*** § 4401-a. Referral and evaluation for special education services or programs.** 1. Any student suspected of having a disability may be referred for initial evaluation to determine if the student is a student with a disability by the parent or person in parental relation, the commissioner or a designee of a public agency responsible for providing education to students with disabilities, including but not limited to the school district in which the student resides. In addition, a professional staff member of the school which the student attends or professional staff member of the school district in which the student resides, physician, judicial officer, professional staff member of a public agency, or the pupil himself or herself if such pupil is eighteen years of age or older or is an emancipated minor may request that the school district in which the student resides refer the student for initial evaluation.

2. A request for referral submitted by an individual other than the student student or a judicial officer shall:

a. state the reasons in writing for the referral and include any test results, records or reports upon which the referral is based unless such test results, records or reports are unavailable;

b. describe in writing, intervention services programs or instructional methodologies to remediate the student's performance prior to referral including any supplementary aids or support services provided for this purpose or state the reason why no such attempts were made; and

c. describe the extent of contact or involvement prior to the referral with the parent or person in parental relationship.

3. A referral submitted by a parent or person in parental relation shall be submitted in writing to the chairperson of the committee on special education or the building administrator of the school which the student attends or is eligible to attend. If such referral is submitted to the building administrator, the building administrator shall forward a copy to the chairperson of the committee on special education. If such

referral is submitted to the chairperson of the committee such chairperson shall forward a copy of such referral to the building administrator of the school which the student attends or is eligible to attend. A referral submitted by any other individual shall be submitted in writing to the chairperson of the committee on special education or the building administrator of the school which the student attends or is eligible to attend. The building administrator may request a meeting with the parent or person in parental relation to the student for the purpose of discussing educational alternatives to special education. Such alternatives may include the provision of services designed to address the learning needs of the student and maintain a child's placement in general education with the provision of appropriate educational and support services. Nothing contained in this section shall in any way impede a committee on special education from continuing its duties and functions under this article with regard to a student referred for special education or a parent's access to the committee, except that, if the parent concurs in writing with the building administrator to the provision of educational alternatives to special education, the referral shall be deemed withdrawn.

4. The individual evaluation of the educational needs of a student referred to the committee on special education shall be conducted by qualified individuals, in accordance with regulations of the commissioner, with the results of such evaluation forwarded to the committee on special education and the student's parent or person in parental relation.

5. Special education services and programs shall be provided after the appropriateness of the resources of the regular education program, including, but not limited to, support services, speech and language services, additional educational services and remedial instruction, have been considered. Each school district shall develop a plan and policies for implementing school wide approaches and pre-referral interventions in order to implement the provisions of this subdivision.

6. If the committee on special education has determined that placement in special education services or programs is not appropriate for the

child under consideration, a copy of the committee's recommendation and pertinent information supporting such recommendation shall be forwarded to the building administrator of the school which the child attends and to the parent or person in parental relation to the child. The building administrator shall determine which support services, speech and language services and additional educational services should be provided to the child in order to assist the child to benefit from a program of regular education and, to the extent available, shall assure that those services are provided. Nothing contained in this subdivision shall be construed to limit the right of the parent or a person in parental relation to the student to make a referral or to appeal the recommendation of the committee on special education in accordance with the provisions contained in section forty-four hundred four of this chapter.

* NB Effective until June 30, 2027

* § 4401-a. Referral and evaluation for special education services or programs. 1. Any pupil suspected of having a handicapping condition may be referred for special education services or programs by the parent or person in parental relationship, professional staff member of the school which the pupil attends or professional staff member of the school district in which the pupil resides, physician, judicial officer, the commissioner or designee of a public agency, the pupil himself or herself if such pupil is eighteen years of age or older or is an emancipated minor.

2. A referral submitted by an individual other than the pupil, the pupil's parent or person in parental relationship or a judicial officer shall:

a. state the reasons in writing for the referral and include any test results, records or reports upon which the referral is based unless such test results, records or reports are unavailable;

b. describe in writing, intervention services programs or instructional methodologies to remediate the pupil's performance prior to referral including any supplementary aids or support services provided for this purpose or state the reason why no such attempts were

made; and

c. describe the extent of contact or involvement prior to the referral with the parent or person in parental relationship.

3. A referral submitted by a parent, a person in parental relationship or the pupil, shall be submitted in writing to the chairperson of the committee on special education or the building administrator of the school which the pupil attends or is eligible to attend. If such referral is submitted to the building administrator, the building administrator shall forward a copy to the chairperson of the committee on special education. If such referral is submitted to the chairperson of the committee such chairperson shall forward a copy of such referral to the building administrator of the school which the pupil attends or is eligible to attend. A referral submitted by any other individual shall be submitted in writing to the chairperson of the committee on special education or the building administrator of the school which the pupil attends or is eligible to attend. The building administrator may request a meeting with the parent, person in parental relationship to the pupil and/or the pupil for the purpose of discussing educational alternatives to special education. Such alternatives may include the provision of educationally related support services or any other services designed to address the learning needs of the student and maintain a child's placement in general education with the provision of appropriate educational and support services. Nothing contained in this section shall in any way impede a committee on special education from continuing its duties and functions under this article with regard to a pupil referred for special education or a parent's access to the committee, except that, if the parent concurs in writing with the building administrator to the provision of educational alternatives to special education, the referral shall be deemed withdrawn.

4. The individual evaluation of the educational needs of a pupil referred to the committee on special education shall be conducted by qualified individuals, in accordance with regulations of the commissioner, with the results of such evaluation forwarded to the committee on special education and the pupil's parent or person in

parental relationship.

5. Special education services and programs shall be provided after the appropriateness of the resources of the regular education program, including educationally related support service, speech and language improvement services and remedial instruction, have been considered. Each school district shall develop a plan and policies for implementing school wide approaches and prereferral interventions in order to implement the provisions of this subdivision.

6. If the committee on special education has determined that placement in special education services or programs is not appropriate for the child under consideration, a copy of the committee's recommendation and pertinent information supporting such recommendation shall be forwarded to the building administrator of the school which the child attends and to the parent or person in parental relationship to the child. The building administrator shall determine which educationally related support services, speech and language improvement services and additional educational services should be provided to the child in order to assist the child to benefit from a program of regular education and, to the extent available, shall assure that those services are provided. Nothing contained in this subdivision shall be construed to limit the right of the parent, a person in parental relationship to the pupil or the pupil to make a referral or to appeal the recommendation of the committee on special education in accordance with the provisions contained in section forty-four hundred four of this chapter.

* NB Effective June 30, 2027