

**MEMORANDUM OF CHANGES IN THE FEDERAL REGULATIONS
FOR THE
INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT (IDEIA)
Ohio Department of Education
Office for Exceptional Children
November 15, 2006**

The U.S. Department of Education issued the final Part B regulations to implement the Individuals with Disabilities Education Improvement Act of 2004 (IDEIA). An official copy of the final Part B regulations of the IDEIA was published in the Federal Register on August 14, 2006.

The Part B regulations at 34 CFR Parts 300 and 301 took effect on October 13, 2006. All school districts, county boards of mental retardation and developmental disabilities, other state agencies and state schools, community schools, state and local juvenile and adult correctional facilities, and public agencies in the state that provide special education and related services to children with disabilities and other educational agencies are required to implement these regulations. If there is any conflict between the federal regulations and the Ohio Department of Education (ODE) rules in Chapter 3301-51 of the Ohio Administrative Code, the federal regulations control. In all other matters, ODE rules in Chapter 3301-51 of the Ohio Administrative Code still apply.

ODE's Office for Exceptional Children and Office for Early Learning and School Readiness will be working on revising the Ohio Department of Education's special education rules. It is anticipated that updated rules will be effective no later than July 1, 2008.

A PDF copy of the final Part B regulations is available at www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=1159&Content=1269 <<http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=1159&Content=12699>> .

Summary of Key Changes in the Statute and Final Regulations

The following information is a summary of the major changes contained in the Individuals with Disabilities Education Improvement Act (IDEIA) of 2004 and the final Part B regulations at 34 CFR Parts 300 and 301. **This summary is not exhaustive** and is for informational purposes only. This memorandum does not contradict, replace, amend or stand in the place of any rule, regulation, statute or law. Applicable rule, regulation, statute and law should be followed in all cases. This memorandum should be read in conjunction with IDEIA of 2004, the final Part B regulations at 34 CFR Parts 300 and 301, effective October 13, 2006, *Ohio's Operating Standards for Ohio's School Serving Children with Disabilities*,

Ohio's procedural safeguards notice entitled *Whose IDEA Is This? A Resource Guide for Parents*, as well as *Guidelines for Providing Services to Children with Disabilities Parentally Placed in Ohio Chartered and Non-chartered Nonpublic Schools*. Please see section III of this document for the appropriate web links for these documents.

I. Additions/Changes to Definitions

300.5 Assistive technology device - There is no change in the definition except that the definition now **excludes** a medical device that is surgically implanted, or the replacement of such device.

300.8 Child with a disability - The final regulations have added, under the OHI category, the health problem "**Tourette's Syndrome.**"

300.9 Consent - No change. Consent does NOT mean the same as agree or agree in writing.

300.10 Core academic subjects - Means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

300.13 Elementary school - Means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

300.18 Highly qualified special education teachers – For **any public elementary or secondary school special education teacher teaching core academic subjects**, the term highly qualified has the meaning given the term in section 9101 of the ESEA and 34 CFR 200.56, except that the requirements for highly qualified also include the requirement that the teacher obtain full state certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the state special education teacher licensing examination, and holds a license to teach in the state as a special education teacher, except that when used with respect to any teacher teaching in a public community school, highly qualified means that the teacher meets the certification or licensing requirements, if any, set forth in the states public community school law; the teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and the teacher holds at least a bachelor's degree.

A teacher will be considered to meet the highly qualified standard if that teacher is participating in **an alternative route to special education and certification program** under which the teacher receives high quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction before and while teaching; participates in a program of intensive supervision that consists of structured

guidance and regular ongoing support for teachers or a teacher mentoring program; assumes functions as a teacher only for a specified period of time not to exceed three years; and demonstrates satisfactory progress toward full certification as prescribed by the state; and the state ensures, through its certification and licensure process, that the provisions regarding alternative routes to special education and certification programs are met.

Any public elementary school or secondary school special education teacher teaching in a state, who is **not teaching a core academic subject**, is highly qualified if the teacher meets the requirements for special education teachers in general or holds a bachelors degree and meets the requirements of an alternative route to special education certification program as outlined above.

Requirements for special education teachers teaching to alternate achievement standards. When used with respect to a special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards under 34 CFR 200.1(d), highly qualified means the teacher, whether new or not new to the profession, may either meet the applicable requirements of section 9101 of the ESEA and 34 CFR 200.56 for any elementary, middle, or secondary school teacher who is new or not new to the profession or meet the requirements of paragraph (B) or (C) of section 9101(23) of the ESEA as applied to an elementary school teacher, or, in the case of instruction above the elementary level, meet the requirements of paragraph (B) or (C) of section 9101(23) of the ESEA as applied to an elementary school teacher and have subject matter knowledge appropriate to the level of instruction being provided and needed to effectively teacher to those standards, as determined by the state.

Requirements for special education teachers teaching multiple subjects. Subject to separate HOUSSE standards for special education teachers, when used with respect to a special education teacher who teaches two or more core academic subjects exclusively to children with disabilities, highly qualified means that the teacher may either meet the applicable requirements of section 9101 of the ESEA and 34 CFR 200.56(b) or (c); in the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher who is not new to the profession under 34 CFR 300.56(c) which may include a single, high objective uniform State standard of evaluation (HOUSSE) covering multiple subjects; or in the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate, not later than two years after the date of employment, competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher under 34 CFR 200.56(c), which may include a single HOUSSE covering multiple subjects.

Separate HOUSSE standards for special education teachers. Provided that any adaptations of the State's HOUSSE would not establish a lower standard for

the content knowledge requirements for special education teachers and meets all of the requirements for a HOUSSE for regular education teachers. A state may develop a separate HOUSSE for special education teachers; and the standards described in separate HOUSSE standards for special education teachers may include single HOUSSE evaluations that cover multiple subjects.

Notwithstanding any other individual right of action that a parent or student may maintain under the Individuals with Disabilities Education Improvement Act and attending federal regulations nothing in this part shall be construed to create a right of action on behalf of an individual student or class of students for the failure of the Ohio Department of Education (ODE) or school district employee to be highly qualified, or to prevent a parent from filing a complaint under 300.151 through 300.153 about staff qualifications with ODE.

Clarification of new special education teacher. A teacher who is highly qualified under 34 CFR 300.18 is considered highly qualified for purposes of the ESEA. A fully certified regular education teacher who subsequently becomes fully certified or licensed as a special education teacher is a new special education teacher when first hired as a special education teacher.

Private school teachers are not covered. The requirements at 34 CFR 300.18 do not apply to teachers hired by private elementary schools and secondary schools including private school teachers hired or contracted by the public school districts to provide equitable services to parentally-placed private school children with disabilities.

Notwithstanding any other individual right of action that a **parent or student** may maintain under the IDEA, **nothing** in 34 CFR 300.18 shall be **construed to create a right of action** on behalf of an individual student or class of students for the failure of the Ohio Department of Education or a school district employee to be highly qualified, or to prevent a parent from filing a complaint under 34 CFR 300.151 through 300.153 about staff qualifications with the Ohio Department of Education, Office for Exceptional Children, as provided for under this section.

300.25 Infant or toddler with a disability - Means an **individual under three years** of age who **needs early intervention** services because the individual is **experinecing developmental delays** as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development or has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

300.30 Parent - In Ohio a **foster parent** will NOT be considered a **parent** for purposes of this definition. A foster parent may, however, be appointed as the surrogate parent if the foster parent meets the criteria for surrogate

parents and is appointed to be the surrogate parent by the superintendent of the district of residence. If more than one party is qualified to act as the parent, the parties that may be parents are taken in the order found in the definition of "Parent" as outlined in *Ohio's Operating Standards for Ohio's Schools Serving Children with Disabilities*, rule 3301-51-01((BB) unless there is a judicial decree or order identifying a specific person or persons to act as the parent of the child or to make educational decisions on behalf of the child.

300.34 Related services - interpreting services has been **added** to the list of related services. The term **includes** oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-print, and TypeWell and special interpreting services for children who are deaf-blind.

School health services are services that may be provided by either a qualified school nurse or other qualified person. **School nurse services** are services that may only be provided by a qualified school nurse.

***Exception:** Related services does NOT include services that apply to children with surgically implanted devices, including **cochlear implants** nor a medical device that is surgically implanted, the **optimization** of that device's functioning (e.g. mapping), **maintenance** of that device, or the **replacement** of that device. This exception does NOT limit the **right of a child** with a surgically implanted device (e.g., cochlear implant) **to receive** related services that are determined by the IEP team to be **necessary** for a child to receive a free appropriate public education (**FAPE**). This definition does NOT limit the responsibility of the school district to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition or operation of other bodily functions, while the child is transported to and from school or is at school or prevents the routine checking of an external component of a surgically-implanted device to make sure it is functioning properly.

Orientation and mobility services has added the use of a service animal as a tool to supplement visual travel skills.

300.45 Ward of the state - This term **includes all foster children** in the state of Ohio, since no foster parent would automatically qualify as a parent under Ohio's laws, as well as all children in the temporary or permanent custody of a public child welfare agency.

II. Additions/Changes to Subpart B - State Eligibility

300.101 FAPE - Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has **not failed** or **been retained in a course or grade**, and is advancing from grade to grade.

300.102 Limitation - Exception to FAPE for Certain Ages - The term regular high school diploma does NOT include an alternative degree that is not fully aligned with Ohio's academic content standards, such as a certificate or a general educational development credential (GED). Ohio's **GED** is NOT fully aligned with Ohio's academic **content standards**. Therefore, a child with a disability who has received a GED **may return to school** to pursue their regular high school diploma until their 22nd birthday.

300.107 Nonacademic services - Each school **district** must take **steps**, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to **provide nonacademic and extracurricular** services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.

300.111 Child find - Child find must be done for **ALL** children with a **suspected disability** residing in the district including children attending **private schools** which are located in the district, **homeless** children, children who are **wards of the state**, children who are **advancing** from grade to grade, have **not failed or been retained** in a course or grade and **highly mobile** children including **migrant** children.

300.151 Adoption of state complaint procedures - Ohio will be adopting **new** complaint **procedures** and a new complaint form. The target date for the form to be in place is by November 2006. The form along with a question and answer document will be posted on the Ohio Department of Education, Office for Exceptional Children's website.

300.154 Methods of ensuring services - A school district may use the **Medicaid** or other public benefits or **insurance programs** in which a child participates to provide or pay for services required under IDEA as permitted under the public benefits or insurance program, but must **obtain parental consent** each time that access is sought and **notify** the **parents** that their refusal to allow access to their benefits or insurance does not relieve the school district of the responsibility to ensure that all required services are provided at no cost to the parent.

300.174 Prohibition on mandatory medication - A school **district** may NOT **require** the **parents** to obtain a **prescription** for substances identified under

schedules I, II, III, IV or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) for a child as a condition of **attending school**, receiving an **evaluation** or receiving **services**. This requirement does not prohibit a teacher or other school personnel from consulting and sharing classroom-based observations with parents or guardians regarding a child's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services.

300.300 Parental consent - If a school district proposes to conduct an **initial evaluation** to determine if a child has a disability the district must obtain the **parents' consent**. If the parents' **refuse consent** for the initial evaluation the district may request a due process hearing and engage in conflict resolution with the parents (e.g. resolution session and/or mediation) in order to convince the parents to provide their consent. The **district is not required to request a due process** hearing or engage in other forms of conflict resolution and is **not held responsible** for providing the child **FAPE** or any protections allowed the child under IDEA if the parents refuse to provide their consent for an initial evaluation.

If the **parents' refuse consent** for the initial provision of **special education** and related services the school **district cannot request a due process** hearing or request the parents to engage in a resolution session and/or mediation in order to convince the parents to provide their consent. The **district is not held responsible** for providing the child **FAPE** or any protections allowed the child under IDEA if the parents refuse to consent.

If the parents **refuse consent** for a **reevaluation** the **same requirements apply** as those for an initial evaluation if the IEP team determines that additional assessments and data are necessary as part of the reevaluation. If the reevaluation does not consist of any new assessments or collection of new data, then the parents' consent is unnecessary.

If the parents of a child who is **home schooled** or placed in a **private school** by the parents at their own expense does **not provide consent** for the initial evaluation or reevaluation or the parents fail to respond to a request to provide consent the **district cannot request a due process** hearing or request the parents to engage in a resolution session and/or mediation in order to obtain the parents consent.

300.301 Initial evaluations - Either a **parent** of a child or a **public agency** may initiate a **request** for an **initial evaluation** to determine if a child is a child with a disability. The initial evaluation must be conducted within **60 days** of receiving parental consent for the evaluation. The **evaluation** must consist of procedures to **determine if** the child is a child with a disability under 300.8 and to determine the **educational needs of the child**.

Exception: The evaluation **timeline does not apply** if the **parent** of a child repeatedly **fails** or **refuses to produce** the child for the evaluation or a child **enrolls** in a school of **another school district**, after the evaluation timeline has begun, and prior to the determination by the child's previous school district as to whether the child is a child with a disability under 300.8. This **exception applies only** if the subsequent school district is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent school district agree to a specific time when the evaluation will be completed.

300.302 - Screening for instructional purposes is **not evaluation**. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

300.304 Evaluation procedures - The school district must provide **prior written notice** to the parents of a child with a disability or suspected disability that describes any **evaluation procedures** the agency proposes to conduct.

300.305 Additional requirements for evaluations and reevaluations - If the IEP team and other qualified professionals, as appropriate, determine that **no additional data** are **needed** for a reevaluation, the school district must **notify** the child's **parents** of that determination and the **reasons** for that determination and the **right of the parent** to **request** an **assessment** to determine whether the child continues to be a child with a disability, and to determine the child's educational needs.

300.307 Specific learning disabilities - Ohio will adopt **criteria** for determining whether a child has a specific learning disability (SLD). The criteria must NOT require the use of a **discrepancy formula**, must **permit** the use of a process based on the child's response to scientific, research-based interventions (**RTI**), and **may permit** the use of other **alternative research-based procedures**.

300.309 Determining the existence of a specific learning disability - The team may determine that a **child has a specific learning disability** if the child does not achieve adequately for the child's age or to meet state approved grade-level content standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or state-approved grade-level standards: oral expression, listening comprehension, written expression, basic reading skill, **reading fluency skills**, reading comprehension, mathematics calculation, **mathematics problem solving**.

The child does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified in the preceding paragraph when using a process based on the child's **response to scientific, research-based intervention**, or the child exhibits a **pattern of strengths and weaknesses** in performance, achievement, or both relative to age, state-approved grade-level standards, or intellectual development, that is determined by the team to be relevant to the identification of a specific learning disability, using appropriate assessments.

The **determination** that a child has a **specific learning disability** may **not** be primarily the **result of** a visual, hearing or motor disability, mental retardation, emotional disturbance, **cultural factors**, environmental or economic disadvantage, or **limited English proficiency**.

To ensure that **underachievement** in a child **suspected** of having a **specific learning disability** is **not due to lack** of appropriate **instruction in reading or math**, the group must consider, as part of the evaluation, data that demonstrate that prior to, or as a part of, the referral process, the child was provided **appropriate instruction** in regular education settings, delivered by **qualified personnel** and data-based documentation of **repeated assessments** of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

If a school district suspects that a child **may** have a **specific learning disability** the district must adhere to the **60 day evaluation timeline** unless the child's parents and a group of qualified professionals (e.g. the evaluation team) decide by mutual written agreement to **extend the timeline**. This extension is allowable only when the evaluation team suspects a disability under the SLD category.

300.310 Observation - The school **district** must **ensure** that the child is **observed** in the **child's learning environment** (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty. In determining whether a child has a specific learning disability the team must decide to use information from an observation in routine classroom instruction and monitoring of the child's performance that was done **before** the child was **referred for an evaluation; or**

Have at least one member of the team conduct an observation of the child's academic performance in the regular classroom **after the child has been referred for an evaluation and parental consent is obtained**.

In the case of a child of **less than school** age or **out of school**, a group member must observe the child in an environment appropriate for a child of that age.

300.311 Specific documentation for the eligibility determination - An additional requirement has been included in documenting the eligibility determination which is whether the **child** does **not achieve adequately** for the child's **age** or to meet **state-approved grade-level standards** consistent with 300.309(a)(1) and the child does not make sufficient progress to meet age or state-approved grade-level standards consistent with 300.309(a)(2)(i) or the child **exhibits a pattern of strengths** and **weaknesses** in performance, achievement, or both, relative to age, state-approved grade-level standards or intellectual development consistent with 300.309(a)(2)(ii).

The determination of the group concerning the effects of a **visual, hearing, or motor disability; mental retardation, emotional disturbance**; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and if the child has participated in a process that assesses the child's **response to scientific, research-based intervention**, the instructional strategies used and the student-centered data collected; and the documentation that the child's **parents** were **notified** about the **state's policies** regarding the amount and nature of **student performance data** that would be collected and the general education services that would be provided; strategies for **increasing** the child's **rate of learning**; and the parents' right to **request** an **evaluation**.

Note: The SLD portion of Ohio's ETR will change to reflect the changed requirements for the determination of whether or not a child is a child with a SLD.

300.320 Definition of individualized education program - The federal regulations and statute do **NOT** require **objectives** on **IEPs**, unless the child will be assessed using an alternate assessment, nor do the federal regulations and statute require a **vision statement**. The federal regulations also **do not require a transition statement** at the **age of 14**. **Ohio's rules**, however, **require objectives** and a **vision statement** as well as a **transition statement** when the child is **age 14** on all IEPs. Therefore, objectives, a vision statement and a transition statement for children who are 14 are still required on all IEPs until such time as the rule may change.

300.321 IEP team - A **member** of the IEP team is **not required to attend** an IEP team meeting, in whole or in part, if the **parent** and the **district agree, in writing**, that the attendance of the member is not necessary because the member's area of the curriculum or related service is not being discussed.

A **member** of the IEP team may be **excused** from attending an IEP team meeting, in whole or in part, when the meeting involves a discussion of the member's area of curriculum or related services if the **parent, in writing**, and the

district consent to the excusal and the member submits, in writing to the parent and the IEP team, input into the development of the IEP prior to the meeting.

NOTE 1: Handing the parent the member's input as they enter the IEP meeting is NOT considered 'prior to the meeting'.

NOTE 2: Only required members of the IEP team need to be excused from an IEP team meeting.

Initial IEP team meeting for a child under Part C. In the case of a child who was previously served under **Part C** of the Act, an invitation to the initial **IEP team** meeting must, at the **request of the parent**, be sent to the **Part C service coordinator** or other representative of the Part C system to assist with the smooth transition of services.

300.323 When IEPs must be in effect - If a child with a disability **transfers** from one district in Ohio to another Ohio district, within the same school year, the **receiving district** must **provide** the child **FAPE**, including services comparable to those described in the child's IEP from the previous district until the receiving district either adopts the child's IEP or develops, adopts and implements a new IEP for the child.

If a child with a disability **transfers** from a district **outside of Ohio** to an Ohio district, within the same school year, the **Ohio district must provide** the child with **FAPE**, including services comparable to those described in the child's IEP from the out of state district, until the Ohio district conducts an evaluation, if determined to be necessary, and develops, adopts and implements a new IEP, if appropriate. If the Ohio district conducts an evaluation, the evaluation is considered an initial evaluation and not a reevaluation.

The school **district** in which the child **enrolls** must take reasonable steps to promptly **obtain the child's records**. The **previous school** district must take reasonable steps to **promptly respond** to the request from the receiving school district.

300.324 Development, review, and revision of IEP - In making **changes** to the child's **IEP after** the annual IEP team **meeting**, the parent and the district may agree not to convene the IEP team for making changes to the IEP and instead **may** develop a written document to **amend** or modify the child's current **IEP**. Upon **request**, a parent must be provided with a **revised copy of the IEP** with the amendments incorporated.

If **changes** are made to the child's **IEP** without convening the IEP team, the **district** must **ensure** that the child's **IEP team is informed** of those changes.

300.502 Independent educational evaluation - The **parents** of a child with a disability have the **right** to obtain **one independent educational evaluation** for each initial evaluation or reevaluation that the school district completes subject to certain conditions.

300.503 Prior notice by the public agency; content of notice - The Prior Written Notice Form (PR-01) will be **changed**, by November 2006, to incorporate the **additional required items** of a description of other options that the IEP team considered and the reasons why those options were rejected as well as a description of other factors that are relevant to the district's proposal or refusal.

300.504 Procedural safeguards notice - Adds the requirement that a **copy** of the **procedural safeguards notice** must be **given** to the parents of a child with a disability two additional times, over and above the additional times required by Ohio's rule, which include, **upon receipt** of the **first state complaint** and upon the **district's decision to change** the student's current educational **placement for disciplinary reasons**.

300.505 Electronic mail - A **parent** of a child with a disability may **elect** to **receive notices**, i.e., prior written notice and procedural safeguards notice, by an electronic mail communication if the school **district makes** that option **available**.

300.519 Surrogate Parents - Adds the requirement that an **unaccompanied homeless youth** as defined by the McKinney-Vento Homeless Assistance Act must be appointed a **surrogate parent**. In the case of a child who is an unaccompanied homeless youth, **appropriate staff of emergency shelters, transitional shelters, independent living programs and street outreach programs may be appointed** as **temporary surrogate** parents until a surrogate parent can be appointed that meets all of the requirements for a surrogate parent.

In the case of a child who is a **ward of the State**, the **surrogate** parent alternatively may be **appointed by the judge** overseeing the child's case, provided that the surrogate meets the requirements for surrogate parents.

A surrogate parent cannot be an employee of the state educational agency or local educational agency or any other agency, public or private, that is involved in the education or the care of the child.

III. Additional Topics Not Addressed

300.131-300.148 Serving private school children - Please see *Guidelines for Providing Services to Children with Disabilities Parentally Placed in Ohio Chartered and Non-chartered Nonpublic Schools*. This document outlines all relevant changes to the current federal regulations.

<http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=675&Content=16275>

300.530-300.536 Discipline - Please see "*Whose IDEA Is This? A Resource Guide for Parents*" which was updated in the fall of 2005. This document outlines all changes in the current federal regulations regarding discipline of children with disabilities as well as incorporates those changes with Ohio's rules.

<http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=1159&Content=14641>

300.508-300.517 Due process hearings - Please see the Ohio Department of Education, Office for Exceptional Children's question and answer document entitled "*Due Process Information*" as well as *Whose IDEA Is This? A Resource Guide for Parents*. These documents outline all relevant changes to the current federal regulations.

<http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=681&Content=13251>

Prior Written Notice to Parents (Form PR-01)

Written notice that meets the requirements of paragraph (b) of 34 C.F.R. 300.503 must be given to the parent(s) of a child with a disability a reasonable time before the school district proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child, or before the school district refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

School districts are required to complete this form in accordance with Rule 3301-51-05 (C) of the *Operating Standards for Ohio's Serving Children with Disabilities*.

Reference: Rule 3301-51-05(C) *Operating Standards for Ohio's Schools Serving Children with Disabilities* and 34 C.F.R. 300.503 of the Individuals with Disabilities Education Improvement Act (IDEIA).

PRIOR WRITTEN NOTICE TO PARENTS

Date _____

Student's Full Name _____ Date of Birth _____

This is to notify you of the school district's action regarding _____'s educational program.

1. Type of action taken:

- Refusal to initiate an evaluation
- Proposes to initiate an initial evaluation
- Proposes to change the identification, evaluation or educational placement of the child or provision of FAPE
- Expedited evaluation
- Reevaluation
- Refusal to change the identification, evaluation or educational placement of the child or provision of FAPE
- Change of placement
- Change of placement for disciplinary reasons
- Graduation from high school
- Exiting high school due to exceeding the age eligibility for FAPE
- IEP issues/meetings where the parent(s) disagree with the district
- Due process hearing, or an expedited due process hearing, initiated by the district
- Other

2. A description of the action proposed or refused by the school district.

3. An explanation of why the school district proposes or refuses to take the action:

4. A description of other options that the IEP team considered and the reasons why those options were rejected:

5. A description of each evaluation procedure, assessment, record or report the school district used as a basis for the proposed or refused action:

6. A description of other factors that are relevant to the school district's proposal or refusal:

7. Provision of procedural safeguards:

As a parent of a child with a suspected or identified disability, you have procedural safeguard protection under the Individuals with Disabilities Education **Improvement Act (IDEIA) of 2004**. Upon initial referral or parent request for the student's evaluation, you will be given a copy of your procedural safeguards. You will also be given a copy of the procedural safeguards upon request, upon receipt of the first state complaint under 34 C.F.R. §300.151-300.153 and upon receipt of the first due process under 34 C.F.R. §300.507 in a school year and in accordance with the discipline procedures in 34 C.F.R. §300.530 (h) Please contact me if you have any questions about the action(s) described above, your rights, as described in the Procedural Safeguards Notice, or other related concerns. You may also obtain a copy of the procedural safeguards notice from the following:

Name: _____ Title: _____

Address: _____ Telephone: _____

City: _____ State: _____ Zip Code: _____

E-mail: _____

School District: _____

Enclosure: Procedural Safeguards Notice

Evaluation Team Report Part C

Documentation for Determining the Existence of a Specific Learning Disability

Student's Name: _____

Date of Birth: _____ Age: _____

- A. When provided with learning experiences and instruction appropriate for the student's age or to meet state-approved grade-level standards, the student does not achieve adequately for the child's age or to meet state-approved grade-level standards in one or more of the following areas:**

Oral Expression	Reading Comprehension
Listening Comprehension	Mathematics Calculation
Written Expression	Mathematics Problem Solving
Basic Reading Skill	Reading Fluency Skills
<i>Summarize assessment results, including, if applicable, results based on a severe discrepancy formula, and other data used by the team to support this determination:</i>	

- B. The student is not making sufficient progress to meet age or state approved grade-level standards in one or more of the areas identified below when using a process based on the student's response to scientific, research-based intervention:**

Oral Expression	Reading Comprehension
Listening Comprehension	Mathematics Calculation
Written Expression	Mathematics Problem Solving
Basic Reading Skill	Reading Fluency Skills
<i>Summarize assessment results, including, if applicable, results based on a severe discrepancy formula, and other data used by the team to support this determination:</i>	

- C. Or the team has determined that the student exhibits a pattern of strengths and weaknesses in performance, achievement or both, relative to age, state-approved grade-level standards, or intellectual development, in one or more of the areas identified below, that is determined to be relevant to the identification of a specific learning disability, using appropriate assessments to evaluate the student consistent with the requirements of the IDEIA at 34 CFR 300.304 through 300.306:**

Oral Expression	Reading Comprehension
Listening Comprehension	Mathematics Calculation
Written Expression	Mathematics Problem Solving

Basic Reading Skill	Reading Fluency Skills
<i>Summarize assessment results, including, if applicable, results based on a severe discrepancy formula, and other data used by the team to support this determination:</i>	

D. The team has determined that the student’s lack of adequate achievement for the student’s age or to meet state approved grade-level standards is not primarily the result of:

- visual, hearing, or motor impairment
- mental retardation
- emotional disturbance
- environmental, cultural, or economic disadvantage
- Limited English proficiency
- Lack of appropriate instruction in reading or math

Summarize assessment results and other data used by the team to support this determination:

E. The team has considered the following when evaluating the student to determine whether the student has a specific learning disability:

- Data that demonstrates that prior to, or as part of the referral process, the student was provided appropriate instruction in regular education settings, delivered by qualified personnel
- Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, that was provided to the parents

Summarize assessment results and other data used by the team to support this determination:

F. The student has been observed in his or her learning environment which includes the regular classroom setting) to document the student’s academic performance and behavior in the student’s areas of difficulty.

Summarize assessment results and other data used by the team to support this determination:

G. Describe the relationship of the relevant behavior noted during observation(s) to the student’s academic functioning.

Summarize assessment results and other data used by the team to support this determination:

H. Describe educationally relevant medical findings, if any.

Summarize assessment results and other data used by the team to support this determination:

(Additional information can be attached or written on back)

