“CCCS” means as defined in N.J.A.C.6A:8-1.3.

“Dual-language bilingual education program” means a full-time program of instruction in elementary and secondary schools that provides structured English language instruction and instruction in a second language in all content areas for LEP students and for native English speaking students enrolled in the program.

“Educational needs” means the particular educational requirements of LEP students, the fulfillment of which will provide them with equal educational opportunities.

“English as a second language (ESL) program” means a daily developmental second-language program of up to two periods of instruction based on student language proficiency that teaches aural comprehension, speaking, reading, and writing in English using second language teaching techniques, and incorporates the cultural aspects of the students' experiences in their ESL instruction. A period is the time allocated in the school schedule for instruction in core subjects.

“English language development standards” means the 2012 Amplification of the English Language Development Standards, Kindergarten-Grade 12, incorporated herein by reference, as amended and supplemented, developed by the World-Class Instructional Design and Assessment (WIDA) Consortium. They are the standards and language competencies LEP students in preschool programs and elementary and secondary schools need to become fully proficient in English and to have unrestricted access to grade-appropriate instruction in challenging academic subjects. The [standards](#) are published by the Board of Regents of the University of Wisconsin System, on behalf of the [WIDA Consortium](#), and are available for review.

“English language proficiency test” means a test that measures English language skills in the areas of aural comprehension, speaking, reading, and writing.

“English language services” means services designed to improve the English language skills of LEP students. The services, provided in school districts with less than 10 LEP students, are in addition to the regular school program and are designed to develop aural comprehension, speaking, reading, and writing skills in English.

“Exit criteria” means the criteria that must be applied before a student may be exited from a bilingual, ESL, or English language services education program.

“High-intensity ESL program” means a program alternative in which students receive two or more class periods a day of ESL instruction. One period is the standard ESL class, and the other period is a tutorial or ESL reading class.

“Instructional program alternative” means a part-time program of instruction that may be established by a district board of education in consultation with and approval of the Department. All students in an instructional program alternative receive English as a second language.

“Limited English proficient (LEP) students” means students from preschool through grade 12 whose native language is other than English and who have sufficient difficulty speaking, reading, writing, or understanding the English language as measured by an English language proficiency test, so as to be denied the opportunity to learn successfully in classrooms where English is the language of instruction. This term means the same as limited English speaking ability as used in N.J.S.A. 18A:35-15 to 26.

“Native language” means the language first acquired by the student, the language most often spoken by the student, or the language most often spoken in the student’s home regardless of the language spoken by the student.

“Parent(s)” means the natural parent(s) or the legal guardian(s), foster parent(s), surrogate parent(s), or person acting in the place of a parent with whom the student legally resides. When parents are separated or divorced, parent means the person(s) who has legal custody of the student, provided such parental rights have not been terminated by a court of appropriate jurisdiction.

“Review process” is the process established by the district board of education to assess LEP students for exit from bilingual, ESL, or English language services programs.

“Sheltered English instruction” is an instructional approach used to make academic instruction in English understandable to LEP students. Sheltered English classes are taught by regular classroom teachers who have received training on strategies to make subject-area content comprehensible for LEP students.

6A:15-1.3 Identification of eligible limited English proficient (LEP) students

(a) The district board of education shall determine at the time of enrollment the native language of each LEP student. Each district board of education shall:

1. Maintain a census indicating all identified students whose native language is other than English; and
2. Develop a screening process, initiated by a home-language survey, to determine which students in kindergarten to 12th grade, of those whose native language is other than English, must be tested to determine English language proficiency. The screening shall be conducted by a bilingual/ESL or other certified teacher, and

shall be designed to distinguish students who are proficient English speakers and need no further testing.

- (b) The district board of education shall determine the English language proficiency of all kindergarten to 12th-grade students who are not screened out and whose native language is other than English by administering a Department-approved English language proficiency test, assessing the level of reading in English, reviewing the previous academic performance of students including their performance on standardized tests in English, and reviewing the input of teaching staff members responsible for the educational program for LEP students. Students who do not meet the Department standard on a Department-approved language proficiency test and who have at least one other indicator shall be considered LEP students. The district board of education shall also use age-appropriate methodologies to identify LEP preschool students to determine their individual language development needs.

6A:15-1.4 Bilingual programs for limited English proficient students

- (a) The district board of education shall provide all kindergarten to 12th-grade LEP students enrolled in the school district pursuant to N.J.S.A. 18A:7F-4 with all required courses and support services defined in (b) through (h) below to prepare LEP students to meet the CCCS for high school graduation. This may also include tutoring, after school programs, summer programs, and remedial services as needed by LEP students. All district boards of education shall also provide appropriate instructional programs to eligible preschool LEP students based on need according to the New Jersey Preschool Program Implementation Guidelines, 2010. The guidelines provide developmentally appropriate recommendations for good practice and are intended for school districts that provide preschool programs.
- (b) The district board of education shall establish English language services designed to improve the English language proficiency of LEP students whenever there are at least one but fewer than 10 LEP students enrolled in the school district. English language services shall be provided in addition to the regular school program.
- (c) The district board of education shall establish an ESL program that provides up to two periods of ESL instruction based on student language proficiency whenever there are 10 or more LEP students enrolled in the school district.
 - 1. An ESL curriculum that addresses the WIDA English language development standards shall be developed and adopted by the district board of education to address the instructional needs of LEP students.
 - 2. The ESL curriculum shall be cross referenced to the school district's bilingual education and content area curricula to ensure that ESL instruction is correlated to all content areas taught.

- (d) The district board of education shall establish bilingual education programs whenever there are 20 or more LEP students in any one language classification enrolled in the school district, pursuant to N.J.S.A. 18A:35-18. Bilingual education programs shall:
1. Be designed to prepare LEP students to acquire sufficient English skills and content knowledge to meet the CCCS. All LEP students participating in bilingual programs shall also receive ESL instruction;
 2. Include a curriculum that addresses the CCCS, the WIDA English language development standards, and the use of two languages. The bilingual education curriculum shall be adopted by the district board of education; and
 3. Include the full range of required courses and activities offered on the same basis and under the same rules that apply to all students within the school district.
- (e) LEP students shall be provided with equitable instructional opportunities to participate in all non-academic courses necessary to meet the CCCS, including comprehensive health and physical education, the visual and performing arts, and career awareness programs. The instructional opportunities shall be designed to assist LEP students to fully comprehend all subject matter and demonstrate their mastery of content matter.
- (f) The district board of education shall offer sufficient courses and other relevant supplemental instructional opportunities in grades nine through 12 to enable LEP students to meet the CCCS for graduation. When sufficient numbers of students are not available to form a bilingual class in a subject area, plans shall be developed in consultation with and approved by the Department to meet the needs of the students.
- (g) In addition to (a) through (f) above, additional programs and services shall be designed to meet the special needs of eligible LEP students and include, but not be limited to, remedial instruction through Title I programs; special education; school-to-work programs; computer training; and gifted and talented education services.
- (h) A district board of education may establish dual-language bilingual education programs in its schools and may make provisions for the coordination of instruction and services with the school district's world languages program. Dual-language bilingual education programs shall also enroll students whose primary language is English, and shall be designed to help students achieve proficiency in English and in a second language while mastering subject-matter skills. To the extent necessary, instruction shall be in all courses or subjects of study that allow students to meet all grade promotion and graduation standards. Where possible, classes in dual-language bilingual programs shall be comprised of approximately equal numbers of students of limited English proficiency and of students whose native language is English.

- (i) The district board of education may establish a program in bilingual education for any language classification with fewer than 20 pupils.

6A:15-1.5 Waiver process provided by statute

(a) A school district may request a waiver from N.J.A.C. 6A:15-1.4(d) to establish annually an instructional program alternative with the approval of the Department when there are 20 or more students eligible for the bilingual education program in grades kindergarten through 12, and the school district is able to demonstrate that it would be impractical to provide a full-time bilingual program due to the age range, grade span, and/or geographic location of eligible students.

1. Instructional program alternatives shall be developed in consultation with and approved annually by the Department after review of student enrollment and achievement data. All bilingual instructional program alternatives shall be designed to assist LEP students to develop sufficient English skills and subject-matter skills to meet the CCCS.
2. The instructional program alternatives that shall be established include, but are not limited to: the bilingual part-time component; the bilingual resource program; the bilingual tutorial program; the sheltered English instruction program; and the high-intensity ESL program.
3. District boards of education implementing program alternatives annually shall submit student enrollment and achievement data that demonstrate the continued need for the programs.

6A:15-1.6 Approval procedures

(a) Each school district providing a bilingual program, ESL program, or English language services shall submit a plan every three years to the Department of Education for approval. At its discretion, the Department may request modifications, as appropriate.

1. Plans submitted by each district board of education for approval shall include information on the following:
 - i. Identification of students;
 - ii. Program description;
 - iii. The number of certified staff hired for the program;
 - iv. Bilingual and ESL curriculum development;
 - v. Evaluation design;
 - vi. Review process for exit; and
 - vii. A budget for the bilingual and ESL program or English language services. The budget must indicate how the bilingual categorical aid funds are directly related to the bilingual/ESL program instructional services and materials.

- (b) The Department will establish procedures for monitoring and evaluation of district bilingual/ESL programs by means of its district and school accountability process.

6A:15-1.7 Supportive services

- (a) Students enrolled in bilingual, ESL, and English language services programs shall have full access to educational services available to other students in the school district.

- (b) To the extent that is administratively feasible, supportive services to LEP students, such as counseling, tutoring, and career guidance, should be provided by bilingual personnel who are familiar with and knowledgeable of the unique needs and background of the LEP students and their parents.

6A:15-1.8 Inservice training

- (a) The district board of education shall develop a plan for inservice training for bilingual, ESL, and mainstream teachers based on their needs, and include instructional strategies to help LEP students meet the CCCS and the WIDA English language development standards. All bilingual and ESL teachers shall receive training in the use of the ESL curriculum.

- (b) The Professional Development Plan of the school district shall include the needs of bilingual and ESL teachers, which shall be addressed through inservice training.

6A:15-1.9 Certification

- (a) All teachers of bilingual classes shall hold a valid New Jersey instructional certificate with an endorsement for the appropriate grade level and/or content area, as well as an endorsement in bilingual education, pursuant to N.J.S.A. 18A:6-38 et seq. and 18A:35-15 to 26.

- (b) All teachers of ESL classes shall hold a valid New Jersey certificate in ESL pursuant to N.J.S.A. 18A:6-38 et seq. and N.J.A.C. 6A:9B-10.5.

- (c) All teachers providing English language services shall hold a valid New Jersey instructional certificate.

6A:15-1.10 Bilingual, ESL, and English language services program enrollment, assessment, exit, and reentry

- (a) All LEP students from kindergarten through grade 12 shall be enrolled in the bilingual, ESL or English language services education program established by the school district board of education as prescribed in N.J.A.C. 6A:15-1.4(b) through (e) and 1.5(a), and P.L. 1995, c. 59 and c. 327.

- (b) Students enrolled in the bilingual, ESL, or English language services program shall be assessed annually using a Department-approved English language proficiency test to

determine their progress in achieving English language proficiency goals and readiness for exiting the program.

- (c) LEP students enrolled in the bilingual, ESL, or English language services program shall be placed in a monolingual English program when they have demonstrated readiness to function successfully in an English-only program. The process to determine the readiness or inability of the individual student to function successfully in the English-only program shall be initiated by the student's level of English proficiency as measured by a Department-established standard on an English language proficiency test, and the readiness of the student shall be further assessed on the basis of multiple indicators that shall include, at a minimum: classroom performance; the student's reading level in English; the judgment of the teaching staff member or members responsible for the educational program of the student; and performance on achievement tests in English.
- (d) A parent or guardian may remove a student who is enrolled in a bilingual education program pursuant to provisions in P.L. 1995 c. 327.
- (e) Newly exited students who are not progressing in the mainstream English program may be considered for reentry to bilingual and ESL programs as follows:
 - 1. After a minimum of one-half an academic year and within two years of exit, the mainstream English classroom teacher may recommend retesting with the approval of the principal.
 - 2. A waiver of the minimum time limitation may be approved by the executive county superintendent upon request of the chief school administrator if the student is experiencing extreme difficulty in adjusting to the mainstream program.
 - 3. The recommendation for retesting shall be based on the teacher's judgment that the student is experiencing difficulties due to problems in using English as evidenced by the student's inability to: communicate effectively with peers and adults; understand directions given by the teacher; and/or comprehend basic verbal and written materials.
 - 4. The student shall be tested using a different form of the test or a different language proficiency test than the one used to exit the student.
 - 5. If the student scores below the State-established standard on the language proficiency test, the student shall be reenrolled into the bilingual or ESL program.
- (f) When the review process for exiting a student from a bilingual, ESL, or English language services program has been completed, the district board of education shall notify by mail the student's parent(s) or legal guardian of the placement determination. If the parent(s), guardian, or teaching staff member disagrees with the placement, he or she

may appeal the placement to the Commissioner, pursuant to N.J.S.A. 18A:6-9 and N.J.A.C. 6A:3, after exhausting the school district's appeal process.

6A:15-1.11 Graduation requirements for limited English proficient students

All LEP students shall satisfy requirements for high school graduation according to N.J.A.C. 6A:8-5.1(a).

6A:15-1.12 Location

All bilingual, ESL, and English language services programs shall be conducted within classrooms within the regular school buildings of the school district pursuant to N.J.S.A. 18A:35-20.

6A:15-1.13 Notification

- (a) Each district board of education shall notify by mail the parents of LEP students of the fact that their child has been identified as eligible for enrollment in a bilingual, ESL, or English language services education program. Notice shall include a statement that the parents may decline their child's enrollment in a bilingual program, and they shall be given an opportunity to do so if they choose. The notice shall be in writing and in the language in which the parent(s) possesses a primary speaking ability, and in English.
- (b) Each district board of education shall send progress reports to parent(s) of students enrolled in bilingual, ESL, or English language services programs in the same manner and frequency as progress reports are sent to parent(s) of other students enrolled in the school district.
- (c) Progress reports shall be written in English and in the native language of parent(s) of students enrolled in the bilingual and ESL program unless it can be demonstrated and documented in the three-year plan required in N.J.A.C. 6A:15-1.6 (a) that the requirement would place an unreasonable burden on the district board of education.
- (d) Each district board of education shall notify the parent(s) when students meet the exit criteria and are placed in a monolingual English program. The notice shall be in English and in the language in which the parent(s) possesses a primary speaking ability.

6A:15-1.14 Joint programs

With approval of the executive county superintendent on a case-by-case basis, a school district may join with another district board of education to provide bilingual, ESL, or English language services programs.

6A:15-1.15 Parental involvement

- (a) Each district board of education shall provide for the maximum practicable involvement of parent(s) of LEP students in the development and review of program objectives and dissemination of information to and from the district boards of education and

communities served by the bilingual, ESL, or English language services education programs.

- (b) Each district board of education implementing a bilingual education program shall establish a parent advisory committee on bilingual education of which the majority membership shall be parent(s) of LEP students.

6A:15-1.16 State advisory committee on bilingual education

- (a) The State Board of Education shall establish a State advisory committee on bilingual education. The Commissioner shall appoint the members of the committee with representation from parents, institutions of higher education, bilingual and ESL teachers, school board members, school administrators, and lay persons.
- (b) The committee shall advise the Department in the formulation of policies and procedures relating to P.L. 1974, c. 197 (N.J.S.A. 18A:35-15 to 26).

6A:16-10.1 Home or out-of-school instruction due to a temporary or chronic health condition

- (a) The district board of education shall provide instructional services to an enrolled student -- whether a general education student in kindergarten through grade 12 or special education student age three to 21-- when the student is confined to the home or another out-of-school setting due to a temporary or chronic health condition or a need for treatment that precludes participation in their usual education setting, whether general education or special education.
 - 1. To request home instruction due to a temporary or chronic health condition, the parent shall submit to the school district a request that includes a written determination from the student's physician documenting the projected need for confinement at the student's residence or other treatment setting for more than 10 consecutive school days or 20 cumulative school days during the school year.
 - i. The school district shall forward the written determination to the school physician, who shall verify the need for home instruction. The school physician may contact the student's physician to secure additional information concerning the student's diagnosis or need for treatment, and shall either verify the need for home instruction or shall provide to the district board of education reasons for denial.
 - 2. The school district shall notify the parent concerning the school physician's verification or reasons for denial within five school days after receipt of the written determination by the student's physician.
 - 3. The school district shall provide instructional services within five school days after receipt of the school physician's verification or, if verification is made prior to the

student's confinement, during the first week of the student's confinement to the home or out-of-school setting.

(b) The school district shall be responsible for the costs of providing instruction in the home or out-of-school setting either directly, through online services, including any needed equipment, or through contract with another district board of education, educational services commission, jointure commission, or approved clinic or agency for the following categories of students:

1. A student who resides within the area served by the district board of education and is enrolled in a public school program; or
2. A student who is enrolled in a nonpublic school that is located within the area served by the district board of education pursuant to N.J.S.A. 18A:46A-1 et seq.

(c) Home or out-of-school instruction shall meet the following minimum standards:

1. The school district shall establish a written plan for delivery of instruction to continue the student's academic progress and to maintain a record of delivery of instructional services and student progress.
2. The teacher providing instruction shall be a certified teacher.
3. The teacher shall provide instruction for the number of days and length of time sufficient to continue the student's academic progress and dependent upon the student's ability to participate.
4. For a student with disabilities, the home instruction shall be consistent with the student's individualized education plan (IEP) to the extent appropriate and shall meet the Core Curriculum Content Standards. When the provision of home instruction will exceed 30 consecutive school days in a school year, the IEP team shall convene a meeting to review and, if appropriate, revise the student's IEP.
5. For a student without disability, the home instruction shall meet the Core Curriculum Content Standards, and the requirements of the district board of education for promotion to the next grade level. When the provision of home instruction will exceed 60 calendar days, the school physician shall refer the student to the child study team for evaluation, pursuant to N.J.A.C. 6A:14.

Appendix B
Definition of Terms for K-2 Eligibility Criteria for Compensatory Education

Terms	Definitions
Assessment	A systematic procedure for obtaining information from observation, interviews, portfolios, projects, tests, and other sources that can be used to make judgments about characteristics of children or programs.
Performance-Based Assessments	Provides answers to the questions, “What is the child learning?” and “How can I better support the child’s learning and development?” With performance-based assessment, collections of data about each child are gathered by the teacher over time and from multiple sources, including, anecdotes, focused observations, children’s self-evaluations, and work samples. The data is interpreted through rubrics and rating scales with reliability and validity achieved by carefully scoring criteria and through training sessions to establish inter-rater reliability.
Developmental Screening	The use of a brief procedure or instrument designed to identify, from within a large population of children, those who may need further assessment to verify developmental and/or health risks. Includes a sampling of children’s skills across areas of language, reasoning, gross motor, fine motor, and social development. Screening tools are <i>not</i> designed to show progress over time and should be one of multiple sources of information when considering any kind of intervention.
Formal Assessments	A procedure for obtaining information that can be used to make judgments about characteristics of children or programs using standardized instruments. Standardized tests are instruments that are administered, scored, and interpreted in a standard manner. They may be either norm-referenced or criterion-referenced. With a criterion-referenced test, the test-taker's performance (score) is interpreted by comparing it with a pre-specified standard or specific content and/or skills. With a norm-referenced test, the test-taker's performance is interpreted in relation to the performance of a group of peers who have previously taken the same test.
Observational Assessment	A process in which the teacher systematically observes and records information about the child's level of development and/or knowledge, skills, and attitudes in order to make a determination about what has been learned in order to improve teaching and support children's progress. A checklist or notes are often used to record what has been observed.

Appendix C

Assessment and Screening Examples for K-2 Eligibility Criteria for Compensatory Education

Performance Based Assessment Examples			
Instrument	Components	Scoring	Grades
Work Sampling System (WSS)	Seven broad areas of child development <ul style="list-style-type: none"> • Developmental Checklist • Portfolio Collection • Summary Report 	3 point scale	P-6th
Child Observation Record (COR)	Six broad areas of child development <ul style="list-style-type: none"> • Anecdotal Note cards • Parent Report Forms 	5 point scale	P-K (children 2.5-6 years)

Developmental Screening Examples			
Instrument	Areas Assessed	Ages	When Administered
The Early Screening Inventory-Kindergarten (ESI-K)	<ul style="list-style-type: none"> • General • Visual motor/adaptive • Language and cognition • Gross motor skills 	4.5 – 6.0	Upon entry to a kindergarten program
Brigance K & 1 Screen-II	<ul style="list-style-type: none"> • General • Motor • Concepts • Language • Self-help • Social development 	5.0 - 6.11	Upon entry to kindergarten program and first grade

Reading Screening Examples			
Instrument	Areas Assessed	Grades	When Administered
The Dynamic Indicators of Basic Early Literacy Skills (DIBELS)	<ul style="list-style-type: none"> • phonological awareness • phonics • fluency • vocabulary • comprehension 	K-3	Fall, Winter, and Spring
Developmental Reading Assessment (DRA)	<ul style="list-style-type: none"> • phonological awareness • phonics • fluency • vocabulary • comprehension 	K-8	Kindergarten: Winter and Spring Grades 1 & 2: Fall, Winter and Spring

Appendix D

Assessment Procedures for K-2 Compensatory Education

The following checklist can be used to determine if an assessment procedure is appropriate and the portfolio presented by the nonpublic school can be accepted:

1. Assessments use multiple sources of evidence gathered over time (no less than 30 days of attendance in any given school year). The assessment system emphasizes repeated, systematic observation, documentation, and other forms of performance assessment.
2. Families are part of the assessment process with regular communication, partnership, and involvement. They are notified before and after any formal assessments, and are included in any decisions regarding the provision of services.
3. Ethical principles underlie all assessment practices. Decisions are not made about children on the basis of a single assessment.
4. Assessments are used in ways consistent with the purposes for which they were designed.
5. Assessments are designed and validated for use with children whose ages, cultures, home languages, socioeconomic status, abilities and disabilities, and other characteristics are similar to those of the children with whom the assessments will be used.
6. Formal assessments are valid and reliable. Accepted professional standards of quality are the basis for selection, use, and interpretation of any assessment instruments, including screening tools.
7. The evidence used to assess young children's characteristics and progress is derived from real-world classroom or family contexts that are consistent with children's culture, language, and experiences.
8. When a screening or other assessment identifies concerns, appropriate follow-up is used. Eligibility is not determined based on a brief screening or one-time assessment.
9. Formal standardized testing and individually administered, norm-referenced and criterion-referenced tests are limited to situations in which such measures are appropriate and beneficial.
10. Persistent and/or significant concerns about individual children are referred to the evaluation team to determine if the child would be eligible for special education services.

Appendix E
Recommended Supports for Struggling Students in K through Grade 3

- Provide support as a seamless part of classroom activities that do not isolate a child or diminish a child’s sense of well-being, competence or being a part of their age group.
- Any special assistance should be as non-intrusive as possible.
- Provide “push-in” or “in the classroom” supports with the primary teacher’s input.
- Supports need to be individualized and revisited frequently.
- Build on strengths and interests of the child and what a child already knows.
- Provide materials that are meaningful, authentic, “hands-on” manipulatives, in a context where the instructor is embedded in small groups of children or one-on-one with the child.
- Build on topics already under investigation in the classroom.
- Supports should be assessed with a high quality and research-based ongoing K-3 performance based assessment tool based on actual work samples along with a high quality and research based reading screening (Kindergarten – 2x a year starting in Jan, 1-3rd grades- 3x a year).

Appendix F

Chapter 192/193 Procedures for State Audit

The Office of Fiscal Accountability and Compliance (OFAC) State Aid Audit Unit (SAAU) conducts verifications of student services reported on the annual Chapter 192 and 193 *Nonpublic Project Completion Report (PCR)*. The audits verify state aid paid to public school districts by verifying eligibility for nonpublic students reported on the PCR. This entails detailed examination of individual student record files for all services reported on the PCR. In order to facilitate the information needed for OFAC audit, the following information must be retained and provided for audit by each school district or nonpublic service provider:

- A separate, completed application form (407-1) indicating each specific service for all students that generate state aid, as reported on the PCR.
- A complete student service listing indicating the name of every student eligible for services that have been reported on the PCR for each service category.
- Documentation that each Chapter 192 student has been tested or evaluated in accordance with the Department of Education’s Guidelines for Auxiliary and Remedial Services (Chapters 192 & 193) for Nonpublic School Students, as follows:
 - For students in Kindergarten through grade two, a file that contains complete portfolio information demonstrating the criteria used to determine eligibility for Compensatory Education.
 - For students in grades three through twelve, evidence of standardized tests administered and the resulting test scores. For all students testing at or above the 40th percentile and less than the 50th percentile, a file containing multiple measures documenting continued eligibility in the program must be presented for review. Note: No students scoring at or above the 50th percentile on standardized tests will be included as an eligible student on a state aid audit for PCR reporting.
- Appropriate Bilingual, LEP, ESL test results for all applicable students reported on the PCR.
- Documentation for each Chapter 193 student, including a Service Plan (SP) developed by the Child Study Team (CST) for students receiving Supplemental Services. Evaluation requiring Speech Correction and/or Supplemental Instruction must be verified. *Evaluations and reevaluations must contain evidence of the minimum two tests administered by the CST¹⁴.*

¹⁴ If the CST determines to accept an evaluation completed by an outside agency, that evaluation counts as one of the two assessments required for payment for an initial evaluation or reevaluation.

- Speech correction funding includes either the evaluation for speech services or the provision of speech services, *or both*, however, the district/provider cannot charge for the evaluation and services separately.
- If a student (resident or nonresident) is referred for an initial evaluation or reevaluation to determine eligibility for special education programs and services, including speech, then the “initial evaluation or reevaluation” funding amount should be used. The full child study team, including a speech-language specialist, must be convened.
- If a student is referred for evaluation when the suspected disability is a disorder of voice, articulation and/or fluency *only*, then the “speech correction” funding amount (as provided in N.J.S.A. 18A:46-19.8) should be used. “The decision to evaluate and the determination of the nature and scope of the evaluation shall include the speech-language specialist, the parent and the general education teacher of the student who has knowledge of the student's educational performance” (the full child study team is not necessary). If it is determined that the child is eligible for speech correction services, then the district/provider cannot charge an additional amount to the 193 program for those services (though IDEA may cover those services). In other words, both the speech evaluation/reevaluation and the services are included in the statutory amount. Following this understanding of the use of 193 funds, a district may use 193 funds to charge as “speech correction” for the evaluation/reevaluation of speech, but not the services, of a nonpublic student who is not a resident of the State.

- For evaluation and determination, the signature page of the SP must be signed by all evaluation team members. If written consent is provided to excuse one of the team members, the letter must be attached to the SP, along with a signature from the district administrator indicating approval and a signature from the parent indicating consent.

- The allowable timing of a student’s reevaluations and annual reviews is limited as follows:
 - All CST evaluations must be complete by June 30 of the current school year to bill in the current year. If the evaluation is not complete by June 30, the entire evaluation is billed in the new school year. CST evaluations must be complete to receive payment. Partial evaluations will not be reimbursed.
 - Annual review: one per fiscal year (unless written request by parent has been made for additional annual review and the district approves, based on a determination that conditions warrant it)
 - Reevaluation: cannot be conducted prior to one year from the date the parent or guardian was notified of the student’s eligibility in the most recent evaluation or reevaluation, unless the parent and district *both* agree that a reevaluation prior to one year is warranted (If within a period of six months of an annual review, must have parent’s written request for reevaluation and documentation of district approval)

- Each Chapter 192 or 193 student must be identified as an enrolled student in attendance records of each nonpublic school in order for the students to be counted as eligible for state aid purposes. The SAAU examines the enrollment status for students who are eligible for state aid funding. If necessary, as an alternative to the nonpublic school attendance records, students can be verified to B8T forms using the certification of nonpublic student transportation.
- Each Chapter 192 or 193 student must be verified to a service billing record submitted to the public school district for payment of Chapter 192/193 services. This service billing must be submitted by the service provider for the appropriate school year.
- In coordination with service billing, the provider must document on a Chapter 192 or 193 service record that services were provided by the appropriate teacher employed by the service provider. This will be used to verify the state aid payment for each service.

Examples of Audit Findings that Can Lead to Disqualification of State Aid

- No 407-1 application on file for each student indicating each individual service
- Student not included as an enrolled student in nonpublic attendance register or B8T
- Lack of complete eligibility portfolio for Kindergarten through Grade 2 students – compensatory education
- No tests administered for Grade 3 through Grade 12 students-compensatory education
- Students scoring at or above the 50th percentile
- Students scoring at or above the 40th percentile and under the 50th percentile without multiple measures such as teacher recommendation for continued services, report cards, writing samples, quizzes, etc.
- Bilingual, ESL, LEP student with no appropriate test score documented
- Student not included on the service provider’s service/attendance records
- Parental refusal, student transferred or dropped out of school prior to delivery of any services, or students with less than two documented service dates
- Initial evaluations or reevaluations with fewer than two forms of tests administered as part of the CST review

- Annual reviews which occur during the same fiscal year, within a period of six months of a reevaluation, without written request for reevaluation by the parent and proof of district approval based on a determination that conditions warrant it

Other Compliance Requirements

- When included as part of the OFAC audit, up to 6% program administration costs must be utilized to implement administrative services by the district pursuant to N.J.S.A. 18A:46A-8, if such funds are retained by the district.
- When included as part of the OFAC audit, up to 18% facilities rental costs must be utilized within the limits established, pursuant to N.J.S.A. 18A:46A-8.
- When included as part of the OFAC audit, transportation and vehicular maintenance costs must include documented proof of cost

Frequently Asked Questions

Evaluation

Q: If a child study team meets and determines that a student does not need to be evaluated for services, does this qualify for State funding?

A: A district cannot use Chapter 193 funds for a child study team meeting unless one or more of the services delineated in statute is included (see N.J.S.A. 18A:46-19 et seq). There is no State funding source for a child study team meeting alone. An evaluation that is funded under Chapter 193 must include all of the requirements enumerated in [N.J.A.C. 6A:14-3.4\(f\)](#).

Speech Evaluation

Q: What is the proper district reporting of an evaluation for a speech-only student under Chapter 193? Can an evaluation of speech-only students be funded as an “initial evaluation or reevaluation for examination and classification”?

A: An evaluation for a speech-only student must be reported as speech correction services (not “initial evaluation or reevaluation for examination and classification”), pursuant to N.J.S.A. 18A:46-19.8. This funding source is to be used for *either* the evaluation of speech-only students *or*, if found eligible, the services to be provided throughout the school year.

Note: If available, IDEA funds may be used to provide speech *services*, thus allowing the full per pupil dollar amount for speech correction services to be expended on the speech-only evaluations. The use of IDEA funds must be discussed separately during the consultation process between the school district and the nonpublic school.

If a student (resident or nonresident) is referred for an initial evaluation or reevaluation to determine eligibility for special education programs and services, *including speech*, then the

“initial evaluation or reevaluation” funding amount should be used. The full child study team, including a speech-language specialist, must be convened.

Reevaluation

Q: If the child study team meets to reevaluate a student and determines that no additional student assessment is needed, can the district receive funding for a reevaluation under Chapter 193?

A: A reevaluation that is funded under Chapter 193, like an initial evaluation, must include at least two assessments. The parameters around the assessments are defined in [N.J.A.C. 6A:14-3.4\(f\)](#). A district cannot use Chapter 193 funds for a child study team meeting alone.

Appendix G
Teacher Certification Requirements for Chapter 192/193 Services

Chapter 192/193 Services:	Compensatory math and language arts	ESL	Home Instruction	Supplemental instruction in math and language arts	Speech-Language	Evaluation and classification to determine eligibility for special education and development of service plans ¹⁵
Certification required:	Appropriately certified general education teacher	Certified as a teacher of English as a second language; For schools with fewer than 10 ELLs, the program may be taught by a certified teacher (with any instructional certificate)	Appropriately certified general education teacher	Appropriately certified general education teacher	Certified speech-language specialist	Certification according to specific function on child study team

All 192/193 services, with one exception noted below, must be provided by an appropriately certified teacher who may be employed by the public school district directly, through online services, or through contract with another district board of education, educational services commission, jointure commission, approved clinic or agency or employee of the nonpublic school, provided the services are not provided during the hours of that employee's nonpublic school employment. Evaluation and classification services cannot be provided by through a contract with an employee of the nonpublic school.

¹⁵ Evaluation and classification services cannot be provided by a nonpublic school teacher who is contracted with the district/provider, pursuant to [N.J.A.C. 6A:14-5.2\(a\)3i](#).

Appendix H
Chapter 192 (Auxiliary Services) and Chapter 193 (Remedial Services) Recommended Timeline

TASK/ACTIVITY	TIME FRAME
1. The school district determines how services will be provided for the upcoming school year-- either directly with their own personnel, or through a contract with an educational services commission or other public or private agency approved by the commissioner: <ul style="list-style-type: none"> • Approved Clinics and Agencies 	No later than early March
2. If a new provider is considered, the school district initiates a consultation with the nonpublic schools, in accordance with N.J.S.A. 18A:46-19.7 and 18A:46A-7 : “Prior to any change in the provision of these services the board shall provide timely and meaningful consultation with appropriate nonpublic school representatives, including parents.” The nonpublic school will gather the parent input and provide it to the district.	Early March
3. The school district or service provider consults with the nonpublic schools located within its boundaries to determine the Chapter 192/193 services to be provided to eligible students for the upcoming school year.	March-May
4. If a new provider is sought, the school district initiates the RFP or competitive contracting process in order to identify a third-party service provider for the provision of Chapter 192/193 services. <ul style="list-style-type: none"> • See sample vendor evaluation rubric for Nonpublic 192/193 Services (click on the 192/193 tab) 	Early April
5. The nonpublic schools provide 407-1 forms to all parents/guardians returning the following year and any new families.	May-June 1
6. The parents/guardians send the signed 407-1 forms to the nonpublic school for determination of eligibility. The nonpublic school collects the forms and provides them to the district or service provider, as instructed by the district. The district should establish instructions for where forms will be collected and communicate this to all nonpublic schools in the district. Note: Collection of 407-1 forms will be continuous throughout the school year as new students are referred for services.	Initial batch of 407-1 forms should be received by the district no later than June 15
7. If a new contract is required, the school district’s BOE approves the contract with a third-party service provider for the provision of Chapter 192/193 services.	June Board Meeting
8. District Chapter 192/193 funding statements for the month of September are posted on the NJDOE Homeroom located under <i>SCHOOL AID</i> . <ul style="list-style-type: none"> • School districts will receive ten Chapter 192/193 funding statements throughout the course of the school year (September through June). 	Mid-August

TASK/ACTIVITY	TIME FRAME
<p>9. Additional funding for Chapter 192/193 opens on the NJDOE Homeroom located under <i>ADDL</i>.</p> <ul style="list-style-type: none"> Districts can request additional funding for Chapter 192/193 services as new or existing students in the nonpublic schools are identified as eligible for receiving these services. 	<p>Mid-August through the end of May</p>
<p>10. The service provider or school district gathers nonpublic school schedules and class lists in order to determine the schedule for services.</p>	<p>First two weeks of the school year</p>
<p>11. The school district or service provider begins Chapter 192/193 services for eligible students attending nonpublic schools. Note: It may take up to three weeks from the start of the school year for speech services to begin as speech therapists are not only creating their schedules, but evaluating new students as well.</p>	<p>No later than two weeks following the start of the school year</p>
<p>12. The school district submits the following documentation to the Executive County Superintendent with a copy to the nonpublic school administrator:</p> <ul style="list-style-type: none"> Written statement (signed consultation form) verifying that the required conference was held with the nonpublic school; Copy of the contract with another agency to provide Chapter 192/193 services (if a new contract is required) pursuant to N.J.A.C. 6A:14-6.2(b) BOE minutes documenting approval of the contract with another agency to provide Chapter 192/193 services (if a new contract is required). 	<p>By October 1</p>
<p>13. The district should account for expenditures to date, forecast funds to be expended through the end of the fiscal year, and notify each nonpublic school of the amount of anticipated <i>unexpended funds</i>, so that decisions can be made about how best to use the remaining funds before the end of the fiscal year.</p>	<p>March 1</p>

Notes:

- For districts with more than 10,000 nonpublic students receiving services, timeline dates may be extended.
- The school year is based on a September 1st to June 30th calendar.