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Bureau of Special Education FY'17 Memo #30

Date: March 28, 2017

To: Superintendents  
Special Education Directors

From: Office of the Commissioner of Education

Division of Educational Improvement  
Bureau of Special Education

RE: New Hampshire Rules for the Education of Children with Disabilities  
Adopted by the State Board of Education

On March 23, 2017 the State Board of Education adopted new and revised New Hampshire Rules for the Education of Children with Disabilities (NH Rules). The adopted NH Rules became effective March 24, 2017.

The Bureau of Special Education is providing a summary of the substantive new and changes in the NH Rules.

The most recent version of the NH Rules is posted on the Bureau of Special Education's website: [www.education.nh.gov/instruction/special\\_ed/index.htm](http://www.education.nh.gov/instruction/special_ed/index.htm).

Should you need further clarification regarding the newly adopted NH Rules, please contact Bridget Brown at 271-3776 / [bridget.brown@doe.nh.gov](mailto:bridget.brown@doe.nh.gov).

The following is a summary of the substantive changes and rationales for the changes made to the NH Rules.

Ed 1102.01 Definitions A-C

(i) The language has been changed as a result of a change in RSA 186-C: 23. Alternative dispute resolution consists of Neutral Conference and Mediation.

(y) The language has been changed to refer to “core academic subjects” defined in 34 CFR 300.10.

Ed 1102.02 Definitions D-G

(n) Added a definition-“Evaluation Process.”

Ed 1102.03 Definitions H-M.

(b) Added a definition - “Health Evaluation.”

(f)—Removed “Homeless child with a disability” definition as detailed in 34 CFR 300.19. 34 CFR 300.19 references Homeless children.

(g) Now becomes the new (f) and added language to the definition of “Independent Educational Evaluation” to reflect 34 CFR 300.502(a)(3)(ii).

Ed 1102.04 Definitions N-R.

(m)—Added a definition for a “Professional licensed to provide a health evaluation.”

(p)—Added definition of “public expense” to align with 34 CFR 300.103.

Ed 1102.05 Definitions S-Z.

Old (q)—removed “Youth Development Center.”

Ed 1103.01 IEP Team.

New (c) to include a representative of DCYF and an appointed Guardian ad Litem (GAL) shall be considered “other individuals” who have knowledge or special expertise of the child.

Re-lettered (d)—Added “career or technical education.”

(e)—Language has been added “of the expected absence of a team member at least “ when the LEA or parent must notify the other party of an expected absence of a team member.

Ed 1103.02 Parent Participation.

(a)—Added language “notice” rather than invitation.

Ed 1106.01 Process; Provision of FAPE

(d)—Added “business” to define what type of days; changed “testing” to “evaluations”

Ed 1107.01 Evaluation.

(c)—Language changed to specify for initial evaluations; timeline changed to 60 days rather than 45 days.

(d)—Language changed to specify for reevaluations and to change the timeline to 60 days.

(e)—Added language which allows for agreed upon time extension to be a specific number of days but not to exceed 30 days.

(f) re-lettered to (g)—new language added to address referral ordered by a court and referral process.

Ed 1107.03 Independent Educational Evaluations

(c)—language added to address agency criteria

Ed 1107.04 Qualified Examiners.

Table 1100.1—Vocational Assessments has been struck as it is not a disability category

(d) — Language added in regards to providing information to parents 5 days prior to an IEP team meeting.

(e)—Language added to waive Ed 1107.04(d)

Ed 1108.01 Determination of Eligibility for Special Education

(b)—language added to address who the composition of the IEP team should be for determination of eligibility

(b)(1) and (b)(2)—have been struck. There is no longer the requirement to have a teacher certified in each of suspected disability.

Ed 1109.01 Elements of an Individualized Education Program

(a)(11)-has been struck from the NH Rules however it has been clarified that the requirements for IEPs apply to the development, approval and implementation of any vocational, career or technical education component.

Ed 1109.03 When an IEP Is in Effect; IEP Meetings; Development, Review, and Revision of an IEP; Transition Services.

(a)—Language added to address specific responsibilities of the LEA regarding implementation of the IEP.

(j)—Language added to clarify when the LEA shall monitor transition services.

Ed 1110.01 Extended School Year Services.

(c)—Language added to clarify when the LEA shall monitor ESY services.

### Ed 1111.02 and Ed 1111.03

This part of the rules was edited to reflect current practice. Some parts were rearranged so that the flow of the process was reflected for easier use of the reader. Some parts of the language were edited to reflect current language used in the special education field.

The old Table 1100.02 was deleted as it was continued in the rules in error.

Throughout Ed 1111 the language “learning settings” has been changed to “educational environments” to align with current language.

Throughout Ed 1111 preschool has been defined as ages 3-5 and school age is 6-21.

Language in Table 1100.2 and 1100.3 clarifies the percentage (%) of time a child spends in an educational environment.

### Ed 1111.04 Home Instruction for School-Aged Children with Disabilities

The previous home instruction language, including Ed 1111.05, has been struck from the NH Rules. New language has been developed in order to address the requirements under federal regulation and state educational law. New language was developed in order to address procedural practices under which a child may receive home instruction including placement decisions, participation with nondisabled children and provision of instruction and special education and related services.

### Ed 1113.08 Curricula.

(c) and (d) have been struck

### Ed 1113.10 Class Size and Age Range.

(a)—Language has been added to address early childhood programs ages 3-5 class size and age range

(c)—Language has been added to address preschool class (formerly program), number of children in the preschool class, meeting individual needs of the children in the preschool class and clarification of the ages of the children in the preschool class.

### Ed 1113.11 Facilities and Location

Removed (c), (d), (e) and (f) as these topics are addressed in Ed 300.

### Ed 1113.12 Personnel Standards.

(b)(5)—Language has been regarding the role of paraprofessional.

(c)(4)

Ed 11113.13 Diplomas

(c) —Language was struck since it was redundant.

Ed 1113.15 The Length of School Day

(b) and (c)- Language was struck since it is addressed in NH Statues

Ed 1114.06 Responsibilities of Private Providers of Special Education or Other Non-LEA Programs in the Implementation of IEPs.

Old (g)—Language was struck since CFR 300.600(b)(1) is State Monitoring and Enforcement.

Ed 1114.20 Photography and Audio or Audio-Visual Recording.

(b)—Language has been struck

Ed 1114.21 Emergency Planning and Preparedness.

(e)—Language added requiring private providers and other non-LEA programs to have written procedures for behavioral interventions and qualified, trained personnel in behavior crisis intervention

Ed 1115.01 Basis for Appointment of a Surrogate Parent (New Heading)

(a)(b)(c)—Language added to clarify the process to protect the educational rights of children with disabilities and appointing a surrogate parent

Ed 1115.02 Initiating a Request for Appointment of a Surrogate Parent.

(b)—Language added to clarify the initiation of a request for appointment of surrogate parent

Ed 1115.03 Investigation and Determination of the Need for a Surrogate Parent.

(b)-(j)—Language added to clarify the surrogate parent process as well as adding in reference to the McKinney Vento Homeless Assistance Act.

Ed 1115.05 Appointment.

(d)—added e.—Language added to account for if a surrogate parent resigns, dies or is removed

Ed 1115.06 Selection of Surrogate Parents.

(a)(10) and (11)—Language added to clarify the criteria of surrogate parents

Ed 1115.08 Responsibilities of Surrogate Parents.

(e)—Language was struck

Ed 1115.09 Surrogate Parents for Children Placed in Homes for Children, Health Care Facilities, or State Institutions.

Repealed as this section as it does not apply to the process any longer

Ed 1116.03 Appointment of a Surrogate Parent by Court Order for a Child who is or ~~may~~ might be a Child with a Disability.

(b)—language added to clarify the process and to reflect DCYF guardianship

Ed 1117.01 Purpose and Scope.

(a)—clarifying language

Ed 1117 PART Ed 1117 EDUCATION OF CHILDREN PLACED IN [~~HOMES FOR CHILDREN, HEALTH CARE FACILITIES, OR~~] STATE INSTITUTIONS

The entire Ed 1117 section was changed to reflect current practice. Many parts were deleted and simplified language was added to clarify the process.

(a)—all definitions deleted except 8 which is now 1—definitions that were deleted are addressed in other areas of the rules or in state or federal law.

Ed 1117.03 Records Excluded from the Definition of Educational Records

Repealed as this section as it does not apply to the process any longer

Ed 1117.0(3)[4] [~~Preplacement and Placement~~] Review Procedures For Children Previously Determined to Have Disabilities.

This section was previously numbered Ed 1117.04 and has been restructured to clarify the process for review procedures for children who are placed in state institutions who were previously determined to have disabilities.

Ed 1117.04 (formerly Ed 1117.05) Emergency Placement Review Procedures For Children Previously Determined to Have Disabilities.

A new (b) was added to address forwarding a copy of the IEP to a new educational placement ordered by a court

Ed 1117.05 (formerly Ed 1117.06) Review Procedures for Children Not Previously Determined to Have Disabilities.

(b) is added language to clarify when a referral or an evaluation is ordered by a court

(c)-(e) have been deleted

Ed 1117.06 (formerly Ed 1117.09) Dispute Resolution Procedures.

(a) was changed to reflect current practice

(b)-(h) were deleted as they no longer apply with the clarified language in this section

Ed 1117.07 Transfer of Student Records.

(a) Language added to address record transfer when a court makes or changes child's court ordered residential placement which results in educational placement

PART Ed 1119 CONFIDENTIALITY OF INFORMATION

Ed 1119.01 Definitions

This section has been struck as the definitions were addressed in other areas of the rules or in state or federal law.



Ed 1119.01 (formerly Ed 1119.02) Confidentiality Requirements.

(b)—Language added to address record retention of special education records

Ed 1119.05 and Ed 1119.06 have been deleted from the rules as they no longer apply.

Ed 1120.04 Parental Consent.

New language was added to (c), and new language was added to the rule to address parental consent and procedures for when a parent partially consents.

Ed 1121.04 Reconsideration and Appeals.

(a)—Language added to clarify the process

(b)—Language changed from 20 days to 15 days for reconsideration

(c)—Language added that an appeal is to the NH Supreme Court or a NH Superior Court

Ed 1124.02 Services for Children with Disabilities Removed from Current Placement

(a)—Language added to address if services are provided at the child's home

Ed 1126.01 Local Education Agency Request for Special Education Funds.

(b)(3)a. was deleted as it was redundant language and did not follow rule-making process

Ed 1126.03 Program Approval of Public and Non-Public Programs.

A new (b) was added to address the current process for the written report of findings for program approval. As a result of this added language (c) and (d) were deleted and the remaining renumbered.

(d) (formerly (e))—(3) a. and b. were deleted as a result of the change in the language. The rest relettered.

Ed 1126.04 Waiver Process for Placements in Approved In-State Programs.

(a) and throughout Ed 1126.04—“application” changed to “request”

(f)—language changed to list necessary request information

(h) —was deleted as this is no longer a practice

Ed 1128.08 State Aid For In-District Programs.

(a) was struck as the definition for supplemental costs is not necessary

Ed 1129.08 Form 1129F: Expenses by Line Item.

(j)(2) c. 2. Has been struck from the rules as this fee cannot be measurable through the rulemaking process.

(aa)(2) o.—2. and 3. have been struck as these are no longer required in this section and have been renumbered

(aj)—the word bonding has been changed to *insurance against crime and/or theft* which is a current term for this type of insurance.

(aq)—some language deleted and language added to increase salaries for executives

Ed 1129.11 Non-Allowable Costs.

(j)—deleted as organized fund raising cannot be allowed as a cost, (3) also deleted.

Ed 1129.12 Reasonable Costs.

(b)(4)—Language changed to reflect an increase in year to year cost for private providers

Ed 1129.21 The Joint Rate Setting Process.

(b) has been struck