

**RHODE ISLAND GOVERNMENT REGISTER
AMENDED PUBLIC NOTICE OF PROPOSED RULEMAKING**

BOARD OF EDUCATION

Title of Rule: Regulations Governing the Education of Children with Disabilities

Rule Identifier: 200-RICR-20-30-1

Rulemaking Action: Direct Final Repeal

Important Dates:

Date of Public Notice: 08/31/2018

End of Public Comment: 10/01/2018

Authority for this Rulemaking:

R.I. Gen. Laws § 16-24-2

Summary of Rulemaking Action:

REPEAL WITH ADOPTION. These regulations are being repealed and replaced with the adoption of the proposed regulations Governing the Education of Children with Disabilities. The purpose of the new proposed regulations is to govern the education of children with disabilities in accordance with federal and state law.

Proposed revisions: The formatting was revised to comply with the RICR formatting and codification guidelines for the new Rhode Island Code of Regulations as set forth by the Administrative Procedures Act and the Department of State.

The regulation was reorganized and streamlined for readability and clarity. The format and structure of the regulation have been changed to make it clear to the reader what regulatory content is federal and what is state-specific.

This version of this regulation contained voluminous sections directly copied/pasted from the Code of Federal Regulations, interspersed with state specific regulatory clauses. The new version of the regulation removes the copied/pasted Code of Federal Regulation sections and instead incorporates those sections by reference, in a manner prescribed by R.I. Gen. Laws § 42-35-3.2. What remains is a regulation that makes it apparent to the reader when the State of Rhode Island has requirements in addition to or exceptions to the Code of Federal Regulations. The proposed regulation also clearly directs the reader to the exact sections in the Code of Federal Regulation that are incorporated by reference.

The only substantive (non-formatting) changes to the regulation and its implementation were made in order to comply with changes to state or federal law. Those changes are:

o Regulatory language was updated to reflect federal regulatory changes to 34 C.F.R. §§ 300.156, 300.646 and 300.647. Specifically:

§ The "Qualifications for special education teachers" section of § 34 C.F.R. 300.156, which is copied into the state regulation, required teachers to be highly qualified as defined by the federal No Child Left Behind Act (2002). The federal Every Student Succeeds Act (2015) removed the highly qualified teacher requirement and § 34 C.F.R. 300.156 was amended to include new requirements related to the professional qualifications of special education teachers. § 1.5.8(A) was amended to reflect/conform with that change made on the federal level.

The "Disproportionality" provisions of § 34 C.F.R. 300.646, which are copied into the state regulation, required LEAs to reserve funds to provide early intervening services to children in groups determined to be over identified as children with disabilities. § 34 C.F.R. 300.646 was amended and § 34 C.F.R. 300.647 added in 2016 to impose new requirements in the determination of whether significant disproportionality based on race/ethnicity is occurring with respect to the identification of children as children with disabilities and the reserving of funds to provide comprehensive coordinated early intervening services to address factors contributing to the significant disproportionality. §§ 1.9.3(A) and (B) were amended to reflect/conform with the changes made on the federal level.

o Regulatory language was updated to conform with R.I. Gen. Laws § 16-24-2.

§34 CFR 300.323(e), which is copied into the state regulation, states that children who transfer public agencies in the same state are to receive "services comparable" to those in the individualized education program (IEP) until the new public agency adopts the prior IEP or develops a new one. R.I. Gen. Laws 16-24-1(e) states that the IEP "shall remain in effect until a new plan is adopted for the child in the new town or city." 1.7.4(D) (2) was amended to reflect/conform with State law.

In addition, the Extended School Year Standards and Specific Learning Disability Determination regulations were consolidated into the proposed Regulation due to the related subject matter content.

Additional Information and Comments:

If no formal objection is received on or before October 1, 2018, Board of Education will file the Repeal without opportunity for public comment..

Objections should be addressed to:

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Regulatory Analysis Summary and Supporting Documentation:

Amendments to the proposed regulation were made for clarity, accuracy and to align with state/federal law as described above.

For full regulatory analysis or supporting documentation see agency contact person above.