

TABLE OF CONTENTS

	<u>PLAN</u>	<u>APPENDIX</u>
PRELIMINARY STATEMENT.....	1	
PARAGRAPH 20(a) and (c)		
Interim procedures for evaluation of students with limited English proficiency.....	3	A1
PARAGRAPH 20(b)		
Permanent evaluation procedures for LEP students.....	6	A11
PARAGRAPH 23		
Revision of parents' rights booklet.....	15	
PARAGRAPH 30		
Interim assessment of bilingual staff needs.....	16	
PARAGRAPH 52(a)		
Roles, Responsibilities and Procedures		
School based support teams.....	20	A28
Committees on the handicapped.....	27	A92
Placement personnel (formerly administrative Units).....	32	A137
Central based support team.....	34	A140
Outreach workers.....	36	A121
Annual review procedures.....	37	A146
Triennial review procedures.....	39	A148
PARAGRAPH 55(a)		
Efforts to assure parent attendance at IEP meetings.....	40	

	<u>PLAN</u>	<u>APPENDIX</u>
PARAGRAPH 55(b)		
Participation where parents are unable to attend IEP meetings.....	42	
PARAGRAPH 55(c)		
Assuring that parents understand the proceedings.....	43	
PARAGRAPH 55(d)		
Parent contact prior to case closing.....	44	A149
PARAGRAPH 55(e)		
Proceeding without parental consent..	46	A153
PARAGRAPH 55(f)		
Attendance procedures for handicapped children.....	47	A155
PARAGRAPH 55(g)		
Discharge procedures for handicapped children.....	48	A158
PARAGRAPH 55(h) and (i)		
COH monitoring responsibility; COH responsibility for placements out- side the child's regular school.....	50	
PARAGRAPHS 55(j)		
Specialized evaluations.....	52	A161
PARAGRAPH 55(k)		
Appeals to COH.....	53	
PARAGRAPH 55(l)		
Timely preparation of IEPs.....	55	

	<u>PLAN</u>	<u>APPENDIX</u>
PARAGRAPH 55(m)		
Implementation of the continuum.....	58	
PARAGRAPH 55(n)		
Interpreters for parents.....	59	A164
PARAGRAPH 55(o)		
Early identification of truants.....	61	A167
PARAGRAPH 55(p)		
Discharge procedures for non-special education students.....	62	A168
PARAGRAPH 55(q)		
Translation of documents.....	63	
PARAGRAPH 55(r)		
Independent evaluations.....	66	A169
PARAGRAPH 55(s)		
Surrogate parents.....	67	A170
PARAGRAPH 56(a)		
a) Evaluation and placement process...	69	A171
PARAGRAPH 56(b)		
Standards for placement in continuum.....	72	
PARAGRAPH 57		
Continuum of services.....	73	
PARAGRAPH 58		
Interrelationship with nonpublic schools.....	74	
PARAGRAPH 59		
Survey of bilingual evaluation staff..	75	A181

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----x  
JOSE P., et al.,

v.

Gordon M. Ambach, et. al.,  
-----x

United Cerebral Palsy of New York,  
Inc., et. al.,

v.

Board of Education, et. al.,  
-----x

Dyrcia S., et. al.,

v.

Board of Education, et. al.  
-----x

CITY DEFENDANTS'  
JANUARY PLAN

CITY DEFENDANTS' JANUARY PLAN

Preliminary Statement

This January plan is submitted in accordance with Part XIII of the judgments in these cases and the subsequent agreement of the parties and amici.

The plan includes brief summaries of the procedures, standards and definitions required by Part XIII of the judgment. It is supplemented by an appendix, not part of the judgment, of directives, forms, and other documents developed pursuant to paragraph 53 of the judgment.

This January plan has been developed in light of existing State and federal law and regulations, which, in the opinion of the City defendants, do not often permit the distribution of resources in the most educationally sound matter. To the extent that any of these laws or regulations are amended to permit greater flexibility in the delivery of services, City defendants reserve the right to seek modification in accordance with those changes. Plaintiffs and amici also reserve the right to seek modification of this plan in light of any changes in federal or State laws or regulations which expand parental or student rights and protections.

PARAGRAPH 20 (a) and 20 (c)

BILINGUAL EVALUATIONS AND LANGUAGE ASSESSMENT

Pending development and implementation of permanent procedures pursuant to paragraph 20 (b) of the judgment, City defendants have established the following interim procedures for language assessments and for bilingual evaluations of children with limited English proficiency (LEP).

The Office of School Based Support Teams will continue to maintain a bilingual coordinator whose primary functions of recruiting and training competent bilingual evaluation personnel for COH has been expanded to include the recruiting and training of competent bilingual school based support team personnel as well as to provide the delivery of a broader range of bilingual services. It is anticipated that, as the Program Development Unit is fully staffed, the training of SBST personnel will come under its purview.

The COHs and SBSTs independently verify, and determine where necessary, the extent of English proficiency of the students referred for evaluation. The child's folder, tracking and other filing records display in a prominent place the language of the child and of his/her parents. This procedure facilitates scheduling and the provision of other services, such as notices to parents in their dominant language. See appendix 20 (a) and (c).

The chairperson of the COH (or designee) or the

SBST facilitator (or designee) is responsible for arranging bilingual evaluations on a timely basis when the dominant language of the child is not English. To effectively use the bilingual staff resources available, a pooling system is used.

Whenever the services of a bilingual team member are required, the COH chairperson (or designee) or the SBST facilitator (or designee) first attempts to obtain that team member from within the district. If unsuccessful at this level, the COH chairperson or SBST facilitator contacts the regional coordinator. The regional coordinator or his/her designee then arranges for the temporary exchange of the needed bilingual team member from among personnel available on the regional level. Should the appropriate bilingual team member not be available within the region, the regional coordinator or designee contacts other regional coordinators until the appropriate bilingual team member is located and a temporary exchange is arranged.

The bilingual coordinator maintains a list of approved agencies and consultants that can provide bilingual evaluations. The list is periodically updated. Regional coordinators (or designees) who are unable to locate or arrange for the temporary exchange of a needed bilingual team member after contacting all the regions contact the bilingual coordinator. The bilingual coordinator then at-

attempts to secure the needed services using the list of approved agencies and consultants. If, after these procedures have been followed, no competent evaluator can be obtained and if the language in which the evaluation is to be performed is other than Spanish, Italian or Chinese, the bilingual coordinator attempts to obtain the services of a competent interpreter to assist in the child's evaluation. See appendix 20 (a) and (c) for pool procedures and list of agencies and consultants.

The bilingual coordinator maintains a periodically updated list of approved examinations for evaluating students with limited English proficiency. See appendix 20 (a) and (c). This list is disseminated to COH/SBST evaluators through the regional coordinators.

A biannual survey will be conducted of the need for bilingual evaluations in various languages. See appendix 20 (a) and (c) for procedure. This information will be used as a guide in the recruitment and assignment of bilingual personnel. Every effort will be made to assign bilingual staff in all disciplines to districts with the highest concentration of students who are in need of bilingual evaluations.



PARAGRAPH 20 (b)

STATE AND CITY DEFENDANTS' PLAN  
TO DEVELOP PERMANENT PROCEDURES  
FOR EVALUATING LEP STUDENTS

State and City defendants have agreed to a plan, with timetables for its implementation, for developing permanent procedures for evaluating students with limited English proficiency who are suspected of having handicapping conditions. State and City defendants shall make maximum reasonable efforts to implement the plan in accordance with the schedule set forth in the appendix.

In the case of Lora v. Board of Education, 75 Civ. 917 (E.D.N.Y.), the City defendants have been ordered to develop nondiscriminatory testing procedures for evaluating children suspected of having handicapping conditions. The method by which these evaluative procedures will be developed is currently in dispute and the resolution of this dispute by the court in Lora is anticipated.

Whatever proceedings are eventually ordered in Lora, the development of non-discriminatory tests in that case and in this one will overlap. To avoid duplication of effort City defendants explicitly reserve the right to modify, subject to the approval of the special master and the court, the joint City-State plan being submitted herewith in order to conform it, wherever appropriate, with the ultimate order in Lora.

PERMANENT EVALUATION PROCEDURES FOR LIMITED  
ENGLISH PROFICIENCY STUDENTS

RATIONALE

This plan is designed to eliminate, to the maximum extent possible, sources of bias in the referral, evaluation and classification as handicapped of students who are of limited English proficiency and come from cultural backgrounds different from those of the mainstream culture. The plan consists of four goals, each with specific objectives and activities, and the appendix sets forth staff assignments and timelines for its implementation. A fifth goal, which is long range in nature, has been included in this plan. The details of this goal will be defined at a later date since they require extensive planning, analysis of the findings from the implementation of the four immediate goals, and consultation with national experts working in the area of non-discriminatory assessment.

GOAL #1: TO DEVELOP PROCEDURES THAT INITIATE THE REFERRAL PROCESS IN A NON-DISCRIMINATORY FASHION FOR CHILDREN WHO HAVE LIMITED ENGLISH PROFICIENCY.

OBJECTIVE 1.1

To develop standards, criteria and procedures for non-discriminatory referral of children whose language background is other than English.

1.1.1

To define specific educational needs that may provoke referral.

1.1.2

To identify data elements that must be included in referral documents.

OBJECTIVE 1.2

To train supervisory, administrative, and classroom personnel to understand and use developed standards, criteria and procedures for nondiscriminatory referrals with an awareness of cultural and linguistic backgrounds.

1.2.1

To assure that every school site in New York City will have one conference for teachers on non-discriminatory referral practices.

1.2.2

One workshop will be given to evaluation personnel on non-discriminatory referral practices. This training will be given on a regional basis.

1.2.3

Evaluation personnel trained under activity 1.2.2 will present one workshop in their school district after the course.

1.2.4

During the second semester of the school year all new teachers in the City of New York will receive a course in non-discriminatory referral practices.

1.2.5

Training will commence for non-special education school personnel on non-discriminatory referral procedures.

OBJECTIVE 1.3

To determine the adequacy of the uniformly applied referral practices.

1.3.1

To develop a procedure for district internal review of the suitability of the referral process and a plan for the collection of data.

1.3.2

To report the frequency distribution information acquired at the district level on the dominant language of referred children.

1.3.3.

To examine the referral procedure six months after implementation to determine where or whether the referral procedure should be revised.

GOAL #2: A PROCEDURE WILL BE DEVELOPED FOR COMPOSING TEAMS TO ASSURE THAT EVALUATION TEAMS ARE ASSIGNED IN A MANNER WHICH WILL PROTECT PUPILS FROM BIAS DURING THE DATA COLLECTION AND INTERPRETATION STAGES.

OBJECTIVE 2.1

To devise standards, procedures and criteria for the school based support teams (SBSTS).

2.1.1

Develop written guidelines for membership in the talent pool.

2.1.2

Develop written guidelines for the ad hoc membership for a given case.

2.1.3

Develop written guidelines for the authority, responsibility, and limitations of the SBST.

2.1.4

To develop a mechanism with timelines that provokes the acquisition of special evaluation personnel when the LEA has no appropriate personnel for a given linguistic background or technical condition in a test or skill area.

2.1.5

Develop anti-bias checklist procedure.

2.1.6

Prepare procedural manual to include tracking card, chairperson's critical steps.

2.1.7

Design and implement a functional information flow system to assure that all appropriate individuals are advised of the disposition of the case.

## OBJECTIVE 2.2

Community school district personnel will be trained in the operational aspects of the assembly and functioning of the multidisciplinary assessment teams.

### 2.2.1

Central administrative staff (including Office of Bilingual Education (OBE) staff) will be trained in the operational aspects of the assembly and functioning of the SBST.

## OBJECTIVE 2.3

To determine the adequacy and appropriateness of the assembly and functioning of the SBST.

### 2.3.1.

To develop a system of internal review to determine that the SBST is functioning according to the procedures.

### 2.3.2

To review court ordered progress reports on the functioning of the SBST.

GOAL #3: A PROCEDURE WILL BE DEVELOPED TO SET STANDARDS FOR THE SELECTION OF INSTRUMENTS, ASSESSMENT PROCEDURES, AND PERSONNEL TO ASSURE THAT DATA COLLECTED WILL BE RELIABLE AND VALID FOR THE PURPOSE OF IDENTIFICATION/ELIGIBILITY.

## OBJECTIVE 3.1

Identify appropriate criteria to assure reliability and validity of standards and procedures and psychometric and edumetric tests for children of limited English proficiency.

### 3.1.1

To identify appropriate psychometric and edumetric tests, and assessment procedures which meet the above criteria and standards.

### 3.1.2

To develop a formal test review procedure for periodic examination of tests in use and newer tests that appear promising.

### 3.1.3

To develop procedures for an internal review of the standard procedures, administration and interpretation of tests and informal assessment techniques to assure reliability, validity, and freedom from bias.

## OBJECTIVE 3.2

SBST/COH personnel will be trained in the technical aspects of administration and interpretation of assessment of data for linguistically different children.

### 3.2.1

Develop a systematic training program for SBST/COH personnel in the selection, administration and interpretation of assessment techniques.

## OBJECTIVE 3.3

To develop a process for determining the adequacy of test and personnel selection as well as test administration and assessment procedures.

### 3.3.1

A bi-annual survey will be conducted of the members of internal staff and external evaluation consultants with special qualifications in the areas where linguistic differences may have an impact, to deter-

mine the adequacy of the tests and their administration, assessment procedures and their administration, and the procedures for personnel selection.

GOAL #4. A UNIFORM SET OF CRITERIA WILL BE IMPLEMENTED TO IDENTIFY STUDENT EDUCATIONAL NEEDS WHICH INFLUENCE THE CLASSIFICATION OF STUDENTS AS HANDICAPPED.

OBJECTIVE 4.1

To develop a uniform set of criteria and procedures to be applied in the identification of these special educational needs.

4.1.1

Develop procedures to provide that the educational assessment of the LEP student be as linguistically appropriate as possible.

4.1.2

Develop procedures for further assessment or data collection and/or interpretation where conflicts exist on the proposed classification of the LEP student.

4.1.3

Identify areas in which alternate assessment procedures are needed and develop a plan to address those needs in the future.

OBJECTIVE 4.2

SBST/COH personnel will be trained in the use of criteria and procedures to be applied in the identification of special educational needs.

4.2.1

Develop a systematic training program for SBST/COH assessment personnel.

parents  
RtS



#### 4.2.2

SBST/COH assessment personnel will be given an intensive training course in non-discriminatory assessment procedures and data interpretation.

GOAL #5: TO EVALUATE AND MODIFY PROCEDURES FOR NON-DISCRIMINATORY ASSESSMENT ON THE BASIS OF RESEARCH DATA.

The objectives and activities under this goal will be addressed to the refinement of the system specified under the previous four goals. Objectives and activities will be designed following a literature search to review what research activities are being undertaken across the nation and the preliminary meetings of the nation-wide panel of experts assigned by the Lora decision to look at the issues of non-discriminatory referral, assessment and placement.

PARAGRAPH 23

REVISION OF PARENTS' RIGHTS BOOKLET

City defendants will prepare two new versions of "Your Child's Rights", one version for use in non-phase-in districts and one version for use in phase-in districts. Each of these versions will reflect the procedures included in the January plan and its appendix which are applicable in the districts in which the version is to be distributed.

The new version of "Your Child's Rights" for non-phase-in districts will be served on the parties and amici, and filed with the special master on June 1, 1980. The new version of "Your Child's Rights" for phase-in districts will be served on the parties and amici, and filed with the special master on July 8, 1980. No later than ten (10) days after service of each version parties and amici may serve on the other parties and amici, and file with the special master, their comments on each new version of "Your Child's Rights". If there are any issues in dispute ten (10) days after service of the comments of the parties and amici, the parties may submit those issues to the special master for resolution on that date, subject to the right of any party to appeal to the court.

PARAGRAPH 30

INTERIM ASSESSMENT OF BILINGUAL STAFF NEEDS AND  
INTERIM PLAN TO HIRE, TRAIN AND REASSIGN BI-  
LINGUAL STAFF.

City defendants have arrived at an interim assessment of staff needs for certain bilingual instructional programs. The following estimates of staff needs, broken down by language, are based on projected needs, as of June 30, 1980. Existing staff, which includes at present approximately 59 bilingual teachers in high incidence programs and approximately 7 bilingual resource room teachers, have not been subtracted from the following estimates:

<u>Language</u>	<u>High-Incidence</u>	<u>Resource Room</u>
Spanish	316	26
Chinese	10	1
Haitian-Creole	8	1/2
Italian	8	1/2
Other	18	1

City defendants have also developed an interim plan to hire, train and assign bilingual staff and to reassign existing bilingual staff. The elements of that plan are as follows:

1. During February, 1980, and at least every alternate month during the term of the interim plan, if staff needs persist, advertisements for bilingual personnel shall be placed in local newspapers.

2. Similar advertisements will be placed in the journals and pamphlets of state and national educational associations in March/April, 1980, and thereafter as necessary.
3. Colleges and universities with bilingual programs will be notified during Spring, 1980, and thereafter as necessary, of the Division of Special Education's need for bilingual staff. Appropriate local community agencies, such as those identified in appendix 20(a) of this plan, will be similarly notified.
4. At least during February and March 1980, the Division's needs for bilingual staff will be advertised on the radio.
5. During the Spring of 1980, the Division of Special Education will survey its teaching staff to determine which teachers with bilingual skills who are not teaching bilingual classes are willing to accept reassignment to a bilingual special education class.
6. During Spring, 1980, the Division's Office of Bilingual Education will attempt to recruit bilingual teachers from existing non-special education bilingual programs and will consult with the Board of Examiners concerning the availability of qualified bilingual teachers who have not been appointed or who are not working.
7. Personnel will be sought in other locations (e.g., Puerto Rico) where appropriate languages are spoken as need is identified by the Division of Special Education during Spring, 1980.
8. In the Spring of 1980, the Division of Special Education will ask the assistance of the United Federation of Teachers (UFT) in recruiting bilingual personnel in New York and

nationally. The UFT will also be consulted concerning methods of re-assigning existing staff to meet the needs of bilingual special education.

9. Bilingual teaching staff receive in-service training from bilingual program coordinators. These training programs focus on bilingual curriculum, language acquisition and development of teaching methodologies appropriate to LEP special education students, designing and assessing the appropriateness of instructional materials and the legal rights of special education students and parents. The training sessions are held at least bi-monthly during the school year.
10. By September, 1980, an in-service training program for resource teachers shall be designed and implemented by the Division of Special Education in conjunction with the Office of Bilingual Education.
11. Bilingual coordinators provide individual assistance to bilingual special education classroom teachers with lesson plans, materials and class routines.
12. The Division of Special Education will investigate the feasibility of establishing materials centers and full and part-time self-contained classrooms in centralized sites throughout the boroughs. Whenever possible, schools shall be selected where a bilingual program already exists and where adequate classroom and other facilities are available. The clustering of LEP students with students with similar educational needs facilitates providing bilingual services and utilizing all available bilingual resources. Such practice is economically sound and efficient. Clustering also facilitates mainstreaming LEP students in appropriate regular or bilingual

classrooms. Bilingual personnel shall be reassigned, as needed, to implement this interim program.

13. Beginning in Spring 1980, the Division of Special Education will investigate and attempt to implement the following:

- a. Receiving state and city license variances or ancillary licenses for bilingual non-special education teachers with bilingual skills to teach bilingual special education.
- b. Expediting the hiring process of bilingual special education personnel by granting temporary per diem certificates and by attempting to shorten the time normally required for fingerprinting and examination processes.

PARAGRAPH 52(a)

ROLES-RESPONSIBILITIES-PROCEDURES

SCHOOL BASED SUPPORT TEAMS

The Office of Student Support Services has been established within the Division of Special Education to encompass the roles, responsibilities, and staff formerly under the aegis of the Office of Pupil Certification and the Bureau of Child Guidance.

School based support teams (SBSTs) are established to assess the individual needs of handicapped and non-handicapped children, and to assist in the educational planning to meet those needs. SBSTs will provide support services to non-handicapped children and related services to handicapped children, as appropriate.

Each community school district will have a district SBST office which will serve to coordinate the work of the school based support team in each school in the district.

The committees on the handicapped (COHs) will continue to monitor the appropriateness of special educa-

tion services, as well as the availability and adequacy of special education programs. Full parental participation will be encouraged and comprehensive due process procedures will be observed.

The members of the team will determine a child's special needs and seek to meet those needs through modification of existing educational approaches or through other solutions within the regular educational program. When such supportive approaches are insufficient to meet the child's particular needs, the SBST and the parents of the child will meet to determine whether a formal assessment is required. If it is deemed necessary, an assessment will be conducted at the school by members of the team. Assessments will focus on collecting data on observable behaviors as they affect, or are affected by, the educational process. Appropriate members of the team will review the results of this assessment to make a determination. The team will recommend to the school principal the appropriate action needed to meet a child's educational needs. If the program recommended is a school based service, the principal will coordinate the implementation of the program recommendation. If a self-contained program is recommended or the program is not available within the school, the matter will be referred to the district level committee on the handicapped for consideration. Through all stages of this process, consultation with and consent



from the parents will be obtained and all applicable rights will be observed.

### Team Members' Responsibilities

Psychologist - provides direct and consultative services and assessments to children in mainstream and special education classes; provides consultative services to families and school staff; serves as a member of school based support team in all schools to which assigned.

Social Worker - provides direct and consultative services and assessments to children in mainstream and special education classes; provides consultative services to families and school staff; serves as member of school based support team in all schools to which assigned.

Special Educator - serves as a resource room teacher providing direct service, evaluation, and consultation; serves as a member of school based support team; is supervised by the resource room program supervisor.

Principal (or non-special education designee of the principal) - serves as a member of the school based support team; is responsible for insuring coordination of school based services appropriate to the child upon recommendation of the SBST.

Guidance Counselor (where assigned)-serves as a principal provider of support services in schools to which assigned; serves as a member of a school based support team; is supervised by the school principal.

Outreach Worker - A paraprofessional working with the school based support team in a linkage and follow-up capacity with parents of students in need of service.

Parents - the parent(s) of the child is a member of the SBST and will be invited and encouraged to attend all meetings held to discuss the needs of the child.

Team Facilitator - in each school, one member of the school based support team will be designated as team facilitator.

Staffing patterns for SBSTs will be set forth in the April plan as required by Paragraph 16 of the judgment.

At both the district level and high school level, psychologists, social workers and special educators are supervised by appropriate administrative personnel. See appendix.

The Interim Procedures for SBSTs (appendix) details both the process and procedures for the provision of SBST service. This document is organized into four major areas: consultation, informal assessment, formal assessment, and district committee on the handicapped review. The first two sections, consultation and informal assessment, represent services to non-handicapped children and are included to reflect only the continuum of support services available to children developed pursuant to paragraphs 52(b) and (c) and paragraph 57 of the judgment. The remaining two sections, formal assessment and COH review, are services for children suspected to be in need of special education services. At any given point in the process delineated, the formal assessment process may be initiated by the parent or the team.

The Interim Procedures for SBSTs specifically provide for the following:

- a) An evaluation and arrangement of placement are to be provided (1) within (60) working days from the date appropriate written notification is received requesting formal assessment or special education services (or indicating that the child may have a handicapping condition); or (2) within sixty (60) days from the date the SBST recommends formal assessment, whichever is earlier.

- b) Any written request for formal assessment or written notification that the child may have a handicapping condition and be in need of special education and related services by a parent or physician initiates the formal assessment process (1.3.1).
- c) Any oral request from a parent to the principal or team facilitator initiates the formal assessment process only upon written confirmation of the request (1.3.2). The principal or designee or facilitator is to provide the parent with a consent for evaluation form (1.3.2).
- d) Upon the written request for formal assessment by an approved outside agency, the SBST will request the parent to provide an appropriate written request for assessment (1.3.3). Upon receipt of the signed request, the SBST will initiate formal assessment (1.3.3).
- e) Team members determine which assessments are appropriate (1.1.1) and obtain parental consent for assessment (1.1.2). The parent is informed that consent for formal assessment may be withdrawn at any time (1.2.3).
- f) After appropriate assessments, an educational planning conference is held to identify the factors which are affecting the child's functioning and to make recommendations for the development of an appropriate educational plan for the child (3).
- g) Each team member involved in the assessment prepares a report in clear, concise, objective language, focusing on the child's strengths and weaknesses as they relate to the educational needs of the child (3.1.1).
- h) Notice of the educational planning conference is provided to the parent (3.1.3). There is an attempt to arrange a mutually agreeable time at the informal assessment conference (1.1.3),

or if it is not possible to set the date of the conference at the informal assessment conference, written notice is sent with sufficient time provided to respond (one week). A confirming telephone call is made two to three days before the conference (3.1.3).

- i) The parent may send any information or statement to the SBST in writing, or may call a member and provide information orally.
- j) The meeting may be conducted without the parent present if appropriate outreach efforts have been made (3.1.3).
- k) Members of the team involved in the formal assessment and those personnel having specific contributions to make are expected to attend the meeting (3.1.3). They may include the principal or his designee, the classroom teacher, school social worker, psychologist, educational evaluator/resource room teacher, speech/language teacher, neighborhood outreach worker, paraprofessional, supplementary instructional staff, itinerant teachers, guidance counselor, student (as appropriate) (3.1.3).
- l) The parent is encouraged to fully participate in this meeting (3.2.3). In the event that the parent or the SBST need additional time to discuss a case, the parent will be offered additional time, as needed, to meet with the SBST (3.2.4).
- m) All information presented is reviewed and considered by the team. The team, parent and school staff reach a consensus on the approach to be taken to meet the child's educational needs. The team's recommendations may include: problem resolved; recommendation for teacher action, parent action, other school staff action; service by outside community agency; support services if non-special education student; provision of related services; resource room services; or review by COH (3.3 - 3.3.9).

- n) For handicapped children, an IEP is distributed to the parent, facilitator and principal (or designee) (3.4.2).
- o) Parental consent must be obtained by the SBST prior to the provision of related services and/or resource room service. The parent will be informed in writing of the program and related service recommendations, reasons why the program was recommended, and other programs considered and the reasons they were rejected. The parent is informed that he/she can withdraw consent at any time prior to initial placement.
- p) A parent is apprised of due process rights: independent evaluations, appeal to COH, impartial hearing, appeal to the commissioner and the courts, least restrictive environment, confidentiality of records; a list of low cost legal services is provided (3.4.6).
- q) If review by COH is recommended, a member of the team attempts to arrange a mutually agreeable time with the parent for the district COH review and informs the parent that a list of programs is available at the district COH office (COH Review 1.2).
- r) If the parent is not present at the meeting, an SBST member notifies the parent of the outcome of the educational planning conference at a meeting scheduled with the parent, by telephone, or sends the IEP and consent form to the parent. (Resource Room Service 3.2.1).
- s) A SBST worker monitors receipt of parental consent and initiates outreach procedures where appropriate (3.2.2).

PARAGRAPH 52(a)

ROLES - RESPONSIBILITIES - PROCEDURES

COMMITTEES ON THE HANDICAPPED

Committees on the handicapped have specific responsibilities which include assuring that children in need of special education or related services receive appropriate educational services in a timely manner.

There are 32 district committees on the handicapped. Each committee includes:

- a teacher or administrator of special education
- a school psychologist
- a parent of a handicapped child.

Additional persons may be invited:

- other members of the evaluation team, e.g., social worker
- district/regional placement personnel
- representative of the community school board
- school principal.

District committees on the handicapped are responsible for:

- a) assuring that children with handicapping conditions receive educational opportunities to which they are entitled commensurate with their individual needs;
- b) assuring all applicable rights of the parent and child during the entire process of referral, evaluation, placement and appeal.

The responsibility of COHs in non-phase-in districts includes the recommendation of educational services for all children in need of special education or related services and is set forth in the appendix.

The roles and responsibilities of COHs in the phase-in districts are detailed in the statement of the roles, responsibilities and procedures of the SBST, the appendix thereto and in the statement in response to paragraphs 55(h) and (i). The responsibilities in phase-in districts generally include review of the clinical and educational materials assembled on a child under the following circumstances:

- a) The SBST or Hearing/Visually Impaired Unit recommends a resource room placement not in the student's home school, or a self-contained classroom in a special education program, or another special education facility (e.g. special day, nonpublic, residential, home instruction); or
- b) The SBST cannot reach a consensus on the educational needs of the child or a recommendation for an educational plan or both; or
- c) A request is made by the child's parent or guardian at any stage of the assessment and placement process that the district COH review any action or inaction of the SBST.

City defendants' procedures provide that the COH review be conducted as follows:

- a) The COH reviews materials for completeness and appropriate parental consent (1.4).
- b) Members of the COH, the parent of the child, and the child (where appropriate) attend the COH review. Representatives of the SBST, program/placement unit, transportation unit, and program supervisor attend as needed (2.1).

- c) The COH review may be conducted at the District COH site or at the local school, depending on the specific needs of the parent, child, SBST, and COH (2.2).
- d) At the conference, the COH chairperson discusses the reason for the case review by the COH. Materials and reports are reviewed to determine
  - a) the child's educational strengths, weaknesses and needs;
  - b) if any specific handicapping conditions exist;
  - and c) if any related services are required (2.3).
- e) In the event that the parent or the COH need additional time to discuss the case, the parent is offered additional time, as needed, to meet with the COH.
- f) A recommendation is made for an educational plan and placement determined by the individual needs of the child within the least restrictive environment (2.3).
- g) A recommendation may be made for further assessment; service by the SBST (teacher/parent/other school staff/outside community agency/ support services); related services; resource room; self-contained class; other special education facilities (day school centers, day treatment, hospital, nonpublic special education school, residential, home instruction) (2.4).
- h) An IEP (if child found to be in need of special education) is developed (2.5.1) and is provided to the parent (2.5.2).
- i) Parental consent must be obtained by the COH prior to the provision of special education services. The parent will be informed in writing of the program and related service recommendation, reasons why the program was recommended, and other programs considered and the reasons why they were rejected. The parent is



informed that he/she can withdraw consent at any time prior to initial placement.

- j) If parent does not attend the COH review, or does not wish to sign the consent at the meeting, a COH worker will be responsible for the follow-up to apprise the parent of the outcome of the conference, and secure the signed consent (2.5.2).
- k) A parent is apprised of due process rights: independent evaluations; impartial hearings; appeal to the commissioner and the courts; least restrictive environment; confidentiality of records; list of low cost legal services (2.5.3).

For a child who is not enrolled in school or any public or nonpublic educational program and for whom City defendants have received written notification that there is reason to believe that the child may have a handicapping condition, the district COH will direct the parent and child to the appropriate SBST to begin the assessment process. If such a child is medically identified as possibly having a severe handicapping condition, the child may be eligible for a direct review by the COH as set forth below.

In certain cases involving children with severe handicapping conditions who are likely to require highly specialized assessments and who are highly likely to require placement in a self-contained class or alternative day center, the COH may assume direct review of the case at the stage of initial referral. Parents, legal guardians,

agencies, and Child Find may directly contact the district COH to request assessment of children who are medically identified by a physician, hospital or medical clinic as possibly having a severe handicapping condition which is likely to require a highly specialized evaluation and is highly likely to require placement in a self-contained classroom or alternative day center. These medical conditions may include multiple handicaps, severe physical handicaps, autism, severe sensory impairment, profound retardation.

The district COH reviews the referral material and, if highly specialized assessments are required and it is highly likely that the child needs placement in a self-contained program, schedules appropriate interviews and assessments and conducts an educational planning conference for the child. In those cases where the COH determines that such direct review is not appropriate, the parent is directed to the SBST at the child's home school, subject to the parent's right to challenge such determination at an impartial hearing.

The district COH also conducts assessments and makes program recommendations for children who attend high schools which do not have SBSTs.

PARAGRAPH 52(a)

PLACEMENT PERSONNEL (FORMERLY ADMINISTRATIVE UNITS)

Regional and district based placement personnel (formerly administrative units) arrange for the placement of children recommended for high incidence special education programs other than placement in a resource room program in a child's home school. These same personnel act as a liaison with the Office of Field Services to secure appropriate low incidence placements.

In phase-in districts placement personnel familiar with district and regional programs should generally attend and participate as needed in COH conferences. Upon the recommendation of the COH, the placement officer recommends site placements based on the child's individual needs. At the initial IEP planning conference, a child's needs are determined, the first phase of the IEP is developed, a program is recommended, and, depending on the availability of a site at that point, a site is offered. If a site is not available at that time, the COH choice letter indicating a site is subsequently mailed to the parent. The parent is offered another opportunity to meet with the COH at that time. The COH recommendation is not considered final until a parent consents to site recommendation, seeks to meet again with the COH, or exercises his/her right to an impartial hearing. See appendix.

In the non-phase in districts, placement personnel will attend conferences or consult with team members regarding a child's individual placement needs prior to site offering.

PARAGRAPH 52(a)

CENTRAL BASED SUPPORT TEAM

A Central Based Support Team (CBST) has been established by the Division of Special Education. The roles and responsibilities of the CBST focus primarily on the timely delivery of special education services to specific populations of handicapped children. These responsibilities include the following:

- a) centrally coordinating the referral, evaluation, and placement of children returning from out-of-city child care, psychiatric, mental retardation and detention residential facilities;
- b) monitoring and placing children in the "hard to place category" considered appropriate for residential or day placement;
- c) acting as a liaison to the State Education Department to articulate the need for placement for hard to place children;
- d) receiving referrals of all Willowbrook class members entering the Division of Special Education; and
- e) acting as a central articulation point between the Division of Special Education and community services for adults and for those students who are approaching 21 and will need further services.

In addition, the CBST assists the district committees on the handicapped in the processing of applications for nonpublic school placements of handicapped children.

The CBST acts as liaison with the State Education Department to articulate the specific educational needs of New York City children for whom appropriate services are not currently available.

Special services of the CBST are delineated in the appendix.

PARAGRAPH 52(a)

OUTREACH WORKERS

Outreach workers assist the COHs and SBSTs in establishing and maintaining contacts with parents. Outreach workers are accountable to appropriate supervisory staff and COH chairpersons. See appendix for procedures. The Outreach Worker's Manual for SBSTs and COHs is included in the appendix.

PARAGRAPH 52(a)

PROCEDURES FOR ANNUAL REVIEWS

Procedures have been established which provide that for each student receiving special education or related services an annual review of the student's IEP will be conducted.

For students in resource room programs or receiving special education related services in a regular class, the participants at the annual review will include the following persons:

- a) student's special education teacher;
- b) student's parents or guardian;
- c) student, where appropriate;
- d) the student's regular classroom teacher, and other service providers will be invited to attend. In the event that they are unable to participate, written reports detailing the child's progress and additional needs, if necessary, may be submitted;
- e) a school official, other than the student's teacher, who is qualified to provide or supervise the provision of special education.

For students attending self-contained classes, alternative day school centers, home or hospital instruction or in residential placement, the participants of the annual review will include the following persons:



- a) student's special education teacher;
- b) student's parents or guardian;
- c) student, where appropriate;
- d) other service providers will be invited to attend. In the event that they are unable to participate, written reports detailing the child's progress and additional needs, if necessary, may be submitted;
- e) a school official, other than the student's teacher, who is qualified to provide or supervise provision of special education.

Upon parental request the child's IEP shall be reviewed by the COH/SBST to determine whether the identification, evaluation or educational placement of a child or the provision of a free appropriate public education to a child should be modified, changed or continued as developed in the IEP.

PARAGRAPH 52(a)

TRIENNIAL REEXAMINATION PROCEDURES

Site supervisors are responsible for notifying the SBST/COH every three months regarding all students in need of triennial reexaminations. The SBST/COH schedules the appropriate reexaminations, reviews the evaluations with the parent, makes recommendations, and develops a new IEP with the parent. See appendix.

PARAGRAPH 55(a)

EFFORTS TO ASSURE PARENTAL ATTENDANCE AT IEP MEETINGS

City defendants' procedures provide for extensive efforts to assure parental attendance at IEP meetings. Referral forms indicate telephone numbers of the parent's home and business and an emergency number at which the parent can be contacted to facilitate attendance.

Phase-in districts

The parent, as a member of the SBST, is invited to be a participant at all meetings and is notified of each meeting. An attempt is made at the informal assessment conference to arrange a mutually agreeable time for the IEP meeting (the educational planning conference). If the parent does not attend the informal assessment conference or a mutually agreeable time cannot be arranged, written notice of the meeting is sent within sufficient time to provide for parental response (one week). The letter advises the parent whom to contact if the appointment date is inconvenient. A confirming telephone call is made two to three days before the conference.

In the event a self-contained class or resource room outside the child's home school is recommended at the educational planning conference, the team will call the COH at that time and attempt to arrange a meeting with the COH at a time which is mutually agreeable to the parent and the committee.

### Non-phase-in districts

On the day of evaluation the COH attempts to schedule the subsequent IEP planning conference at a time and date mutually agreed to with the parent. Should the date have to be changed or if a mutually agreeable date cannot be arranged at that time, the parent will be contacted by phone or by mail. The letter will be sent within sufficient time to provide for parental response (one week). The letter advises the parent whom to contact if the appointment date is inconvenient. A confirming telephone call is made two to three days before the conference.

---

In phase-in and non-phase-in districts, calls and/or visits are first attempted during the work day. If contact is not made during the work day, then night or weekend contacts are made. Staff are required to document all contacts and efforts to reach the parent.

No SBST/COH IEP meeting will be held without the parent present without actual contact, or three telephone calls (day/evening/weekend as appropriate) and written notice to the parent. See appendix for COH/SBST outreach workers' procedures.

PARAGRAPH 55(b)

PARTICIPATION WHERE PARENTS ARE UNABLE

TO ATTEND IEP MEETINGS IN PERSON

City defendants' procedures provide for parental participation even when a parent is unable to attend the IEP meeting. Procedures include:

- a) advising the parent that the meeting date can be changed;
- b) submission of written information or statements;
- c) submission of oral statements via team or committee members;
- d) a post conference meeting or telephone conference with SBST/COH member to discuss the recommendation; and
- e) conferencing with the SBST/COH after the recommendation is made.

A parent is encouraged to contact the SBST/COH to discuss any aspect of the evaluation and placement process.

PARAGRAPH 55(c)

ASSURING PARENTAL UNDERSTANDING

City defendants instruct all SBST and COH members that they are to communicate diagnostic and educational findings and recommendations to parents in understandable, jargon-free language. Training in this area has been incorporated into the SBST training material.

In the event the parent or the SBST/COH needs additional time to discuss a case, the parent will be offered another opportunity to meet with the SBST/COH or individual team member.

Parents will be offered a list of free and low cost legal and advocacy services to assist them.

PARAGRAPH 55(d)

CONTACT PRIOR TO CASE CLOSING

City defendants' procedures provide for all reasonable efforts to contact a parent prior to removing the child from the evaluation and placement process.

Evaluation Process

A child may be removed from the evaluation process (1) upon the request of the parent; or (2) after a parent fails to keep two scheduled appointments without notifying the SBST or COH and efforts to reach the parent have been unsuccessful. See appendix.

Placement Process

Where an evaluation has been conducted and a recommendation has been made, the child may be removed from the placement process (1) upon the request of the parent; or (2) after a parent fails to respond in a timely fashion and unsuccessful outreach efforts have been made to secure parental response. Procedures are delineated in the appendix.

---

No case may be closed at either the evaluation or placement stage without actual contact with the parent unless there has been attempts at (1) phone contact during the work day and/or evening and weekend hours as appropriate;

(2) contact (including telephone or personal) with appropriate school or district personnel or referral agency; and (3) final written notice to the parent.



PARAGRAPH 55(e)

INITIAL EVALUATION OR INITIAL PLACEMENT WITHOUT  
PARENTAL CONSENT

City defendants' procedures provide for the initial evaluation or initial provision of special education services without parental consent under appropriate circumstances. Should City defendants decide to effect evaluation or provide special education services without parental consent, City defendants must first request an impartial hearing to determine whether an evaluation or a placement is appropriate. In exceptional circumstances (e.g., non-attending students, severely handicapped students, students who represent a danger to themselves or others), after City defendants receive written notification that a student may have a handicapping condition, City defendants may request an expedited impartial hearing on at least five (5) days written notice to the parent. The written notice shall apprise the parent that the hearing officer can order evaluation or placement of the child without the consent of the parent, whether or not the parent attends the hearing. See appendix for procedures.

PARAGRAPH 55(f)

ATTENDANCE PROCEDURES FOR HANDICAPPED CHILDREN

City defendants' attendance procedures provide for intervention by site supervisors and attendance coordinators when special education students are absent for five (5) days or more (in the case of known truants, two (2) days or more). The site supervisor will send the parent of the absent child a letter requesting that the parent inform him/her of the reason for the absence including any problems with the child's program or transportation.

If there is no response in an additional five (5) days and the child has not returned to school, telephone contact is initiated at night or on a weekend. An attendance teacher is assigned to conduct an investigation, including contact with outside agencies, persons involved with the child's home and school and home visits.

Problems of placement, program or referral affecting attendance are submitted to the SBST/COH. Students are maintained on class registers pending resolution of problems. See appendix for procedures.

PARAGRAPH 55(g)

DISCHARGE PROCEDURES FOR HANDICAPPED CHILDREN  
AGES 16-21 WHO REQUEST DISCHARGE

Notwithstanding a request by a child and his/her parent(s), a 16 year old handicapped student may not be discharged from school unless the student a) has been issued a lawful full-time employment certificate or (b) is a graduate of a four-year high school. Where the student has been issued a full-time employment certificate, the 16 year old handicapped student and his/her parent(s) will be informed of the student's right to return to an appropriate educational program until the age of twenty-one or graduation. This information will be conveyed in writing to the parent(s) and to the student and parent(s) at the exit interview, held at a mutually agreed upon time and place, with a Division of Special Education member of a helping profession (e.g., social worker, psychologist, guidance counselor, attendance teacher). If the parent does not understand English and does not intend to bring someone to the interview who can act as an interpreter, the member of a helping profession or an interpreter will inform the parent(s) of her/his child's rights in the language which the parent understands.

A 17 year old handicapped student who has not been graduated from high school may be discharged at his/her request only with the consent of his/her parents unless under State law

the student is legally empowered to give consent. An 18-21 year old handicapped child may be discharged upon request except where under applicable law parental consent is required. An exit interview will be held at a mutually agreed upon time and place with the student, parent(s) and a Division of Special Education member of a helping profession. Its purpose will be to assist the student and parent(s) in making an appropriate decision, to inform them of the student's right to return to school in an appropriate educational program until graduation or the attainment of age 21, and to make the student and parent(s) aware of the full range of special education and related services available. If the parent does not understand English and does not intend to bring someone to the interview who can act as an interpreter, the member of a helping profession or an interpreter will inform the parent(s) of her/his child's rights in the language which the parent understands.

The discharge procedures to be followed in the event the student and parent cannot be contacted or fail to attend the exit interview are set forth in the appendix.

PARAGRAPHS 55(h) and 55(i)

COH MONITORING OF SBSTs; COH RESPONSIBILITY  
FOR PLACEMENT OUTSIDE THE CHILD'S REGULAR SCHOOL

SBSTs are responsible for conducting assessments of children within the home school building. The district COHs retain the responsibility for monitoring the timeliness of formal assessments.

The SBST, on a weekly basis, will send to the District COH copies of written notification by parents and physicians that a child may be in need of special education and copies of signed parental consent forms for formal assessment. These notifications initiate the COH monitoring process for the timely assessment and placement of children.

The SBST in each school will maintain a comprehensive tracking system which will account for all children suspected of being in need of special education services.

The SBST will notify the District COH in writing of the outcome of the educational planning conference for each student who has completed formal assessment. This notification will enable the COH to monitor timeliness of assessment. In addition, this document will provide the COH with all necessary data for child census purposes.

Decisions concerning the provision of related services and resource room placement in the home school are made by the SBST and reported to the COH.

In those cases where the services of a resource room within the child's home school (or the school to which the child would otherwise be assigned) do not meet the individual needs of the child, the matter will be referred to the district COH for review. Such a review will consist of a conference with the COH, the parent, the child where appropriate, and a representative of the SBST as needed, examining the findings of the SBST concerning the child's educational needs. The district COH will be responsible for the determination of placement of children in self-contained programs and in resource room programs in other than the home school (or the school to which the child would otherwise be assigned). For example, the COH will be responsible for resource room placement for the student who is visually impaired, of limited English proficiency, hearing impaired, speech impaired, or in cases where the parent and SBST/COH agree to placement in a resource room program in other than the home school (or the school to which the child would otherwise be assigned).

PARAGRAPH 55(j)

SPECIALIZED EVALUATIONS

City defendants' procedures require that each child undergoing formal assessment receive all examinations necessary to fully assess the educational needs of the child. SBST shall insure that these assessments are made before it completes educational plans for the child.

If a child requires examinations which cannot be performed by the SBST in the home school, the SBST considers the nature of the additional assessments required. For all assessments which cannot be performed by SBST, except for assessments of the hearing impaired and visually handicapped, the SBST contacts the district COH which shall arrange for appropriate examinations and shall obtain appropriate persons to conduct examinations. The SBST shall notify COH and contact the Hearing Impaired/Visually Handicapped Unit to arrange for assessments of the hearing impaired and/or visually handicapped student.

If a child is medically identified as possibly having a severe handicapping condition, the child may be eligible for direct review by COH. In cases where COH conducts such a direct review, COH shall directly undertake all arrangements for all specialized evaluations.

PARAGRAPH 55(k)

APPEALS TO COH

A child's parent or guardian may invoke COH review of any action or inaction of the SBST at any stage of the assessment and placement process. In addition, when the SBST cannot reach a consensus the case will be reviewed by the district COH. These reviews may be initiated by parents or other team members where resolution of the problem cannot be reached at the school level. At the conclusion of the informal assessment conference or when a formal assessment process is initiated and again at the conclusion of the educational planning conference, the parent will be specifically apprised orally and in writing of the district COH review procedure.

Parents will be advised that the review may be initiated by letter or other written communication from the parent to the COH including completion of specific forms which will be available both at the SBST office and the COH office.

The COH shall offer to meet with the parents and any representative of the parents. Whether or not a parent attends such meeting, the COH shall consider the matter and issue a decision within ten (10) work days of receipt of the request for review. The COH chairperson will attempt to schedule such meeting of the COH and the parent at a mutually agreeable time. The COH shall attempt conciliation



between the parent and the other members of the SBST. Following the review meeting, the COH shall make a recommendation or shall take such actions as may be necessary to meet the needs of the child. After the ten (10) work days, the parent may request an impartial hearing regardless of whether he/she has met with the COH or whether the COH has issued a recommendation.

Initiation of these procedures shall toll the 60 day time period for evaluation and placement for the duration of the review up to ten (10) days.

In or about June, 1981, the parties and amici agree to renegotiate these procedures. Thereafter, any party may seek modification of the provisions.

Forms and procedures to implement paragraph 55(k) will be developed by December 15, 1980.

PARAGRAPH 55(1)

TIMELY PREPARATION OF IEPs

Initial IEPs

A child's initial individualized education program (IEP) is developed in two phases. The first phase is prepared at an educational planning conference scheduled upon completion of the evaluation process at a time that, whenever feasible, is mutually agreeable to parents and SBST or COH personnel. At this conference, held prior to a recommendation for placement or the provision of related services, test results, interviews and other relevant contacts pertaining to the child are discussed among members of a multidisciplinary team and the parent(s). Timely preparation of the first phase of the IEP is directly related to the Board's timeliness in completing evaluations. The first two pages of the IEP are completed and are provided to the parent(s) setting forth: a) the child's present level of performance; b) long-range goals; and c) the special education program and related services (as needed) to be provided the child.

The second phase of the initial IEP will be prepared at a meeting scheduled within thirty school days of attendance of a child in a special education program. This second phase will consist of a statement of the short term goals for the child and a description of how the IEP will be carried out and by whom. Arrangements for this meeting, which is to be conducted, whenever feasible, at a time mutually agreed to between the parent and teacher, are made by the child's special education teacher. Within fifteen school days of the child's entry to the class, the

teacher telephones the parent(s) to arrange for the IEP conference. In the event telephone contact cannot be made, a fact to be documented on the IEP form, the parent(s) will be notified by letter of the scheduled conference. Parents with whom a conference has been scheduled through telephone contact receive written confirmation of the date. All contacts with parents are recorded on the IEP form.

Parents will be informed that they may invite whomever they choose to attend the IEP meeting with them. The child may attend, if appropriate. A school official who is qualified to provide or supervise the provision of special education services also attends. Should the parent(s) fail to attend despite attempts at contact, the IEP conference will be held, following which the teacher will call the parent to discuss the program and will send a copy of the IEP to the parent.

#### Annual Reviews

Procedures for the timely development of IEPs on an annual basis after a child has been placed in a special education program are those set forth below.

The child's special education teacher attempts to call the parent during regular school hours to arrange a mutually agreeable time. Written confirmation of the scheduled conference will be sent. If contact with the parent has not been made or a mutually agreeable time

cannot be scheduled, the teacher sends written notification indicating a date and time. A tear-off is provided to facilitate a response either confirming or setting a new date. This letter will also inform the parent that he/she may call the teacher to schedule a new appointment. The teacher attempts to call the parent during regular school hours two or three days prior to the conference to confirm the appointment. If he/she is unable to reach the parent, a notice will be sent home with the child.

No annual review of a child's IEP will be conducted without the parent unless there has been written notification and actual contact or at least two telephone calls during regular school hours to the parent, including a call to the alternative number which has been provided by the parent to the school.

Teachers and/or outreach workers in the phase-in districts are encouraged to make every effort to contact parents prior to conducting annual reviews.

PARAGRAPH 55(m)

IMPLEMENTATION OF THE CONTINUUM

See page 73 infra.

PARAGRAPH 55 (n)

INTERPRETERS FOR PARENTS

City defendants' procedures provide for competent interpreters to be provided to parents of limited English proficiency in their contacts with certain Board of Education personnel regarding the evaluation, placement and individualized education program of their child. There are also procedures designed to assure that COHs/SBSTs determine the linguistic competence of their bilingual personnel. See appendix, paragraph 20(a) and (c).

Whether a particular parent requires the services of an interpreter is identified on his or her child's referral form and is verified upon initial contact with the parent. See appendix, paragraph 20(a) and (c). Arranging for the services of a competent interpreter is the responsibility of the COH chairperson or designee or the SBST facilitator or designee. If no member of the evaluation team is competent to act as an interpreter for the parent and if no competent interpreter is available within the district, the designee contacts the regional coordinator. The regional coordinator or designee maintains a list of competent interpreters available citywide.

Using this list, the regional coordinator or designee arranges for the services of a competent interpreter from within his/her region. If none is available, the regional coordinator

or designee contacts other regional coordinators until a competent interpreter is located. Should there be no competent interpreter in the required language available throughout the regions, the regional coordinator or designee contacts the SBST bilingual coordinator who shall obtain the services of a competent interpreter. If a parent provides his or her own interpreter, no other interpreter need be provided. A parent shall not be required to provide an interpreter.

PARAGRAPH 55(o)

EARLY IDENTIFICATION OF POTENTIALLY  
HANDICAPPED STUDENTS WHO HAVE PATTERNS  
OF TRUANCY.

Under City defendants' procedures, the case of each student with a pattern of truancy is reviewed to determine whether the student may have a handicapping condition. After notification by the classroom teacher, the school attendance coordinator interviews the absentee upon his return to school. In appropriate cases, the school attendance coordinator will discuss the child with the principal, the child's parent (where possible) and teacher, and review the child's cumulative records to determine whether there is reason to believe that the child may have a handicapping condition and be in need of special education. Referral to the SBST or the district COH will be made in appropriate cases.



PARAGRAPH 55(p)

PROCEDURES FOR NON-SPECIAL EDUCATION  
STUDENTS WHO REQUEST DISCHARGE

City defendants' procedures provide that at exit interviews for students over 16 who request discharge a responsible official considers whether the student may benefit from a referral for evaluation and informs the student and parent of special education programs. At the conclusion of the exit interview, the student and/or parent is notified in writing of the student's right until the age of 21 to be evaluated to determine if the student has a handicapping condition and, where found to be in need of special education, of the student's right until the age of 21 or graduation from high school, to be placed in an appropriate educational program. See appendix.

PARAGRAPH 55 (g)

TRANSLATION OF DOCUMENTS

Parents who are of limited English proficiency and who speak languages spoken by substantial numbers of people in New York City are provided appropriate documents regarding the evaluation and placement of their children into special education programs in their native language. The procedures implementing this are as follows.

A. COH and SBST Notices

A parent's English or other language dominance is verified upon initial contact with the parent. See appendix, paragraph 20 (a) and (c). All COH and SBST notices are translated into languages spoken by substantial numbers of New York City residents and are provided to parents of limited English proficiency in their appropriate language. All parents of limited English proficiency who do not speak languages into which SBST and COH notices have been translated will receive form documents in English with the following notice translated into their native language:

This is an important notice regarding the education of your child. Please have someone translate this document for you promptly.

B. Clinical Reports and IEPs

Clinical reports will continue to be made available to parents in English. These reports will be orally translated for parents of limited English proficiency by an interpreter or by the bilingual personnel in the case.

Spanish speaking parents who are of limited English proficiency receive a copy of their child's IEP translated into Spanish. That portion of the initial IEP which is developed at the COH or SBST planning conference will be provided to the parent in Spanish either at the conference or subsequently in accordance with the COH/SBST procedures set forth in the appendix to paragraph 52(a).

The second portion of the initial IEP, developed after the child's placement in a special education program, will also be translated into Spanish for parents who are of limited English proficiency and whose dominant language is Spanish. If the parent attends the conference, every attempt will be made to provide the parent with the second portion of the IEP translated into Spanish at the conference. Where the parent does not attend the conference, or does attend but where the person who acts as the parent's translator is unable to effectively translate the second portion of the IEP into Spanish, a translated copy of that portion of the IEP shall be mailed to the parent within 30 days.

Spanish-speaking parents who are of limited English proficiency receive a copy of the IEP which is developed at

the annual review translated into Spanish. As to those annual reviews conducted more than 30 days prior to the commencement of the school year, Spanish-speaking parents are mailed a Spanish translation of the IEP prior to the commencement of the school year. As to all other annual reviews, Spanish-speaking parents are mailed a Spanish translation of the IEP within thirty days after it has been developed.

Commencing February 1, 1981, the above procedures for translating IEPs into languages other than English will apply to all parents who are of limited English proficiency and who speak languages spoken by substantial numbers of people in New York City.

PARAGRAPH 55(r)

INDEPENDENT EVALUATIONS

City defendants' procedures provide for independent evaluations at Board of Education expense in conformity with 45 C.F.R. §121a.503. See appendix. Parents will be provided with a list of outside agencies that conduct evaluations. Parents will also be informed that they are not required to use these listed agencies.

If a parent requests an independent evaluation at public expense, the parent will be informed if the SBST/COH will request a hearing to determine the appropriateness of the Board's evaluation. The parent will be informed if an independent evaluation at public expense is approved by the Board or ordered by a hearing officer and the nature and conditions of that approval. The parent is also informed to whom the bill is to be submitted. That person is responsible for assuring payment in a timely manner. See appendix for procedures.

PARAGRAPH 55(s)

SURROGATE PARENTS

City defendants' procedures provide for the appointment of a surrogate parent when a student's parent or person in parental relationship cannot be identified or cannot be discovered after reasonable efforts or the student is a ward of the State. Public and private agencies will be informed of these procedures.

If a social worker, guidance counselor, teacher, or principal knows of a child who may need special education and knows that the child's parents or guardians are unknown or cannot be discovered or that the child is a ward of the State, he is to file a written request for assignment of a surrogate with the district committee on the handicapped. The adult in charge of the child's residence is notified of the possible need for a surrogate; notice is also sent to the parent or guardian at his/her last known address. The Executive Director of the Division of Special Education reviews the COH recommendation and appoints a surrogate within ten (10) days, where appropriate.

An individual selected as a surrogate parent should have no interest which conflicts with the child's; should be committed to acquaint him/herself personally and thoroughly with the child and the child's educational needs; should have the knowledge and skills to provide

adequate representation; should not be an officer, employee, or agent of the Board, the State Education Department, or any public agency involved in the education or care of children; and should, to the maximum extent possible, be of the same racial, cultural and linguistic background as the child.

Once assigned, the surrogate parent should represent the child at least through the first periodic annual review and, where appropriate, through the entire appeal process.

The surrogate will be reimbursed for reasonable expenses (transportation, lunches, xeroxing, etc.) incurred to the extent that such expenses are not reimbursed by other agencies.

PARAGRAPH 56(a)

COMPONENTS OF THE EVALUATION PROCESS

Evaluation Process

The evaluation process reflects the analysis and decision-making of a multidisciplinary team. This team determines which evaluations are appropriate to provide sufficient information to develop an appropriate IEP. The multidisciplinary team may include the following members: social worker, psychologist, educational evaluator, speech and language specialist, physician, etc..

Physicians will review all cases where medical factors are suspected of contributing to a child's educational handicap. A physically handicapped child will not be reviewed by a physician whose only expertise is in the field of psychiatry. The specific role and responsibility of the physician for any child will be determined by a child's individual need. The physician will not review or initiate medical assessments for all children. The need for medical review is determined by the SBST consistent with specific criteria which will be submitted to all parties and amici by June 30, 1980. Any party who does not approve of said criteria may seek review by the special master and the court. The guidelines, instructions, and evaluation format required under paragraph 55(j) of the January plan shall also be submitted on June 30, 1980, and subject to the same review.



If SBST members cannot agree as to the need or lack thereof for a medical review, "conflict resolution" may be initiated to the district COH through the appeal procedures developed pursuant to paragraph 55(k) of the judgment.

For all students whose special education placements are arranged by the COH, medical review will be conducted as determined by the eligibility criteria or whenever the parent requests.

The procedures set forth herein shall be subject to review and reconsideration by all parties and the court on March 1, 1981. Prior to that date, defendants shall serve to parties and amici and file with the court a report specifying the number of cases involving medical reviews for the period September 1, 1980 through January 31, 1981, broken down by handicapping conditions in three phase-in districts and one non-phase-in district including:

- a) the number of parental requests for medical review and the number which were granted or denied;
- b) the number of IEP planning conferences in which physicians participated;

and a list of the names and areas of speciality of all physicians employed for medical review purposes citywide.

This provision on the role of the physician is for purposes of this judgment only and is without

prejudice to any claim or any defense with respect to the role of the psysician which may be raised in any other proceeding.

The remaining issues under 56(a) have been postponed. See page 73 infra.

PARAGRAPH 56(b)

STANDARDS FOR PLACEMENT  
IN CONTINUUM

See page 73 infra.

PARAGRAPHS 57, 52(b)(c), 55(m),  
56(a), and 56(b)

STANDARDS AND CRITERIA FOR THE  
CONTINUUM OF SERVICES AND THE  
CONTINUUM OF EDUCATIONAL PRO-  
GRAMS AND SERVICES

On June 16, 1980, City defendants shall serve on the parties and amici and file with the court a proposed special education continuum of service, including program descriptions and eligibility criteria for each component of the continuum and a plan to implement the proposed continuum.

The parties and amici have agreed to postpone the negotiations of the procedures required by paragraphs 55(m), 56(a) and 56(b) pending discussion of the submission required by paragraphs 57, 52(b) and 52(c).

PARAGRAPH 58

INTER-RELATIONSHIP WITH NONPUBLIC SCHOOLS

The Division of Special Education staff will conduct regular meetings with representatives of nonpublic schools serving publicly funded students. These meetings and meetings of sub-committees will provide a mechanism for developing a meaningful plan to fulfill the objectives set forth in paragraph 58 of this judgment. Appropriate officials of the Division will be in attendance at these meetings.

Plenary meetings will be held quarterly throughout the school year. Meetings with the steering committee representing nonpublic schools and subcommittees will be held as necessary. The first meeting will be held in March, 1980. Notice of the meeting will be sent to all schools which contract with the Board of Education. At the first meeting the agenda will include the designation of representatives of Board of Education and nonpublic sector and establishment of subcommittees to explore various issues.

As of June 30, 1981, any party may apply to the court for a modification of these procedures or for termination of the requirements set forth in paragraph 58 of the judgment.

PARAGRAPH 59

SURVEY OF BILINGUAL EVALUATION STAFF  
AS OF JANUARY, 1980

The results of a survey to determine the number, qualifications, and geographical assignments of evaluation staff who speak languages in addition to English are reported in the appendix.

Dated: November 7, 1980


New York, New York

Respectfully submitted,

ALLEN G. SCHWARTZ  
Corporation Counsel of the  
City of New York  
Attorney for City Defendants

100 Church Street  
New York, New York 10007  
(212) 566-2187/3927

By



Gary R. Tarnoff



Mary C. Tucker



Robert Bergen