

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

BOARD OF EDUCATION

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

Rule Identifier: 200-RICR-20-30-6

Rulemaking Action: Proposed Adoption

Important Dates:

Date of Public Notice: 09/11/2018

Hearing Date: 09/25/2018

End of Public Comment: 10/11/2018

Authority for this Rulemaking:

R.I. Gen. Laws § 16-24

(IDEA) (20 U.S.C. Chapter 33, 1400 et. seq.)

Summary of Rulemaking Action:

ADOPTION (with associated repeal) The purpose of these regulations is to govern the education of children with disabilities in accordance with federal and state law.

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.

This 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 statespecific.

The previous version of this regulation contained voluminous sections directly copied/pasted from the Code of Federal Regulations, interspersed with state specific regulatory clauses. This 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 § 42353.2.

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 regulation also clearly directs the reader to the exact sections in the Code of Federal Regulation that are incorporated by reference.

The only substantive (nonformatting) 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 § 16242. §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 16241(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.

The Extended School Year Standards and Specific Learning Disability Determination regulations were consolidated into this Regulation due to the related subject matter content.

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed adoption until October 11, 2018 by contacting the appropriate party at the address listed below:

Angela Teixeira
Board of Education
255 Westminster Street
Providence, RI 02903
angela.teixeira@ride.ri.gov

Public Hearing:

A public hearing, in accordance with R.I. Gen. Laws § 42-35-2.8, to consider the proposed adoption shall be held on September 25, 2018 at 5:00 pm at Davies

Career and Technical High School, Cafetorium, 50 Jenckes Hill Road, Lincoln, RI 02865 at which time and place all persons interested therein will be heard. The seating capacity of the room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-222-8435 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

Regulatory Analysis Summary and Supporting Documentation:

Amendments were made for clarity, accuracy and to align with state/federal law as described above. This rulemaking does not impact small business.

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