

MISSOURI STATE BOARD OF EDUCATION AGENDA ITEM:**August 2017**

CONSIDERATION OF AN ORDER OF RULEMAKING TO AMEND RULE 5 CSR 20-300.110, MISSOURI STATE PLAN FOR PART B, REGULATIONS IMPLEMENTING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

STATUTORY AUTHORITY:

Sections 161.092 and 162.685, RSMo

Consent
ItemAction
ItemReport
Item**DEPARTMENT GOAL NO. 1:**

All Missouri students will graduate college and career ready.

SUMMARY:

The proposed reorganization of the state regulations was posted at <https://dese.mo.gov/special-education/state-plan-special-education> for public review and comment on May 4, 2017. The comment period closed on July 6, 2017. The Department conducted two public hearing webinars regarding the proposed reorganization during the comment period.

The reorganization changes included relocating multiple sections to more applicable areas of the state plan, changing the outline style from numerical to alphabetical, bolding and underlining each subsection heading, adding each subsection to the table of contents, creating new titles/subsection headers, capitalizing all bulleted lists, updating references, and changing the indent space and spacing between sections. There were no content changes in the state plan. One comment was received during this time; the plan was modified to correct the reference. No other changes were made.

The Department recommends approval of the Part B State Plan with the changes reflected in the final proposed Part B state regulations.

A copy of the final reorganized Part B state regulations is included.

PRESENTER:

Stephen Barr, Assistant Commissioner, Office of Special Education; and Shelley Woods, Coordinator, Special Education Finance, will assist with the presentation and discussion of this agenda item.

RECOMMENDATION:

The Department recommends the State Board of Education authorize publication in the *Missouri Register* of an order of rulemaking to amend Rule 5 CSR 20-300.110, relating to the Missouri State Plan for Part B of the Individuals with Disabilities Education Act and that the State Board finds this amendment necessary to carry out the purpose of Sections 161.092 and 162.685, RSMo.

Title 5 – DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20 – Division of Learning Services
Chapter 300 – Office of Special Education

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under sections 161.092 and 162.685, RSMo 2016, the board hereby amends a rule as follows:

5 CSR 20-300.110 is amended.

A notice of proposed rulemaking was not published because state program plans required under federal education acts or regulations are specifically exempt under section 536.021, RSMo. In May 2017, the Office of Special Education conducted two (2) public hearing webinars regarding the proposed reorganization to the Part B State Plan implementing the Individuals with Disabilities Education Act (IDEA).

This rule becomes effective thirty (30) days after publication in the *Code of State Regulations*. This rule describes Missouri's services for children with disabilities, in accordance with Part B of the Individuals with Disabilities Education Act (IDEA).

5 CSR 20-300.110 Individuals with Disabilities Education Act, Part B. This order of rulemaking reorganizes subsections (2)(A) - (2)(J) changing them to (2)(A) – (2)(P) and amends the incorporated by reference material, *Regulations Implementing Part B of the Individuals with Disabilities Education Act*, to bring the program plan in compliance with federal statutes.

(2) The content of this state plan for the Individuals with Disabilities Education Act (IDEA), Part B, which is hereby incorporated by reference and made a part of this rule, meets the federal statute and Missouri's compliance in the following areas. A copy of the IDEA, Part B (revised August 2017) is published by and can be obtained from the Department of Elementary and Secondary Education, Office of Special Education, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480. This rule does not incorporate any subsequent amendments or additions.

[(A) *General Provisions:*

1. *Applicability;*
2. *Amendments; and*
3. *Definitions.*

(B) *Confidentiality:*

1. *Confidentiality of Personally Identifiable Information.*

(C) *Identification and Evaluation:*

1. *Child Find;*
2. *Definitions and Criteria for Determination of Eligibility;*
3. *Procedures for Evaluation and Determination of Eligibility; and*
4. *Additional Procedures.*

(D) *Free Appropriate Public Education (FAPE)/Individualized Education Program (IEP)/Least Restrictive Environment (LRE):*

1. *Free Appropriate Public Education;*
 2. *Individualized Education Program;*
 3. *Least Restrictive Environment (LRE); and*
 4. *Transition of Children from Part C Services to Part B Services.*
- (E) *Procedural Safeguards/Discipline:*
1. *Opportunity to Examine Education Records/Parent Participation in Meetings;*
 2. *Independent Educational Evaluation;*
 3. *Written Notice;*
 4. *Procedural Safeguards Notice;*
 5. *Parental Consent;*
 6. *Administrative Hearing Rights;*
 7. *Educational Surrogates;*
 8. *Transfer of Parental Rights at Age of Majority; and*
 9. *Disciplinary Actions/Removals/Expedited Hearings.*
- (F) *Department Responsibilities:*
1. *General Supervision Responsibilities;*
 2. *Application, Evaluation, and Approval of Private Educational Agencies;*
 3. *Child Complaint Process;*
 4. *Full Educational Opportunities Goal;*
 5. *Methods of Ensuring Services;*
 6. *Performance Goals and Indicators;*
 7. *Public Participation;*
 8. *Public Attention;*
 9. *State Advisory Panel;*
 10. *Suspension and Expulsion Rates;*
 11. *Access to Instructional Materials;*
 12. *Overidentification and Disproportionality;*
 13. *Prohibition on Mandatory Medication;*
 14. *State Administration;*
 15. *Personnel Qualifications; and*
 16. *Personnel Standards Chart.*
- (G) *Local Educational Agency (LEA) Eligibility:*
1. *General Requirements;*
 2. *Fiscal Requirements; and*
 3. *Compliance Requirements.*
- (H) *Private Schools:*
1. *Children Placed in Approved Private Agencies by Public Agencies;*
 2. *Children Enrolled by Their Parents in Private Schools When Free Appropriate Public Agency is at Issue;*
 3. *Children with Disabilities Enrolled by Their Parents in Private Schools—Child Find; and*
 4. *LEA Requirements to Provide Services for Parentally-Placed Private School Children with Disabilities.*
- (I) *Special School Districts:*
1. *Basis for Compliance;*
 2. *Structure of Compliance;*

3. *Compliance Requirements; and*
 4. *Assurance of Compliance.*
- (J) *State Operated Programs:*
1. *State Education Agency (SEA) Provision of Direct Services;*
 2. *Missouri Schools for the Severely Disabled; and*
 3. *Missouri School for the Blind and Missouri School for the Deaf.]*
- (A) General Provisions:**
1. **Applicability;**
 2. **General Supervision Responsibilities;**
 3. **Performance Goals and Indicators;**
 4. **State Administration;**
 5. **Full Educational Opportunities Goal;**
 6. **Amendments;**
 7. **Definitions;**
 8. **Condition of Assistance;**
 9. **Consistency with State Policies;**
 10. **Information for State Education Agency (SEA); and**
 11. **Hearings Related to Public Agency Eligibility.**
- (B) Confidentiality:**
1. **Confidentiality of Personally Identifiable Information.**
- (C) Identification and Evaluation:**
1. **Child Find;**
 2. **Definitions and Criteria for Determination of Eligibility;**
 3. **Procedures for Evaluation and Determination of Eligibility; and**
 4. **Additional Procedures.**
- (D) Free Appropriate Public Education (FAPE)/Individualized Education Program (IEP)/Least Restrictive Environment (LRE):**
1. **Free Appropriate Public Education (FAPE);**
 2. **Methods of Ensuring Services;**
 3. **Individualized Education Program;**
 4. **Least Restrictive Environment (LRE);**
 5. **Transition of Children from Part C Services to Part B Services; and**
 6. **Failure to Provide Free and Appropriate Public Education (FAPE).**
- (E) Procedural Safeguards/Discipline:**
1. **Opportunity to Examine Education Records/Parent Participation in Meetings;**
 2. **Independent Educational Evaluation (IEE);**
 3. **Written Notice;**
 4. **Procedural Safeguards Notice;**
 5. **Parental Consent;**
 6. **Child Complaint Process;**
 7. **Administrative Hearing Rights;**
 8. **Resolution Process;**
 9. **Educational Surrogates;**
 10. **Transfer of Parental Rights at Age of Majority; and**
 11. **Disciplinary Actions/Removals/Expedited Hearings.**

- (F) Disproportionality:**
 - 1. **Overidentification and Disproportionality;**
 - 2. **Suspension and Expulsion Rates; and**
 - 3. **Significant Disproportionality.**
- (G) Other Requirements:**
 - 1. **Access to Instructional Materials;**
 - 2. **Purchase of Instructional Materials;**
 - 3. **Records Regarding Migratory Children with Disabilities;**
 - 4. **Prohibition on Mandatory Medication; and**
 - 5. **Routine Checking of Hearing Aids and External Components of Surgically Implanted Medical Devices.**
- (H) Personnel Standards:**
 - 1. **Personnel Qualifications.**
- (I) Caseloads:**
 - 1. **Class Size and Caseloads.**
- (J) Fiscal Requirements:**
 - 1. **Subgrants to Public Agencies;**
 - 2. **Accounting and Payment Procedures;**
 - 3. **Excess Costs;**
 - 4. **Maintenance of Effort;**
 - 5. **Withholding of Payments; and**
 - 6. **Personnel.**
- (K) Early Childhood Special Education (ECSE) Expenditures:**
 - 1. **Early Childhood Special Education (ECSE) Expenditure Requirements.**
- (L) Stakeholders:**
 - 1. **Public Participation;**
 - 2. **Public Attention; and**
 - 3. **State Advisory Panel.**
- (M) Private Schools:**
 - 1. **Children Enrolled by Their Parents in Private Schools When FAPE is at Issue;**
 - 2. **Children with Disabilities Enrolled by Their Parents in Private Schools—Child Find; and**
 - 3. **Public Agency Requirements to Provide Services for Parentally-Placed Private School Children with Disabilities.**
- (N) Approved Private Agencies:**
 - 1. **Children Placed in Approved Private Agencies by Public Agencies; and**
 - 2. **Application, Evaluation, and Approval of Private Educational Agencies.**
- (O) Special School Districts:**
 - 1. **Basis for Compliance;**
 - 2. **Structure of Compliance; and**
 - 3. **Compliance Requirements.**
- (P) State Operated Programs:**
 - 1. **SEA Provision of Direct Services;**
 - 2. **Missouri Schools for the Severely Disabled; and**
 - 3. **Missouri School for the Blind and Missouri School for the Deaf.**

*AUTHORITY: sections 161.092 and 162.685, RSMo 2016. This rule previously filed as 5 CSR 70-742.140. Original rule filed April 11, 1975, effective April 21, 1975. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 10, 2017, effective July 30, 2017. Amended: Filed XX, effective XX.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.