



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

TO: Local Education Agencies and Education Stakeholders

FROM: Amy Maisterra, Assistant Superintendent of Elementary, Secondary, and Specialized Education
Office of the State Superintendent of Education

DATE: June 30, 2017

SUBJECT: Advanced Notice of Proposed Rulemaking – Special Education

On June 26, 2017, OSSE shared an Advanced Notice of Proposed Rulemaking (“ANPR”) proposed amendments to Chapter 30 of Title 5-A in the District of Columbia Municipal Regulations governing the education of students with disabilities. This memorandum is intended to provide local education agencies (LEAs), parents, and stakeholders with additional context to understand the background, purpose, and content of the proposed regulations. We look forward to gathering feedback and revising these draft regulations before initiating the formal rulemaking process.

I. Background of Chapter 30 (Special Education)

The current Chapter 30 special education regulations were largely enacted in 2003, while the federal law governing the education of students with disabilities, the Individuals with Disabilities Education Act (IDEA) was reauthorized in 2004 with updated federal regulations released in 2006. Updates to the local regulations have occurred in sporadic rulemakings that only addressed a few sections at a time. Additionally, the District has made impactful changes in practice through formal policymaking, including the issuance of over a dozen state-level policies over the last decade. The proposed regulations are reflective of years of research and engagement with stakeholders, including focus groups conducted in 2014.

II. Goals of the Proposed Regulations

The proposed regulations are not intended to effectuate a large shift in practice, but rather incorporate existing policy requirements while clarifying existing language and removing confusing or outdated references. New content or requirements in the proposed regulations are intended to improve the provision of special education and related services to students with disabilities, provide clarity on LEA responsibilities, and address anticipated changes in foundational law (DC Official Code and IDEA). The chapter has also been reordered to more closely align to IDEA and the natural progression of the special education process.

Through this ANPR, OSSE seeks input from stakeholders to assist in developing regulations that reflect current and best practices and meet the needs of District of Columbia students with disabilities, their families, and their schools. The ANPR is open for public comment through July 26, 2017. OSSE will review received comments and update the proposed regulations appropriately before initiating a formal Notice of Proposed Rulemaking, which will include additional opportunities to provide input through public comment and public hearings required under IDEA.

It is OSSE's goal to issue final regulations effective for the 2018-19 school year.

III. Existing Requirements Addressed in the Proposed Regulations

The proposed regulations incorporate many existing requirements familiar to LEAs and the community and reflective of well-established policy and practice. The proposed regulations address requirements imposed by the series of special education bills passed by the DC Council in 2014: the Special Education Student Rights Act of 2014, the Enhanced Special Education Services Act of 2014, and the Special Education Quality Improvement Act of 2014. The draft also incorporates requirements currently found in longstanding policy:

- [Comprehensive Child Find System Policy](#)
- [Confidentiality of Student Information Policy](#)
- [District of Columbia IDEA Part B Notice of Procedural Safeguards](#)
- [Extended School Year \(ESY\) Policy](#)
- [Formal State Complaint Policy and Procedures](#)
- [Individualized Education Program \(IEP\) Amendment Policy](#)
- [IEP Implementation for Transfer Students Policy](#)
- [IEP Process Policy](#)
- [Least Restrictive Environment Policy](#)
- [Part B Initial Evaluation and Reevaluation Policy](#)
- [Policies and Procedures for Placement Review, Revised](#)
- [Prohibitions on Discrimination Against Children with Disabilities in the Charter School Application During the Enrollment Process](#)
- [Related Services Policy](#)
- [Secondary Transition Policy](#)

Policies will be updated, and in some cases rescinded, in accordance with the final regulations.

IV. New or Amended Requirements Introduced in the Proposed Regulations

The proposed regulations reflect significant changes in wording, with the goal of providing additional clarity to assist LEAs in executing their responsibilities under IDEA and local laws. OSSE encourages stakeholders to provide comment on the entirety of the proposed regulations, but highlights the following areas to assist in orienting readers to the proposed regulations:

- §3012 Disability Categories: updates definitions, criteria, and IEP team considerations
- §3015 Adapted Physical Education: provides clarity around expectations for adapted PE

- §3024 Homebound Services and Hospital Instruction: addresses general requirements for LEA provision of services
- §3025 Home Instruction: addresses general requirements for LEA provision of services
- §3027 Secondary Transition: accounts for change in secondary transition planning age from 16 to 14
- §3028 IEP Certificate of Completion: provides a framework for awarding a certificate to encourage meaningfulness of the credential; does not affect access to FAPE
- §3029 System of Record: establishes in regulation the state-level system (SEDS) as the system of record
- §3030 Confidentiality of Education Records: addresses general requirements and references to FERPA
- §3031 Paraprofessionals: establishes framework and minimum qualifications for personnel providing paraprofessional/ aide services
- §3041 Parentally-Placed Private School Children When FAPE Is Not At Issue: incorporates IDEA requirements and existing processes for parentally-placed private school students
- §3043 Disciplinary Removal: incorporates IDEA requirements for disciplinary removals and manifestation determinations
- §§3044-3046 Restraint and Seclusion (and reporting requirements): adopts current nonpublic requirements as applicable to students enrolled in LEAs
- §3047 Exit From Special Education: centralizes LEA requirements related to a student's exit from eligibility for special education and related services
- §3099 Definitions: updates language in accordance with IDEA

V. Comments and Questions

OSSE looks forward to receiving your input on the ANPR. The public comment period is open from June 26, 2017 through July 26, 2017. Please submit your written comments to the attention of Elisabeth Morse, Deputy Assistant Superintendent of Elementary, Secondary, and Specialized Education, via email at OSSE.Publiccomment@dc.gov, or via mail at 810 First St. NE, Eighth Floor, Washington, DC 20002. Additionally, OSSE invites stakeholders to participate in a webinar providing an overview of the draft proposed regulations on Wednesday, July 12, 2017 at 10 a.m. Please register for the webinar [here](#).

Finally, OSSE has provided a section-by-section crosswalk of the proposed regulations with current DCMR, Title 5-E, Chapter 30 language and existing policy in Appendix A. For more information or questions regarding the Advanced Notice of Proposed Rulemaking for the proposed special education regulations, please contact Christie Weaver-Harris at Christie.Weaver-Harris@dc.gov.

Appendix A: Sectional Crosswalk of Proposed Regulations with Current Chapter 30 and Existing Policy

Appendix A: Crosswalk of Proposed Regulations with Current Chapter 30 and Existing Policy

Proposed Regulation Section	Current Chapter 30 Section	Relevant Existing Policy
3000 Purpose	3000 Special Education Policy	-
3001 Nondiscriminatory Application Process	-	Prohibitions on Discrimination Against Children with Disabilities in the Charter School Application During the Enrollment Process
3002 Provision Of Free Appropriate Public Education	3000 Special Education Policy; 3002 LEA Responsibility	-
3003 Continuum Of Alternative Placements	3012 Continuum of Alternative Placements	-
3004 Child Find And Child Count	3002 LEA Responsibility (Child Count: 3002.5)	Comprehensive Child Find System Policy
3005 Request For Initial Evaluation	3004 Identification and Referral for Initial Evaluation	Part B Initial Evaluation and Reevaluation Policy
3006 Initial Evaluation Process	3005 Evaluation and Reevaluation	Part B Initial Evaluation and Reevaluation Policy
3007 Evaluation Procedures	3005 Evaluation and Reevaluation	Part B Initial Evaluation and Reevaluation Policy
3008 Reevaluation	3005 Evaluation and Reevaluation	Part B Initial Evaluation and Reevaluation Policy
3009 Individualized Education Program Team	3003 IEP Team	IEP Process Policy
3010 Parent Participation In IEP Team Meetings	3003 IEP Team (3003.6)	IEP Process Policy
3011 Eligibility Determination	3006 Eligibility Determination	Part B Initial Evaluation and Reevaluation Policy
3012 Disability Categories	3001 Definitions	Part B Initial Evaluation and Reevaluation Policy
3013 Related Services	3001 Definitions	Related Services Policy
3014 Assistive Technology	3016 Assistive Technology	-
3015 Physical Education & Adapted Physical Education	3015 Physical Education	-
3016 Extended School Year Services	3017 Extended School Year Services	Extended School Year (ESY) Policy
3017 Parental Consent For Initial Provision Of Services	3026 Procedural Safeguards-Consent	Part B Initial Evaluation and Reevaluation Policy
3018 Individualized Education Program Development	3007 Individualized Education Program Development; 3009 IEP Content	IEP Process Policy
3019 Individualized Education Program Review And Revision	3008 IEP Review	IEP Process Policy

3020 IEP Amendment	-	IEP Amendment Policy
3021 Individualized Education Program In Effect For Newly Enrolled Children	-	Individualized Education Program (IEP) Implementation for Transfer Students Policy
3022 Least Restrictive Environment	3011 Least Restrictive Environment and Placement Outside of the LEA; 3013 Placement	Least Restrictive Environment Policy
3023 Placement Determination	3013 Placement	-
3024 Homebound Services And Hospital Instruction	-	-
3025 Home Instruction	-	-
3026 Placement Outside Of The LEA	3011 Least Restrictive Environment and Placement Outside of the LEA; 3014 Residential Placement	Policies and Procedures for Placement Review, Revised
3027 Secondary Transition	3003 IEP Team; 3009 IEP Content	Secondary Transition Policy
3028 IEP Certificate Of Completion For Special Education	-	-
3029 System Of Record	-	-
3030 Confidentiality Of Education Records	3021 Student Records	Confidentiality of Student Information Policy
3031 Paraprofessionals	-	-
3032 Parental Consent	3026 Procedural Safeguards - Consent	Part B Initial Evaluation and Reevaluation Policy; District of Columbia IDEA Part B Notice of Procedural Safeguards
3033 Prior Written Notice	3024 Procedural Safeguards – Prior Written Notice; 3025 Prior Written Notice Content	District of Columbia IDEA Part B Notice of Procedural Safeguards
3034 Procedural Safeguards	3020 Procedural Safeguards – General Provisions	District of Columbia IDEA Part B Notice of Procedural Safeguards
3035 Educational Surrogate Parent	3022 Parent Surrogate	-
3036 Transfer of Rights: General Provisions And Supported Decision-Making	3034 Transfer of Rights: General Provisions And Supported Decision-Making	-
3037 Transfer of Rights: Exceptions	3035 Transfer of Rights: Exceptions	-
3038 Transfer of Rights: Notice	3036 Transfer of Rights: Notice	-
3039 Independent Educational Evaluations	3027 Procedural Safeguards – Independent Educational Evaluations and Services	Part B Initial Evaluation and Reevaluation Policy; District of Columbia IDEA Part B Notice of Procedural Safeguards

3040 Private Placement of Children By Parents When FAPE Is At Issue	3018 Students with Disabilities Placed By Their Parents in Private School When FAPE Is At Issue	-
3041 Parentally-Placed Private School Children When FAPE Is Not At Issue	-	-
3042 Parent Observation	-	District of Columbia IDEA Part B Notice of Procedural Safeguards
3043 Disciplinary Removal	-	-
3044 Restraint	-	-
3045 Seclusion	-	-
3046 Restraint and Seclusion: Reporting	-	-
3047 Exit From Special Education	3010 IEP In Effect	Secondary Transition Policy
3048 Mediation	3028 Mediation	District of Columbia IDEA Part B Notice of Procedural Safeguards
3049 State Complaints Under IDEA	-	Formal State Complaint Policy and Procedures; District of Columbia IDEA Part B Notice of Procedural Safeguards
3050 Impartial Due Process	3029 Impartial Due Process	District of Columbia IDEA Part B Notice of Procedural Safeguards
3051 Child's Status During Proceedings	3033 Child's Status During Proceedings	-
3052 Hearing Rights	3031 Hearing Rights	District of Columbia IDEA Part B Notice of Procedural Safeguards
3053 Resolution Meetings	3030 Resolution Meeting, Due Process Hearing, and Final Decision Procedure	District of Columbia IDEA Part B Notice of Procedural Safeguards
3054 Due Process Hearings And Hearing Officer Determinations	3030 Resolution Meeting, Due Process Hearing, and Final Decision Procedure	District of Columbia IDEA Part B Notice of Procedural Safeguards
3055 Expert Witness Fees	-	District of Columbia IDEA Part B Notice of Procedural Safeguards
3056 Attorney's Fees	3032 Attorneys' Fees	District of Columbia IDEA Part B Notice of Procedural Safeguards
3099 Definitions	3001 Definitions	-