



# Summary of Federal Regulations Oct. 13, 2006

Ohio Department of Education  
Office for Exceptional Children  
December 2006



# 34 C.F.R. Parts 300 & 301

- Took Effect October 13, 2006;
- Must be followed by all educational entities in the state;
- If Ohio Rules (3301-51) conflict with regulations, the regulations are followed;
- If Ohio Rules (3301-51) go beyond regulations, both the rule and the regulations must be followed.



# Ohio's revised Operating Standards effective by summer '08

In the mean time –

Use as a guide

1. Whose Idea is This?  
-Current version until revised version is published.
2. ODE Memorandum of Changes in the Federal Regulations, November 15, 2006
3. Ohio Operating Standards for Schools Serving Children with Disabilities



# Additions/Changes to Definitions

- 300.5 Assistive technology device - excludes a medical device that is surgically implanted or the replacement of such device
- 300.8 Child with a disability – Includes “Tourette’s Syndrome” under OHI



# Additions/Changes to Definitions (cont'd)

- 300.9 Consent - No change, but is not 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



# Additions/Changes to Definitions (cont'd)

- 300.18 Highly qualified teacher - Parents cannot challenge HQT of teacher through a due process hearing, but can file a formal written complaint with ODE;
- 300.30 Parent - A foster parent is *not* considered a parent in Ohio, but may be appointed as a surrogate parent.



# Additions/Changes to Definitions (cont'd)

- 300.34 Related services -
  - *Interpreting services*-includes oral, cued language, and sign language transliteration services, transcription services (CART), C-print, Typewell, etc.
  - *School health services vs. school nurse services*



# Additions/Changes to Definitions (cont'd)

- *Orientation and mobility services*- includes the use of a service animal;
- *Exception:* related services does *not* include optimization, maintenance, nor replacement of surgically implanted devices. Exception does *not* limit a child's right to necessary related services in order for the child to receive FAPE.



## Additions/Changes to Definitions (cont'd)

- 300.45 Ward of State – Includes all foster children in the state of Ohio since no foster parent would automatically qualify as a parent



# Additions/Changes to Definitions (cont'd)

- 300.101 FAPE
  - FAPE must be available to any SWD in need of special education and related services
  - Even a child who has not failed or been retained in a course or grade and is advancing from grade to grade



# Additions/Changes - State Eligibility

- 300.102 Limitation - A GED is not equivalent to an Ohio high school diploma for purposes of IDEA because the GED is not fully aligned with Ohio's academic content standards. Students may return to their district until age 22 to complete their regular high school diploma.



# Additions/Changes - State Eligibility (cont'd)

- 300.107 Nonacademic services - districts must take steps to provide nonacademic and extracurricular services and activities in the manner necessary to afford CWD an equal opportunity for participation per the child's IEP.



# Additions/Changes - State Eligibility (cont'd)

- 300.11 Child Find

Done for ALL children

Suspected disability

Private school students

Wards of state

Homeless

Highly mobile



# Additions/Changes - State Eligibility (cont'd)

- 300.174 Prohibition on mandatory medication - districts may **not** require parents to obtain a prescription as a **condition of a child attending school** or receiving services or an evaluation.



# Additions/Changes - State Eligibility (cont'd)

- 300.300 Parental consent -
  - *Initial evaluation*-if parents refuse consent, district **may** take parent to a due process hearing for consent;
  - *Reevaluation*-if parents refuse consent for new assessments, district **may** take parent to a due process hearing for consent.
  - Note: Home schooled & Private school parents cannot be taken to a due process hearing for refusing consent.



# Additions/Changes - State Eligibility (cont'd)

- 300.300 Parental consent -
  - The district is NOT required to go to due process if parents refuse to give consent for initial evaluation.

## District is:

- Not held responsible for providing FAPE
- Not required to treat child as protected under IDEA.



# Additions/Changes - State Eligibility (cont'd)

- *Initial provision of services*-if the parents refuse consent, the district cannot take the parent to a due process hearing or mediation for consent; the district is *not* held responsible for providing FAPE or any protections allowed the child under IDEA;



# Additions/Changes - State Eligibility (cont'd)

- *Withdrawal of consent for services*-if parents withdraw their consent for special education, the district *may* take the parents to a due process hearing in order that the child may continue to be served as a child with a disability; if the district does not go to due process the child is treated as a regular education student and has no entitlement to FAPE.



# Additions/Changes - State Eligibility (cont'd)

- 300.301 Initial evaluations - must be conducted within 60 days of receiving parental consent.
  - Exception-Timeline does not apply if parent repeatedly fails to produce child or the child enrolls in another school district prior to the evaluation being completed.
  - Remember to document



# Additions/Changes - State Eligibility (cont'd)

- Note: the 60 day timeline may be extended **only if the child is suspected of having a learning disability** and the parents and the evaluation team decide by mutual written agreement to extend the **timeline (34 CFR 300.309) for a specified period of time. Best practice: 4 school weeks.**



# Additions/Changes - State Eligibility (cont'd)

- 300.302 Screening for instructional purposes is **not** an evaluation.

(Parent permission not required if screening is given to EVERY child.)



# Additions/Changes - State Eligibility (cont'd)

- 300.307-300.311 Specific learning disability
  - Ohio will adopt criteria for determining the existence of SLD. The criteria must:
    - *Not* require the use of a discrepancy formula,
    - Must permit the use of an RTI process, (complex process for which district training is necessary)
    - May permit the use of other alternative research based procedures.



# Additions/Changes - State Eligibility (cont'd)

– Child is **NOT** SLD if problems are primarily due to:

1. Underachievement
2. Lack of appropriate instruction in reading and math
3. Cultural factors
4. Limited English proficiency



# Additions/Changes - State Eligibility (cont'd)

- 300.320 Definition of Individualized education program - Objectives, a vision statement and a transition statement at age 14 are not required by federal regulations. All are required by Ohio rule and therefore will continue to be used on IEPs in Ohio.



# Additions/Changes - State Eligibility (cont'd)

- 300.321 IEP team - A required member of the IEP team is not required to attend the meeting if the parent and the district agree, in writing, that the member may be excused. If the member's area of curriculum is being discussed the member must submit their input into the development of the IEP, in writing to both parties, prior to the IEP team meeting.



# Additions/Changes - State Eligibility (cont'd)

- 300.323 When IEPs must be in effect
  - - *Transfer within state*-receiving district must provide FAPE, including services comparable to those described in child's IEP until the receiving district adopts the current IEP or develops and adopts their own IEP;



# Additions/Changes - State Eligibility (cont'd)

- *Transfer from out of state*-receiving district must provide FAPE, including services
- comparable to those described in child's IEP until the receiving district adopts the out of state evaluation as their own or completes their own evaluation and adopts the out of state IEP as their own or develops and adopts a new IEP;
- The receiving district must take steps to promptly obtain the child's records from the previous district who must promptly respond to a request for the child's records from the receiving district.



# Additions/Changes - State Eligibility (cont'd)

- 300.324 Development, review & revision of IEP - changes can be made to a child's IEP *after* the annual IEP meeting without convening the IEP team if the parent and the district agree and instead may develop a written document to amend the IEP. Upon request, a parent must be provided a revised copy of the IEP.



# Additions/Changes - State Eligibility (cont'd)

- Note: 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.



# Additions/Changes - State Eligibility (cont'd)

- 300.505 Electronic mail - If district makes this option available, a parent may elect to have notices sent to them electronically.
- 300.519 Surrogate parents - Homeless youth may have a temporary surrogate such as staff at emergency shelters, independent living programs, street outreach programs, etc. until a surrogate parent can be appointed.



# Additions/Changes - State Eligibility (cont'd)

- In the case of a ward of the state (includes all foster children), the surrogate parent may be appointed by the judge overseeing the child's case. The surrogate must meet requirements for being a surrogate parent.



# 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.*

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



# Additional Topics Not Addressed

- 300.530-300.536 Discipline - Please see *Whose IDEA Is This? A Resource Guide for Parents*.
- <http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=1159&Content=14641>



# Additional Topics Not Addressed

- 300.508-300.517 Due process hearings - Please see *Due Process Information*. federal regulations.
- <http://www.ode.state.oh.us/GD/TEMPLATES/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=681&Content=13251>