
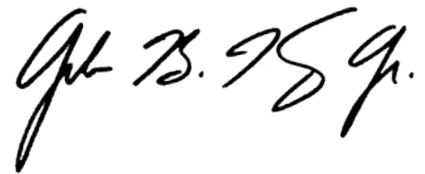




TO: P-12 Education Committee
FROM: Ken Slentz 
SUBJECT: Proposed Amendment to Sections 200.3 and 200.5 of the Regulations of the Commissioner of Education Relating to the Additional Parent Member of a Committee on Preschool Special Education

DATE: November 8, 2013

AUTHORIZATION(S):



SUMMARY

Issue for Decision

Should the Board of Regents adopt the proposed amendment of sections 200.3 and 200.5 of the Regulations of the Commissioner of Education to conform State regulations to New York State (NYS) Education Law, as amended by Chapter 213 of the Laws of 2013?

Reason(s) for Consideration

Required by Statute (L. 2013, Ch. 213).

Proposed Handling

The proposed amendment will be discussed and approved at the P-12 Education Committee and submitted to the Full Board for adoption at the November 2013 meeting.

Procedural History

On July 31, 2013, the Governor signed Chapter 213 of the Laws of 2013 relating to the additional parent member of a committee on preschool special education (CPSE) and to make a technical amendment relating to CPSE membership.

A Notice of Proposed Rule Making was published in the State Register on September 11, 2013. Public comment on the proposed amendment was accepted for 45 days from the date of publication in the State Register (i.e., until October 28, 2013).

Background Information

The purpose of the proposed amendment is to conform the Regulations of the Commissioner of Education to Chapter 213 of the Laws of 2013, which became effective July 31, 2013, and to make a technical amendment.

Chapter 213 amends section 4410 of Education Law to provide that the additional parent member of a CPSE need not be in attendance at any CPSE meeting unless specifically requested by the parent or a member of the CPSE in writing at least 72 hours prior to the meeting. The law further requires that parents receive proper written notice of their right to have an additional parent member attend any CPSE meeting along with a statement, prepared by the New York State Education Department (NYSED), explaining the role of having the additional parent attend the meeting.

The proposed amendment also makes a technical amendment to replace the term "presence" with "attendance" to ensure consistency with the terminology used in section 4402(1)(b)(1)(b) of Education Law relating to the meeting notice for meetings of the committee on special education.

Since publication of a Notice of Proposed Rule Making in the State Register on September 11, 2013, NYSED received 21 comments on the proposed amendment. Attached is the full text of the proposed terms of the rule (Attachment 1) and the Assessment of Public Comment (Attachment 2). Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That subparagraph (v) of paragraph (2) of subdivision (a) of section 200.3 and subparagraphs (iv) and (v) of paragraph (2) of subdivision (c) of section 200.5 of the Regulations of the Commissioner of Education be amended as submitted, effective December 4, 2013.

Timetable for Implementation

If adopted at the November Regents meeting, the proposed amendment will become effective December 4, 2013.

Attachments

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 305, 4402, 4403 and 4410 and Chapters 213 of the Laws of 2013.

1. Subparagraph (v) of paragraph (2) of subdivision (a) of section 200.3 of the Regulations of the Commissioner of Education is amended, effective December 4, 2013, as follows:

(v) an additional parent member of a child with a disability residing in the school district or a neighboring school district and whose child is enrolled in a preschool or elementary level education program, [provided that such parent is not a required member if the parent(s) of the child request that the additional parent member not participate] if specifically requested in writing by the parent of the student or by a member of the committee at least 72 hours prior to the meeting;

2. Subparagraphs (iv) and (v) of paragraph (2) of subdivision (c) of section 200.5 of the Regulations of the Commissioner of Education are amended, effective December 4, 2013, as follows:

(iv) for meetings of the committee on special education, inform the parent(s) of his or her right to request, in writing at least 72 hours before the meeting, the [presence] attendance of the school physician member and an additional parent member of the committee on special education at any meeting of such committee pursuant to section 4402(1)(b) of the Education Law and include a statement, prepared by the State Education Department, explaining the role of having the additional parent member attend the meeting;

(v) for meetings of the committee on preschool special education, inform the parent(s) of his or her right to [decline] request, in writing at least 72 hours before the

meeting, the [participation] attendance of [the] an additional parent member at any meeting of such committee pursuant to section 4410(3)(a)(1)[(v)] of the Education Law and include a statement, prepared by the State Education Department, explaining the role of having the additional parent member attend the meeting;

PROPOSED AMENDMENT OF SECTIONS 200.3 AND 200.5 OF THE REGULATIONS
OF THE COMMISSIONER OF EDUCATION PURSUANT TO EDUCATION LAW
SECTIONS 101, 207, 305, 4402, 4403 AND 4410 AND CHAPTER 213 OF THE LAWS
2013, RELATING TO THE PROVISION OF SPECIAL EDUCATION PROGRAMS AND
SERVICES TO STUDENTS WITH DISABILITIES
ASSESSMENT OF PUBLIC COMMENT

Since publication of a Notice of Proposed Rule Making in the State Register on September 11, 2013, the State Education Department received the following comments on the proposed amendment.

1. COMMENT:

Supportive of proposal as current requirement goes beyond federal regulation, does not match committee on special education (CSE) requirements, and will provide administrative relief in area of preschool special education. Proposal is consistent with recent change in law, parallels modification adopted for the CSE, and will not compromise the delivery of services to young children with disabilities. Similar change impacting CSE has been effective.

Agree that parent member should not be required unless requested by the parent. Proposal preserves parents' ability to have an additional parent member in attendance at a CPSE meeting, while recognizing the difficulties of requiring that such member attend every meeting. Parents will continue to receive notification of their right to have an additional parent member in attendance at a CPSE meeting. Proposal strikes a common sense balance and provides modicum of additional mandate relief to school districts.

A number of comments that supported the proposal indicated that consistently finding parent members has been virtually impossible as parents interested in serving in this role are either employed during the day or home raising their children. The parent member has become nonessential in the classification and IEP development process. Parent members provide the same information at each meeting about their own experience, whether or not it is pertinent to the child being discussed, and often do not have much to add or comment on at the meeting. Many parents decline the presence of a parent member, preferring discussions about their child be private and not involve community members, especially in small, rural districts. Parent members have not felt they were needed, as parents prefer to ask district staff or evaluation team their questions. Parents are often confused as to the role of the parent member. Some parents question the parent member's motivation for participating in meetings because he/she is provided by the district. It is helpful for the additional parent member to have specialized knowledge or experience with similar circumstances. Having 72 hours prior to the request improves chances of locating person who could effectively fill this role, especially if requested on a limited basis. Proposal will alleviate pressure on districts to provide an additional parent member for every meeting. Parents who wish to have an additional parent can easily request one and still have them in attendance.

DEPARTMENT RESPONSE:

Comments are generally supportive in nature. The role of the additional parent member on the committee is to bring another perspective as a parent of a child with a disability to the discussions and decision-making process and to help parents understand and participate in meetings, not to share his/her own experience. SED funds a professional development workshop for additional parent members to assist them in understanding the role and requirements of the additional parent member and

the special education process. Districts are responsible for ensuring that parents are informed of the role of additional parent member on the committee.

2. COMMENT:

CPSE meetings are an emotionally difficult time and parents can feel overwhelmed with the process. The parent member can greatly aid and provide support to parents. Parent member serves key role at CPSE meeting. Parents appreciate having another parent there who has been through the process. Having an experienced person at the meeting can help the parent understand what is happening and what to do. Meetings are legal and binding and the parent member is crucial when important decisions are being made about a child's education and future. Having parent member at meetings as an extra set of ears, note taker or impartial parent is necessary for parents new to the CPSE process. It helps the parent feel more comfortable to have someone at meetings who has walked in their shoes.

DEPARTMENT RESPONSE:

SED agrees that another parent of a student with a disability in attendance at a CPSE meeting can be beneficial to the parents and to the process and decision making. Parents who wish to have a parent member have the right to request, in writing, 72 hours prior to the meeting, the attendance of an additional parent member at their child's CPSE meeting.

3. COMMENT:

Some opposed the proposed amendment indicating that few districts make the effort to get a parent member and do not have a full committee any way. Parents have not been made of aware of their right to have a parent member in attendance or that they can choose to decline a parent member. Parents are often not aware of the role of the parent member and their presence at meetings is not clearly explained. Issue is not

that parents do not want a parent advocate but that districts do not want to go through the process of recruiting and training parents willing to help. Giving 72 hours' notice does not give parent enough time and it will be difficult to get a parent member with that short of notice.

DEPARTMENT RESPONSE:

The proposed amendment conforms to Chapter 213 of the Laws of 2013, which provides that the additional parent member must be a member if requested in writing at least 72 hours prior to a meeting. Districts must provide parents with the State-mandated meeting notice before any meeting of the CPSE that informs them of their right to request the attendance of the additional parent member at their child's CPSE meeting and explains the role of the additional parent member. By including the role of the parent member in the meeting notice, more parents will have clarity on the parent member's role. School districts must maintain a list of sufficient numbers of additional parent members and when establishing the schedule of CPSE meetings, should anticipate the need for additional parent members to be available for the meeting in the event their participation is requested by the parent so that these arrangements may be made in a timely manner. The 72 hour notice requirement is consistent with the time period for requests for the parent member's participation on the CSE and for a request that a school physician participate in a CSE meeting.

4. COMMENT

Support proposal but feel that parents also need ongoing education of NYS regulations and rights of parent, child and school. With correct information comes better advocacy, collaboration and student success starting with CPSE services throughout school age and adult life.

DEPARTMENT RESPONSE:

We agree that parents' need to be aware of their rights and their child's rights. A variety of technical assistance resources and guidance materials are available for parents through SED for this purpose, including but not limited to 13 Special Education Parent Centers funded by SED; the State's publication "A Parent's Guide to Special Education," or a locally district developed guide, which must be provided to parents upon a student's initial referral for special education; the State's mandated Procedural Safeguards Notice, which must be provided to parents at least once a year, informing them of their legal rights under federal and State laws to be informed about and involved in the special education process; and Prior Written Notice, which must include resources for parents to contact for help in understanding the special education process.