

Summary of Public Comment on the Regulations Governing the Education of Children with Disabilities

September 25, 2018

Oral Comments:

Commenter	Comment Type	Section #	Summary of Comments	Change to document or section	Suggested change to language or rationale for no change
Jennifer Wood, Advocate, RI Center for Justice	Supports	N/A	Codification of all State Regulations into one set of regulations.	None	
	Opposes	N/A	The States intent to separate the State Regulations from the Federal Regulations by streamlining the document. This reduces the ability of the public to access these particularly complex regulations. Limits the utility of the regulations to parents and lay people whose rights the regulations are intended to protect.	yes	Do not codify the regulations with a goal of simply reducing the number of pages. Re-insert the federal regulations into one document to ensure public access.
	Comment	N/A	The codification process can be honored while serving the public buy reinserting the federal language back into the proposed regulations.	none	
Christine Marinello, Attorney representing parents	Oppose	N/A	Concur with Jennifer Wood and Amy Tabor's written comments. Approving the proposed regulations would limit access to parents. As written, it is difficult for seasoned legal professionals to access the information much less parents. Requiring the public to go between two sets of regulations creates an access barrier for	yes	Restore the federal regulation language into the proposed regulations

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			the public. Increase cost for parents, school districts and the community as a whole because there will be a heavier reliance on attorneys to read and interpret these regulations.		
	support	N/A	Agree with adding the Specific Learning Disability criteria into the regulations. This make access easier to the public.	None	
Anne Mulready, Supervising Attorney, RI Disability Law Center	Oppose	N/A	Significant deviation from the previous regulations removing the federal language. Makes the regulations less accessible. Inconsistent with the intent of the IDEA and federal agency intent to assist parents in accessing their rights; these changes limit the access. This is also supported by the State Administrative procedures Act. Not all families will be able to access the internet in order to toggle between the state and federal regulations. The proposed rule disadvantages families and educators who rely on the rules to inform their practice. We see legal cost rising. Teaching staff will make errors because they will not have complete access. Not entirely clear why the Council chose to rewrite the regulations in this way. The incorporation	yes	Restore the federal regulations into the RI regulations.

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			by reference is not required by the Administrative Procedures Act, it is allowed. Noted other state agencies did not take the same approach, ex. Medicaid rules. Ask RIDE and the Council to revisit this decision.		
	support	N/A	The attempt to improve the numbering of state regulations is a good thing.	None	
Ellen Saideman, Special Education Attorney	oppose	N/A	Most of my clients spend years advocating for their child before they reach me and rely on the RI Regulations to understand their rights. The old regulations were much easier for parents to follow, the use of incorporation by reference limits this access. Many students with learning challenges will not be able to access the information for understanding their own rights.	yes	Restore the federal language into the regulations.
	support	N/A	Adding ESY and SLD into these regulations makes sense and I support.	None	
Katie Torres, Health Education Specialist, Parent Support Network	oppose	N/A	Been a peer mentor for parents (as a parent, not an attorney) and find the changes visually confusing for parents. The parents I support present with limited literacy skills, learning challenges and limited English	Yes	Restore the federal language into the state regulations.

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			and this set of regulations will be difficult for them to access. This will further parents deep distrust of their school district since they cannot access the same information or legal resources.			
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Summary of Written Comments:

Commenter	Comment Type	Section #	Summary of Comments	Change to document or section	Suggested change to language or rationale for no change
Any R. Tabor, Attorney at Law	Opposes	N/A	<ol style="list-style-type: none"> 1. The proposed regulations cannot be understood at all unless the reader engages in a time-consuming and burdensome process of “jumping back and forth” repeatedly between the proposed regulations and the provisions of the Code of Federal Regulations. 2. The proposed regulations will be difficult, if not impossible, to understand for those most affected by the law and most in need of its protections –i.e. parents of children with disabilities. 3. The proposed regulation will require a significant additional expenditure of time in order to research and apply its provisions, even for more sophisticated users 	yes	Maintain the approach in the current regulations of including the federal regulation language.

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such as school administrators and attorneys. This extra expenditure of time will, in many cases, translate into higher costs for school districts, parents and taxpayers.

4. The proposed regulations would replace the current regulations, which are much more “user friendly” and accessible to parents and other members of the general public, and that require a more reasonable expenditure of time on the part of school personnel and attorneys who practice in this area.

5. The proposed regulations would seriously undermine important federal and state policies and goals.

A. The proposed regulations would seriously undermine the federal IDEA’s fundamental policy

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			<p>mandate that parents be provided with the supports that will enable them to be equal participants in the planning of their disabled child's education.</p> <p>B. The proposed regulations would undermine, rather than support, the goals listed in the Governor's Executive Order 15-07, including the goal of improving Rhode Island's regulatory climate through clearly written, accessible administrative regulations that are cost-effective and that avoid negative economic impacts. Rules should avoid negative business, employment and overall economic impact.</p> <p>6. It is true that state law and state regulations <i>permit</i> a state agency whose regulations</p>		
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			<p>incorporate a federal regulation to do so simply by citing that regulation, rather than by including all its language. However, neither state law nor state regulations <i>mandate</i> that this be done in all cases. In some cases, it may well be appropriate for a state regulation to incorporate federal regulations simply by providing a citation to those regulations. However, for the reasons discussed above, it is not appropriate in the complex area of special education law, because the resulting regulations will cause confusion and a greater expenditure of resources, rather than clarity and accessibility for those who are most effected.</p>		
Christine Marinello, Attorney at Law	Opposes	N/A	After reviewing the proposed Regulations, I am very concerned about the negative	yes	Create one set of regulations to include the federal regulation language.

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			impact they will have upon families and students and the barrier they will likely present in enforcing their educational rights.		
	Support	N/A	Inclusion of specific learning disability regulations in the state regulations	no	
Anne M. Mulready, Supervising Attorney, RI Disability Law Center	Opposes	N/A	Because this proposed rule will limit the timely access to information about special education services, we foresee it will result in increased legal costs to families as well as covered school districts. Families may need to retain legal help in order to understand and/or address their children's rights. The costs for these legal services may or may not be passed on to school districts as a result of special education due process procedures. Districts' legal costs may rise because education staff will need more interpretive help, and/or staff may make erroneous decisions because they misinterpreted district obligations.	yes	Revise the old regulations and keep the federal language in the state regulations.
	Support	N/A	Inclusion of ESY and SLD regulations in the state regulations	no	

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Ellen Saidemen	Oppose	N/A	<p>Because so many parents advocate on their own, without legal assistance, it is of crucial importance that the regulations be clear to them. There are also a number of students with disabilities that continue to need services beyond their eighteenth birthday and advocate for themselves. The proposed regulations would make it very difficult, if not impossible, for most parent's and adult students to understand the regulations that govern special education in Rhode Island.</p>		
Veronika Kot	Oppose	N/A	<p>The renumbered and revised proposed regulations incorporate by reference federal regulations which were previously reproduced verbatim within the state regulations. As an attorney representing low income families in education cases, I am very concerned about the impact this will have on the accessibility of these regulations to families of children with special needs.</p>		