

**OMB NO. 1820-0030**  
**Expires: 10/31/2018**

**ANNUAL STATE APPLICATION UNDER PART B OF THE  
INDIVIDUALS WITH DISABILITIES EDUCATION ACT AS AMENDED IN 2004  
FOR FEDERAL FISCAL YEAR 2016**

**CFDA No. 84.027A and 84.173A**

**ED FORM No. 9055**

**UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION PROGRAMS  
Washington, DC 20202-2600**

**Public Burden Statement**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average 14 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain a grant under Section(s) 611 and/or 619 of the Individuals with Disabilities Education Act. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, 400 Maryland Ave., SW, Washington, DC 20202-4536 or email [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov) and reference the OMB Control Number 1820-0030. Note: Please do not return the completed *Annual State Application under Part B of The Individuals with Disabilities Education Act as Amended in 2004* to this address.

## Section I

### A. Submission Statement for Part B of IDEA

Please select 1 or 2 below. Check 3 if appropriate.

1. The State provides assurances that it has in effect policies and procedures to meet all eligibility requirements of Part B of the Act as found in PL 108-446, the Individuals with Disabilities Education Act and applicable regulations (IDEA). The State is able to meet all assurances found in Section II.A of this Application.
2. The State cannot provide assurances for all eligibility requirements of Part B of the Act as found in PL 108-446. The State has determined that it is unable to make the assurances that are checked as 'No' in Section II.A. However, the State assures that throughout the period of this grant award the State will operate consistent with all requirements of IDEA in PL 108-446 and applicable regulations. The State will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2017. The State has included the date by which it expects to complete necessary changes associated with assurances marked 'No'. (Refer to Assurances found in Section II.A.)

Optional:

3. The State is submitting modifications to State policies and procedures previously submitted to the Department. These modifications are: (1) deemed necessary by the State, for example when the State revises applicable State law or regulations; (2) required by the Secretary because there is a new interpretation of the Act or regulations by a Federal court or the State's highest court; and/or (3) because of an official finding of noncompliance with Federal law or regulations.

### B. Conditional Approval for Current Grant Year

**If the State received conditional approval for the current grant year, check the appropriate statement(s) below:**

#### 1. Conditional Approval Related to Assurances in Section II.A:

- a. Section II.A provides documentation of completion of all issues identified in the FFY 2015 conditional approval letter.
- b. As noted in Section II.A, the State has not completed all issues identified in the FFY 2015 conditional approval letter.

#### 2. Conditional Approval Related to Other Issues:

- a. The State previously submitted documentation of completion of all issues identified in the FFY 2015 conditional approval letter.
- b. The State is attaching documentation of completion of all issues identified in the FFY 2015 conditional approval letter. *(Attach documentation showing completion of all issues.)*
- c. The State has not completed all issues identified in the FFY 2015 conditional approval letter. *(Attach documentation showing completion of any issues and a list of items not yet completed.)*

**Section II**

**A. Assurances Related to Policies and Procedures**

The State makes the following assurances that it has policies and procedures in place as required by Part B of the Individuals with Disabilities Education Act. (20 U.S.C. 1411-1419; 34 CFR §§300.100-300.174)

<i>Check and enter date(s) as applicable</i>		<b>Assurances Related to Policies and Procedures</b>
<b>Yes</b> (Assurance is given.)	<b>No</b> (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
X		1. A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1); 34 CFR §§300.101-300.108.
X		2. The State has established a goal of providing a full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. (20 U.S.C. 1412(a)(2); 34 CFR §§300.109-300.110)
X		3. All children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with 20 U.S.C. 1412(a)(3); 34 CFR §300.111.
X		4. An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with 34 CFR §§300.320 through 300.324, except as provided in §§300.300(b)(3) and 300.300(b)(4). (20 U.S.C. 1412(a)(4); 34 CFR §300.112)
X		5. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B); 34 CFR

<i>Check and enter date(s) as applicable</i>		<b>Assurances Related to Policies and Procedures</b>
<b>Yes</b> (Assurance is given.)	<b>No</b> (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
		§§300.114-300.120.
X		6. Children with disabilities and their parents are afforded the procedural safeguards required by 34 CFR §§300.500 through 300.536 and in accordance with 20 U.S.C. 1412(a)(6); 34 CFR §300.121.
X		7. Children with disabilities are evaluated in accordance with 34 CFR §§300.300 through 300.311. (20 U.S.C. 1412(a)(7); 34 CFR §300.122)
X		8. Agencies in the State comply with 34 CFR §§300.610 through 300.626 (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8); 34 CFR §300.123)
X		9. Children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 34 CFR §300.323(b) and section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10). (20 U.S.C. 1412(a)(9); 34 CFR §300.124)
X		10. Agencies in the State, and the SEA if applicable, comply with the requirements of 34 CFR §§300.130 through 300.148 (relating to responsibilities for children in private schools), including that to the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 34 CFR §§300.130 through 300.148 unless the Secretary has arranged for services to those children under subsection (f) [By pass]. (20 U.S.C. 1412(a)(10); 34 CFR §§300.129-300.148)
X		11. The State educational agency is responsible for ensuring that the requirements of Part B are met including the requirements of 34 CFR §§300.113, 300.149, 300.150 through 300.153, and 300.175 and 300.176 and that the State monitors and enforces the requirements of Part B in accordance with 34 CFR §§300.600-300.602 and 300.606-

<i>Check and enter date(s) as applicable</i>		<b>Assurances Related to Policies and Procedures</b>
<b>Yes</b> (Assurance is given.)	<b>No</b> (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
		300.608. (20 U.S.C. 1412(a)(11); 34 CFR §300.149)
X		12. The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (b) of 34 CFR §300.154 and the State educational agency, in order to ensure that all services described in paragraph (b)(1)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under §300.154(a)(3). Such agreement or mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154.
X		13. The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing. (20 U.S.C. 1412(a)(13); 34 CFR §300.155)
	X	14. The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E); 34 CFR §300.156.
X		15. The State has established goals for the performance of children with disabilities in the State that meet the requirements found in 20 U.S.C. 1412(a)(15)(A)-(C); 34 CFR §300.157.
X		16. All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E); 34 CFR §300.160.
X		17. Funds paid to a State under this part will be expended in accordance with all the provisions of Part B including 20 U.S.C. 1412(a)(17)(A)-(C); 34 CFR §300.162.

Check and enter date(s) as applicable		<b>Assurances Related to Policies and Procedures</b>
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
X		18. The State will not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year, unless a waiver is granted, in accordance with 20 U.S.C. 1412(a)(18)(A)-(D); 34 CFR §§300.163 through 300.164.
X		19. Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. (20 U.S.C. 1412(a)(19); 34 CFR §300.165)
X		20. In complying with 34 CFR §§300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation. (20 U.S.C. 1412(a)(20); 34 CFR §300.166)
X		21. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D); 34 CFR §§300.167-300.169.
X		22. The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities in accordance with 20 U.S.C. 1412(a)(22)(A)-(B); 34 CFR §300.170.
X		23a. The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility Standard in the Federal Register in accordance with 20 U.S.C. 1412(a)(23)(A) and (D); 34 CFR §300.172.
		23b. <i>(Note: Check either "23b.1" or "23b.2" whichever applies.</i>
X		23b.1 The State educational agency coordinates with the National Instructional

<i>Check and enter date(s) as applicable</i>		<b>Assurances Related to Policies and Procedures</b>
<b>Yes</b> (Assurance is given.)	<b>No</b> (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
		<p>Materials Access Center and not later than 12/03/06 the SEA as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials enters into a written contract with the publisher of the print instructional materials to:</p> <ul style="list-style-type: none"> <li>• require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or</li> <li>• purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. (20 U.S.C. 1412(a)(23)(C); 34 CFR §300.172)</li> </ul>
		<p>23b.2 The State educational agency has chosen not to coordinate with the National Instructional Materials Access Center but assures that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. (20 U.S.C. 1412(a)(23)(B); 34 CFR §300.172)</p>
X		<p>24. The State has in effect, consistent with the purposes of the IDEA and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 34 CFR §300.8. (20 U.S.C 1412(a)(24); 34 CFR §300.173)</p>
X		<p>25. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school, receiving an evaluation under 34 CFR §§300.300 through 300.311, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B); 34 CFR §300.174.</p>

**B. Other Assurances**

The State also makes the following assurances:

Yes	Other Assurances
X	1. The State shall distribute any funds the State does not reserve under 20 U.S.C. 1411(e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part as provided for in 20 U.S.C. 1411(f)(1)-(3); 34 CFR §300.705.
X	2. The State shall provide data to the Secretary on any information that may be required by the Secretary. (20 U.S.C. 1418(a)(3); 34 CFR §§300.640-300.645.)
X	3. The State, local educational agencies, and educational service agencies shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702)
X	4. As applicable, the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.

**C. Certifications**

The State is providing the following certifications:

Yes	
X	1. The State certifies that ED Form 80-0013, <i>Certification Regarding Lobbying</i> , is on file with the Secretary of Education.  With respect to the <i>Certification Regarding Lobbying</i> , the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.
X	2. The State certifies that certification in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §76.104 relating to State eligibility, authority and approval to submit and carry out the provisions of its State application, and consistency of that application with State law are in place within the State.
X	3. The State certifies that the arrangements to establish responsibility for services pursuant to 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154 (or 20 U.S.C. 1412(a)(12)(A); 34 CFR §300.154(a) are current. This certification must be received prior to the expenditure of any funds reserved by the State under 20 U.S.C. 1411(e)(1); 34 CFR §300.171.

**D. Statement**

I certify that the State of New Hampshire can make the assurances checked as 'yes' in Section II.A and II.B and the certifications required in Section II.C of this application. These provisions meet the requirements of the Part B of the Individuals with Disabilities Education Act as found in PL 108-446. The State will operate its Part B program in accordance with all of the required assurances and certifications.

If any assurances have been checked 'no', I certify that the State will operate throughout the period of this grant award consistent with the requirements of the IDEA as found in PL 108-446 and any applicable regulations, and will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2017. (34 CFR §76.104)

I, the undersigned authorized official of the

New Hampshire, New Hampshire State Department of Education,  
*(Name of State and official name of State agency)*

am designated by the Governor of this State to submit this application for FFY 2016 funds under Part B of the Individuals with Disabilities Education Act (IDEA).

Printed/Typed Name and Title of Authorized Representative of the State:  Virginia M. Barry, Ph.D., Commissioner of Education	
Signature:	Date:

### Section III

#### **Description of Use of Funds Under Part B of the Individuals with Disabilities Education Act - 20 U.S.C. 1411(e)(5); 34 CFR §300.171**

States must provide the Description of Use of Funds by completing and submitting the Excel Interactive Spreadsheet with the FFY 2016 Application.

Describe how the amount retained by the State educational agency under 20 U.S.C. 1411(e)(1) will be used to meet the following activities under Part B. (20 U.S.C. 1411(e)(1)-(3), (6) and (7)) The Department annually identifies for States the maximum amounts that a State may retain under Section 1411(e)(1) and (2).<sup>1</sup> The dollar amounts **listed in the Excel Interactive Spreadsheet** by the State for administration and for other State activities should add up to less or equal to the dollar amount provided to the State by the Department for each of these activities.

**Enter whole dollar amounts (do not enter cents) in appropriate cells on the State's Excel Interactive Worksheet. The Excel Interactive Spreadsheet must be submitted as part of the State's application.**

Describe the process used to get input from LEAs regarding the distribution of amounts among activities described in the Excel Interactive Spreadsheet to meet State priorities. (20 U.S.C. 1411(e)(5)(B); 34 CFR §300.704)

The New Hampshire State Department of Education did seek input from the LEAs regarding the distribution of funds among activities through various meetings with LEA representatives.

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<sup>1</sup> Each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under this section for fiscal year 2004 or \$800,000 (adjusted in accordance with 20 U.S.C. 1411(e)(1)(B)), whichever is greater; and each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under 20 U.S.C. 1411(b)(1) for the fiscal year or \$35,000, whichever is greater.

For each fiscal year beginning with fiscal year 2005, the Secretary shall cumulatively adjust: 1) the maximum amount the State was eligible to reserve for State administration under this part for fiscal year 2004; and 2) \$800,000, by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

## Section IV

### State Administration

Section 608(a) of the IDEA requires each State that receives funds under this title to:

- (1) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title;
- (2) identify in writing to local educational agencies located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by this title and Federal regulations; and
- (3) minimize the number of rules, regulations, and policies to which the local educational agencies and schools located in the State are subject under this title.

States must attach to this application a list identifying any rule, regulation, or policy that is State-imposed (not required by IDEA or Federal regulations). If there are no such State-imposed rules, regulations, or policies, please so indicate. In addition, the State is required to inform local education agencies in writing of such State-imposed rules, regulation or policy. (20 U.S.C. 1407(a); 34 CFR §300.199)

#### ***New Hampshire State Requirements Not Required by IDEA 2004***

1. Parental written consent is required in areas not specified by federal regulation.

*IDEA 2004* indicates that informed parental written consent must be provided prior to:

- Conducting an initial evaluation or reevaluation
- Initial provision of special education services
- 34 CFR 300.300(d)(2) details that states may have additional consent requirements.
- For IEP meeting excusals
- Before accessing a child's private or public insurance

*New Hampshire State Requirements*, since 1981, has required parental written consent for:

- *Annual renewal of the IEP*
- *Placement*
- *Determining or changing the disability category*
- *Changing the nature or extent of special education and related services*

*New Hampshire*, in 2001, included in the State Rules (Ed 1120.04(b) and Ed 1120.06(a)) a provision to allow the district to implement the LEA's proposal when the parents fail to respond to written proposal.

2. Copies of the IEP are provided to all service providers.

*IDEA 2004* indicates 34 CFR 300.323(d)(1) and (2)(i) that accessibility of child's IEP to teachers and others. Each public agency must ensure that-

(1) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation.

(2)(i) Each teacher and provider described in paragraph (d)(1) of this section is informed of-

- (i) His or her specific responsibilities related to implementing the child's IEP.
- (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

*New Hampshire State Requirements*, Ed 1109.04 requires that each teacher and service provider listed as having responsibilities for implementing the student's IEP is provided with a copy of the IEP. The State Board of Education affirmed this provision when they were provided information in 2001 that the standard was not a copy of the IEP but that the teachers/services providers have knowledge of their responsibilities for the implementation of the IEP.

- Ed 1109.04 Copies of the IEP and Evidence of Implementation.
  - New Hampshire Administrative Rule Ed 1109.04(a) says the LEA shall provide each teacher and service provider listed as having responsibilities for implementing the IEP with a copy of the complete IEP for working and monitoring purposes. In addition, the LEA shall provide a private school or non-LEA provider responsible for implementing the IEP with a copy of the IEP on or before the first day of the placement.

\*The New Hampshire Administrative Rule clarifies the accessibility of the IEP and the responsibilities of the teachers and providers.

3. Written documentation that the special education was provided.

*IDEA 2004 indicates 34 CFR 300.323 details that each public agency must provide the special education and related services in accordance with the child's IEP.*

*New Hampshire Administrative Rule, Ed 1109.04(b) establishes that the LEA maintains written evidence documenting implementation of the IEP.*

- (b) The LEA shall maintain written evidence documenting implementation of the IEP, including, but not limited to, the following:
  - (1) All special education and related services provided;
  - (2) Any supplementary aids and services provided;
  - (3) Programs modifications made; and
  - (4) Supports provided for school personnel implementing the IEP.
- (c) A summary of the child's academic achievement and functional performance, including recommendations on how to meet secondary goals, shall be provided to the child prior to the child's eligibility termination described in 34 CFR 300.305(e)(2).

4. Reconsiderations of complaint decisions.

*IDEA 2004 do not require reconsideration*

*New Hampshire Administrative Rule, Ed 1121.04 provides for a reconsideration of the findings in a 60 day complaint.*

Ed 1121.04 Reconsideration and Appeals.

- (a) Any party to the complaint may, within 10 days of receipt of the commissioner's written decision under Ed 1121.02(b), make a written request to the commissioner for reconsideration of the decision.
- (b) Within 20 days of the receipt of the written request for reconsideration, the Commissioner shall:
  - (1) Review the investigator's report;
  - (2) Review the evidence presented in the investigation;

- (3) If necessary, gather additional evidence;
  - (4) Review the decision; and
  - (5) Issue a final written decision
- (c) Any party who is aggrieved by the final written decision of the commissioner under Ed 1121.04(b)(5) may appeal in accordance with RSA 541. Chapter 541: REHEARINGS AND APPEALS IN CERTAIN CASES

5. Automatic scheduling of mediations when due process is filed.

*IDEA 2004 does not require scheduling of mediation.*

*The NHDOE continues to proactively schedule mediation when parties request a due process hearing. There is no specific requirement in federal law or regulation that requires this proactive scheduling.*

6. Pre-hearing when due process is filed.

*IDEA 2004 does not require a pre-hearing when due process is filed.*

*The NHDOE, consistent with other state administrative hearing processes, schedules a pre-hearing prior to a special education due process hearing. There is no specific requirement in federal law or regulation to include a pre-hearing prior to a due process hearing.*

7. Short-Term Objectives or Benchmarks as a default for all students with disabilities.

*IDEA 2004 require CFR 300.320(a)(2)(ii): For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.*

*New Hampshire Administrative Rule, Ed 1109.01(a)(6) requires that the elements of an IEP include short-term objectives or benchmarks for all children unless the parent determines them unnecessary for all or some of the child's annual goals.*

8. Transition services will be detailed and provided in the IEP that is in effect when the student turns 14 or younger, if appropriate.

*IDEA 2004 34 CFR 300.320(b) states that beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP team and updates annually...*

*New Hampshire Administrative Rule, Ed 1109.01(a)(10) requires that some transition services begin at age 14. The federal standard is 16.*

- (10) A statement of transition services that meets the requirements of 34 CFR 300.43 and 34 CFR 300.320(b), with the exception that a plan for each student with a disability beginning at age 14 or younger, if determined appropriate by the IEP team, shall include a statement of the transition service needs of the student under the applicable components of the student's IEP that focuses on the student's courses of study such as participation in advanced-placement courses or a vocational education; and

9. Child Management standards at Ed 1113.04 – Ed 1113.05, Ed 1114.07, have been revised to provide more specificity regarding acceptable interventions and procedures.

*IDEA 2004 does not require child management*

10. When a request for an IEP Team meeting is received this rule details a process and time frame for scheduling a meeting.

*IDEA 2004 does not require a specific time line*

*New Hampshire Administrative Rule:*

Ed 1109.06 Monitoring and Annual Review of IEPs

- (a) The LEA shall develop and implement procedures designed to monitor that all IEPs are implemented. The IEP team may be reconvened at any time to review the provisions of the IEP.
- (b) The LEA, upon a written request for an IEP team meeting by the parent, guardian, or adult student shall:
- (1) Schedule a mutually agreeable time and date for an IEP team meeting;
  - (2) Convene the IEP team on the mutually agreeable time and date; or
  - (3) Provide the parent, guardian, or adult student with written prior notice detailing why the LEA refuses to convene the IEP team that the parent, guardian, or adult student has requested.
- (c) All activities detailed in Ed 1109.06(b) shall be completed within 21 days following the receipt of the written request for the IEP team meeting.
- (d) The LEA annually shall conduct at, or near, the end of the term of each IEP a meeting.

11. At least weekly on-site supervision of students with disabilities in non-special education ESY settings

*IDEA 2004 does not require at least weekly on-site supervision of students with disabilities in non-special education ESY settings*

*New Hampshire Administrative Rule, Ed 1110.01(c) requires that districts supervise, at least weekly, students who are receiving ESY services outside of approved educational placements.*

- (c) ESY services, provided in non-special education or district programs, shall be supervised, on site, by appropriately certified LEA personnel no less than once per week.

12. Ed 1103.01(d) Notification of team member's absence from meetings.

*IDEA 2004 require in 34 CFR 300.321(e)(2)(i) that the parent, in writing, and the public agency consent to the excusal of an IEP team member but is silent on a time frame.*

*New Hampshire Administrative Rules state in Ed 1103.01 IEP Team.*

- (d) The LEA or parent shall notify the other party 72 hours before a scheduled meeting or upon learning of the expected absence of a team member, whichever is earlier.

13. Removal of Surrogate parent and appeal process

*IDEA 2004* does not require this.

*New Hampshire Administrative Rule,*

Ed 1115.05(d) states:

- (d) The Commissioner of Education, within 30 days of the receipt of a written complaint requesting the removal of a surrogate parent shall:
  - (1) Investigate the allegation(s) made in the written complaint;
  - (2) Render a decision that shall indicate whether;
    - a. The surrogate is meeting the requirements for being a surrogate parent;
    - b. The surrogate parent shall receive additional training;
    - c. The surrogate parent has not fulfilled the responsibilities of a surrogate parent and is removed; or
    - d. The surrogate parent has a conflict of interest with the child's interests and is removed.
- (e) Any party to a decision rendered under Ed 1115.05(d) within 10 days of receipt of the Commissioner's written decision under Ed 1115.05(d), may make a written request to the Commissioner for reconsideration of the decision.
- (f) Within 20 days of the receipt of the written request for reconsideration, the Commissioner shall:
  - (1) Review the evidence presented in the investigation;
  - (2) If necessary, gather additional evidence;
  - (3) Review the decision; and
  - (4) Issue a final written decision.
- (g) Any party who is aggrieved by the final written decision of the commissioner under Ed 1115.05(f) may appeal in accordance with RSA 541.

14. Acquired Brain Injury

*IDEA 2004* does not require an additional disability area of acquired brain injury.

*New Hampshire Administrative Rules,* Ed 1102.01 states:

(r) "Child with acquired brain injury" (ABI) means brain injury that occurs after birth. It includes injury sustained by infection, disease, or lack of oxygen resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance and requiring special education and or related services.

15. Program Approval for Public School Districts

*IDEA 2004* requires CFR 300.600 State monitoring and enforcement

*New Hampshire Administrative Rule,* RSA 186-C:5 Program Approval, Monitoring, and Corrective Action and Ed 1111 and 1113.

16. Independent Nationally Recognized Organization

*IDEA 2004* requires the Office of Special Education Programs (OSEP) to monitor states for a variety of activities.

*New Hampshire state RSA 186-C:5 (IX)* The department, with input from the advisory committee on the education of children/students with disabilities, shall select and contract with an independent, nationally recognized organization in program evaluation and quality assurance to evaluate in 2010 and decennially thereafter, the effectiveness of the program approval and monitoring system, including whether it is carrying out activities in RSA 186-C:5 in an efficient manner. Such organization shall submit recommendations for any improvements to the commissioner, the state board of education, the governor, and the general court within 90 days of completing the program evaluation.

17. State Advisory Panel

*IDEA 2004* requires specific membership for the State Advisory Panel; CFR 300.168.

*New Hampshire Administrative Rule, RSA 186-C:3-b(II)* requires the following membership beyond 34 CFR 300.168:

- Two members of the house education committee, appointed by the speaker of the house.
- Two members of the senate education committee, appointed by the president of the senate.
- One representative of the Disabilities Rights Center, recommended by the Disabilities Rights Center and appointed by the governor.
  
- One representative of the Parent Information Center, recommended by the Parent Information Center and appointed by the governor.
- Two individuals with disabilities who may have received special education services, one of whom may be a high school student, appointed by the governor.
- One individual representing children with disabilities who are home-schooled, appointed by the governor.  
This is required under 34 CFR 300.168(a)(10) so it is NOT beyond.

18. Volunteer background investigation for private providers of special education

*IDEA 2004* does not require a volunteer background investigation for private providers.

*New Hampshire Administrative Rule Ed 1114.11(a)* states (a) Each private provider of special education or other non-LEA program, including any individual providing direct services to the student pursuant to Ed 1126.05, shall complete a background investigation, consistent with the provisions of RSA 189:13-a, prior to a final offer of employment.

19. Determination of Eligibility-Additional Members to the IEP Composition

*IDEA 2004* does not require a teacher certified in each area of suspected disability

*New Hampshire Administrative Rule Ed 1108.01(b)(1)* states that for determination of eligibility the composition of the IEP team described in 34 CFR 300.306 shall also include:

- (1) A teacher certified in each area of suspected disability.
- (2) An individual knowledgeable about the child as a result of having had personal contact with the child in the school or, if the child is below school age, at another setting.

20. Hearing Officers must be attorneys

*IDEA 2004* does not require that hearing officers be attorneys

*New Hampshire Administrative Rule Ed 1123.24(b)* Hearing officers appointed by the department under RSA 186-C:16-a shall be attorneys who have been admitted to the practice of law in at least one jurisdiction or other individuals with knowledge of state and federal special education law.

21. Sufficiency of the IEP annual goals

*IDEA 2004* does not require sufficiency of annual goals in the IEP.

*New Hampshire Administrative Rule Ed 1109.01(a)(9)* A statement of how the child's progress toward meeting the annual goals will be measured and whether progress is sufficient to achieve the annual goals by the end of the school year.

22. Written Summaries with Evaluation Reports

*IDEA 2004* does not require a written summary of the results of the evaluations.

*New Hampshire Administrative Rule Ed 1107.05* Evaluation Report. (a) The IEP team determining the child's disabilities shall develop a written summary containing the results of the various diagnostic findings and forward a copy of the report to the parent and a copy to the LEA for the child's records. The report shall be written after the child's initial evaluation and thereafter if the public agency and the parent, consistent with 34 CFR 300.303, determine that reevaluation will be conducted.

23. Service Providers Implementing the IEP

*IDEA 2004* does not address the types of service providers who will be implementing the IEP.

*New Hampshire Administrative Rule Ed 1109.01(a)(3)* the types of service providers who would be responsible for implementing the IEP or the names of those providers;

24. Length of School Year and School Day Needed to Implement the IEP

*IDEA 2004* does not address the timeline needed to implement the IEP

*New Hampshire Administrative Rule Ed 1109.01(a)(2)* states that the IEP shall include the length of the school year and the school day required to implement the IEP.

25. Access for parents to child's evaluation results and other relevant education materials  
5 days

*IDEA 2004 34 CFR 300.306(a)(2)* states that the public agency provides a copy of the evaluation report. It does not indicate a timeline in which this is to be done.

*New Hampshire Administrative Rule Ed 1107.04(d)* states that upon request from the parents, the LEA shall provide access to test results and other relevant educational records 5 days prior to the IEP team meeting.

26. Written Prior Notice when LEA refuses to convene the IEP team

*IDEA 2004 34 CFR 300.503* does not require LEAs to provide written prior notice in this instance.

*New Hampshire Administrative Rule Ed 1109.06 Monitoring and Annual Review of IEPs.*

Ed 1109.06 (b) The LEA, upon a written request for an IEP team meeting by the parent, guardian, or adult student shall:

(3) Provide the parent, guardian, or adult student with written prior notice detailing why the LEA refuses to convene the IEP team that the parent, guardian, or adult student has requested.

27. Responsibilities of the State Advisory Committee

*IDEA 2004 34 CFR 300.169* does not provide this as a responsibility of the committee.

NH RSA 186-C: 3-b requires that the committee provide an annual report to the governor and the state legislature on the status of education of students with disabilities in New Hampshire.

28. Contract with outside organization to evaluate effectiveness of monitoring and program approval process with the NHDOE Bureau of Special Education

*IDEA 2004* does not require an outside evaluation of the monitoring and program approval process

NH 186-C:5 IX requires that: The department, with input from the advisory committee on the education of children/students with disabilities, shall select and contract with an independent, nationally recognized organization in program evaluation and quality assurance to evaluate in 2010, 2015, and decennially thereafter, the effectiveness of the program approval and monitoring system, including whether it is carrying out activities in RSA 186-C:5 in an efficient manner.

**Section V**

**Maintenance of State Financial Support**

Pursuant to the authority established in IDEA section 618(a)(3), each applicant for funds under section 611 must provide the following State fiscal data with a certification of its accuracy by the State budget office or an authorized representative thereof. Amounts should be shown in whole dollars and are for the State fiscal year.

<b>Total Amount of State Financial Support Made Available for Special Education and Related Services for Children with Disabilities</b>	
SFY 2014	\$ 259,755,749
SFY 2015	\$ 260,796,963

Lisa Morrissette, Program Specialist IV

\_\_\_\_\_  
State Budget Officer or Authorized Representative (Printed Name)

\_\_\_\_\_  
Signature of State Budget Officer or Authorized Representative

\_\_\_\_\_  
Date