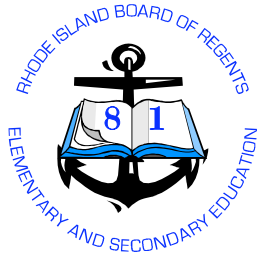


February 5, 2008



State of Rhode Island and Providence Plantations
DEPARTMENT OF EDUCATION
Shepard Building
255 Westminster Street
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Peter McWalters
Commissioner

FACT SHEET

Rhode Island Board of Regents for Elementary and Secondary Education Regulations Governing the Education of Children with Disabilities

The Individuals with Disabilities Education Act (IDEA) was reauthorized by the federal government in December 2004, final regulations were published in August 2006. In order to be compliant with these new regulations, the state of Rhode Island promulgated new state regulations for special education to incorporate the changes required by the federal government. The Rhode Island Board of Regents for Elementary and Secondary Education approved Draft Special Education Regulations for public comment on September 27, 2007. This draft was posted on the Department of Education's web site and the Board of Regents held four public hearings to receive public comment. The Regents considered all public testimony, written and verbal, when they approved the final State Regulations on December 19, 2007. A copy of these is available on the DOE web site:

http://www.ride.ri.gov/Special_Populations/State_federal_regulations/special_education_regulations_2008.pdf

Highlighted Changes:

- **Child with a Disability, Section 300.8:** School districts can use developmentally delayed as a special education disability eligibility for children three through eight.
- **Related Services Definition, Section 300.34:** Related services do not include surgically implanted devices, including cochlear implants. Related services also includes school health services and school nurse services.
- **Speech and Language Pathology Services, Sections 300.34(15) and 300.39(a)(2)(i);** Speech and language pathology services shall remain a *special education service* for children three through eight, "speech-only" Individualized Education Program(IEP). Speech and language as a *related service* is available as identified through the IEP process for children three through twenty-one.
- **Transition Services, Section 300.43:** means a coordinated set of activities for a child with a disability that is results oriented focused on improving the academic and functional achievement of the child from school to post school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. IEPs must be developed that include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills. The IEP must address the academic, developmental, and functional needs of the child. LEAs are not required to evaluate a child before termination of a child's eligibility due to graduation from a secondary school with a regular diploma or due to exceeding the age eligibility for FAPE. However, LEAs shall provide a summary of the child's academic achievement and functional performance, including how to assist the child in meeting his/her postsecondary goals when a child graduates with a regular diploma or exceeds the age eligibility for FAPE.

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- **Extended School Year (ESY) Services, Section 300.106:** In accordance with IDEA, ESY services identified in an IEP developed after June 30, 2008, must be provided when a child's IEP Team determines, *on an individual basis*, that the services are necessary for the provision of a free appropriate public education (FAPE). LEAs may not limit extended school year services to particular categories of disability or unilaterally limit the type, amount, or duration of those services. ESY services are special education and related services provided to a child with a disability beyond the normal school year of the LEA. LEAs need to meet ESY standards adopted by the Board of Regents.
- **Children with Disabilities enrolled by their parents in private schools (includes parochial schools):** will continue to receive FAPE from the district where the child resides as well as a service plan from the district where the private school is located through the 2008-2009 school year. As of July 1, 2009, children with disabilities enrolled by their parents in private schools will receive services through a service plan based on proportionate share only.
 - **Regulations effective until July 1, 2009 Section 300.129:** The LEA of the eligible child's residence is responsible for providing a free and appropriate public education through an Individualized Education Program (IEP) that is implemented by personnel meeting the same standards as those providing services in the public schools; and the LEA is responsible for providing transportation necessary for the child to benefit from or participate in the services provided from the child's school or the child's home to a site other than the private school and from the service site to the private school or to the child's home, depending on the timing of the services.
 - **Regulations effective on July 1, 2009 Section 300.130:** Children found eligible for special education and related services must have a services plan developed. LEAs will use a formula to develop a proportionate payment to the private school to fund the services in the services plan; no parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school; the LEA is responsible for providing transportation necessary for the child to benefit from or participate in the services provided from the child's school or the child's home to a site other than the private school and from the service site to the private school or to the child's home, depending on the timing of the services, the LEA is not required to provide transportation from the child's home to the private school.
- **Parental Consent to bill Public Insurers, including Medicaid, Section 300.154:** LEAs must obtain written, informed parental consent in order to seek reimbursement from Medicaid for the services identified in an eligible child's IEP.
- **Personnel Requirements, Section 300.157:** Caseloads and class size must be determined based on students' needs in accordance with a district staffing policy and plan.
- **Individualized Education Program (IEP) Requirements, Sections 300.320 through 300.324:** The changes in these sections have resulted in the development of new IEP forms: a form for Children 3-14; and a form for Children 14-21. The effective date for using these new forms is July 1, 2008; and statewide professional development provided by the Department of Education for completing the new IEP will start in the spring of 2008.
- **Resolution Process Section 300.510:** The LEA must convene a meeting with the parents and appropriate member(s) of the IEP team within 15 days of receiving notice of a due process complaint. The parent and the LEA determine the relevant members of the IEP team to attend the meeting. The purpose of this meeting is to resolve the issue of the complaint instead of completing the complaint process. An attorney for the LEA can be present at a resolution meeting only if an attorney for the parent is present; the resolution meeting does not need to take place *if* both the parent and the LEA agree in writing to waive the meeting or if the parent and the LEA agree to use the mediation process. If the LEA has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur; written settlements through the resolution process signed by both the parent and the LEA are enforceable in any State court of competent jurisdiction or in a district court of the United States.