

Part B Compliance: JANUARY 2017

THE TO DO LIST



- Remember the Holiday Break (including the weekends) and any professional development days when classes are not in session prior to students returning to school are **ACCEPTABLE EXTENSIONS** to the 60 day initial and reevaluation timelines.
- Following the holiday break is an excellent time to collect data documenting regression/recoupment to assist IEP teams to determine if **EXTENDED SCHOOL YEAR (ESY)** is required for each student. Remember that ESY is not the same as summer school - all students can receive a benefit from summer school; ESY is required to be provided in order for certain students with disabilities to receive FAPE. ESY decisions should be based on your school district policy; however, all school board policies must follow these compliance requirements:
 1. ESY must be considered by the IEP team for all students with a disability
 2. Documented regression/recoupment or the predicted regression/recoupment must be considered if the LEA policy uses regression/recoupment as a criterion for ESY eligibility.
 3. Whether a student is to receive ESY is an IEP team decision
 4. The length, nature, and type of ESY services must be determined on an individual basis by the IEP teamAdditional information can be found at <https://dese.mo.gov/special-education/compliance/extended-school-year-policies>
- THE STATE COMPLIANCE PLAN FOR SPECIAL EDUCATION** is being revised during the 2016-17 school year to reflect updates in the Every Student Succeeds Act (ESSA), provide clarification on a number of issues, and make substantive changes based on research and OSEP guidance. Proposed changes in both a summary chart and a mark-up of the proposed plan are posted on the DESE website at <https://dese.mo.gov/special-education/state-plan-special-education> . The Public comment period ended on January 6, 2017. All comments received will be reviewed and a decision made to accept, accept with revisions, or reject the comment. A summary of the comments and decision will be posted on the website after January 24, 2017. The proposed plan will be presented to the State Board of Education during their February meeting.
- Federal laws requires collaboration and coordination of programs for **CHILDREN WHO ARE HOMELESS OR IN FOSTER CARE** including children with disabilities ages 3-21 who are eligible for special education under Part B of the IDEA. Changes in the ESSA have resulted in updated guidance regarding the determination of the best interest of the child when determining whether the student should attend the school of origin or the school of current residence. These changes impact preschool as well as school age students who are homeless or in foster care. It is very important for LEA staff to be aware of these changes and their impact on the transfer process. The Office of Quality Schools has posted a webinar on this topic at <https://dese.mo.gov/communications/webinar/essa-mckinney-vento-and-foster-care>
- Mark your calendars for the **NEW DIRECTORS ACADEMY WEBINAR** scheduled for January 19, 2017 from 1:00 – 2:00 p.m. Special Education Finance, Data, Compliance, and Effective Practices will be answering burning questions for third quarter issues and activities. The webinar will include hot topic information as well as a live question/answer session. The link to participate is <http://desemo.adobeconnect.com/r8invdl67wh/>
- Multiple state-wide assessments are scheduled to take place during second semester. Remember that Form D in the model IEP documents not only participation in these assessments but also the accommodations or modifications each student should receive during the testing.
 - ACT:** Requests for approval of accommodations to be provided to students with disabilities during the administration of the ACT to all 11th grade students are due no later than March 10, 2017. During last year's test administration, only 3% of requested accommodations were denied by ACT. Having Form D, Form F and the student's Present Level "match" and support the need for any requested accommodations will greatly increase the likelihood of approval. Mark your calendars for this year's paper administration of the ACT on April 19, 2017 with the online administration window between April 19 and May 3, 2017. Additional information is available at <https://dese.mo.gov/college-career-readiness/assessment/act>
 - ACCESS FOR ELLS:** The testing window for the ACCESS for ELLs is open between January 9 and March 3, 2017. Refer to Form D-Part 5: State Accommodations for ACCESS for ELLs for student specific accommodations. Remember the ACCESS for ELLs now offers an alternate version for ELLs who are eligible to participate in the MAP-A.
 - NAEP:** The National Assessment of Educational Progress (NAEP) will be administered to selected students in selected LEAs during second semester. Please refer to Form D-Part I: State Assessments for student specific guidance and accommodations.

State law requires school districts to report certain types of criminal acts to law enforcement authorities if the alleged criminal act is committed on school property, on a school bus, or at a school function. These criminal acts include drug possession, possession of a weapon, as well as harassment and assault in the first, second and third degrees. It is very important for LEAs to be aware of their responsibilities to students with disabilities when **REPORTING CRIMINAL ACTS TO LAW ENFORCEMENT AGENCIES**.

IDEA and FERPA have always allowed LEAs to release personally identifiable information to law enforcement agencies under the health and safety circumstance exception. It is very important for LEAs to remember that if the health and safety exception does not apply, the LEA must seek consent from the parent to release the personally identifiable information when reporting a crime to a law enforcement agency.

34 CFR § 300.535 (b) states, "*Transmittal of records*. (1) An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime. (2) An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act (FERPA)." Comments in the Federal Register regarding 34 CFR § 300.535 (b) dated August 14, 2006, state that this section "must be read consistent with the disclosures permitted under FERPA for the education records of all children. Under FERPA, personally identifiable information (such as the child's status as a special education child) can only be released with parental consent, except in certain very limited circumstances." Additional information regarding the "limited circumstances" and "FERPA for School Officials" can be found at <http://familypolicy.ed.gov/fag-page?src=ferpa#t39n410>

During a recent child complaint investigation, the Department found it necessary to obtain clarification on the issue of physician prescriptions and the **PROVISION OF PHYSICAL THERAPY CONSULTATION SERVICES**. The Missouri Department of Elementary and Secondary Education, Special Education Compliance, asked whether a Physical Therapist can provide consultation services to a special education teacher regarding a student that is no longer undergoing physical therapy without a prescription. The Physical Therapy Advisory Commission of the Missouri Board of Healing Arts met on November 15, 2016 to discuss this question and to provide guidance.

The Advisory Commission sent a response to DESE making reference to *section 334.506.3, RSMo* and stated ". . . the Advisory Commission interprets the statute to allow physical therapists to provide educational resources or consultative services to special education teachers on behalf of students who are no longer receiving direct physical therapy services."

Based on this clarification, the current guidance found in the *Guidelines for Providing Occupational Therapy and Physical Therapy in Missouri Schools* at <https://dese.mo.gov/special-education/compliance/occupational-therapy-physical-therapy-guidelines> continues to be accurate.

COHORT 1 LEAs should be planning for professional development to maintain compliance and improve outcomes for students with disabilities. Also be sure to review procedures and practices within your LEA to increase efficiency and effectiveness in order to support continued compliance at the 100% level.

COHORT 2 should have provided documentation of individual correction of noncompliance (the I-CAP) for identified students no later than December 31, 2016. If you have not completed this activity, your compliance supervisor and/or compliance consultant will be visiting with you during the next several weeks to see if technical assistance is needed to assist you in completing this step in the self-assessment process. If your LEA had a follow-up timeline submission, these are due in IMACS no later than March 20, 2017.

COHORT 3's Self-assessment file reviews should be well underway at this point. The findings must be entered into IMACS no later than February 1, 2017. Please call if you have questions. And be sure to make a plan to complete this project including the file reviews (due February 1, 2017) and the initial evaluation timelines and the C to B Transition timelines (both due May 15, 2017).

Be sure to contact your compliance team of DESE Compliance Supervisors and RPDC Compliance Consultants for support or if you have any questions.