

## **REGULATION XVI: STATE OPERATED PROGRAMS**

### **A. SEA PROVISION OF DIRECT SERVICES**

The Missouri Department of Elementary and Secondary Education (DESE) provides free appropriate public education (FAPE) services for students with disabilities through three State Board of Education Operated Programs: School for the Deaf (MSD), School for the Blind (MSB), and the Missouri Schools for the Severely Disabled (MSSD).

It is the policy of DESE that the requirements of Part B of IDEA are implemented by the State Board of Education Operated Programs responsible for the education of students with disabilities. Each State Board Operated Program is required to submit a Compliance Plan that specifies the policies and procedures necessary to meet the requirements of IDEA.

DESE ensures each educational program for students with disabilities administered by the State Board of Education is under the general supervision of the Office of Special Education, DESE, and that their programs meet the standards of the State Education Agency (SEA).

DESE ensures funds provided under Part B to support SEA direct services are used in accordance with requirements of this state plan with the exception of those policies related to excess cost.

### **B. MISSOURI SCHOOLS FOR THE SEVERELY DISABLED**

#### **REGULATIONS FOR SERVICES**

MSSD, a system of day school services in a separate school settings, was established by state law to serve students with severe disabilities referred to the State Board of Education by public agencies which do not operate such programs themselves and which are not a part of special school districts. If the evaluation information and the Individualized Education Program (IEP) compiled by the public agency supports separate school placement as the student's least restrictive educational environment, the LEA may request a determination of student eligibility for services. The following procedural information is provided to assist public agencies in accessing services from MSSD.

#### **ELIGIBILITY CRITERIA FOR MSSD**

- (1) The public agency must establish the existence of a severe or profound intellectual disability. Students with severe disabilities generally have significant cognitive deficits as evidenced by method a or b described below:
  - a. The student obtains scores falling four (4) or more standard deviations below the mean using a standardized measure of cognitive functioning. The evaluation report also includes scores from a normative referenced standardized measure of adaptive

behavior that yields a composite score that falls four (4) or more standard deviations below the mean, or

- b. The student is not able to respond to any standardized measure of cognitive ability due to a combination of sensory and/or motor impairments, but evaluation information indicates significant deficits in cognitive ability and adaptive behavior skills as evidenced by a description of the student's need for pervasive levels of supports across all life areas, as defined by the American Association on Intellectual and Developmental Disabilities (AAIDD) classification system. The evaluation report also includes scores from a normative referenced standardized measure of adaptive behavior that yields a composite score that falls four (4) or more standard deviations below the mean.

Only assessment results from comprehensive evaluations less than three (3) years old and consistent with the procedures in Regulation III will be considered during the MSSD eligibility process.

- (2) The public agency shall provide justification of why the public agency is not the least restrictive environment for the student.

Students who educationally benefit from special education and related services that can be provided by the public agency are not considered eligible for services through MSSD. In general, students with disabilities such as cognitive deficits falling two (2) to three (3) standard deviations below the mean, Speech or Language Impairments, Hearing Impairment/Deaf, Visual Impairment/Blind, Learning Disabilities, Emotional Disturbance, Other Health Impairment, Traumatic Brain Injury, or Orthopedic Impairment can receive an appropriate education when served by public agencies.

## **ELIGIBILITY PROCEDURES**

In order to assure compliance with applicable state and federal laws and regulations governing identification, evaluation, IEP development, and educational placement procedures for students who may be enrolled in MSSD, the following procedures have been adopted by the State Board of Education.

- (1) All students identified as potentially in need of special education services shall be enrolled in and served by the public agency pending the determination of such need. This includes students whose performance indicates possible functioning within the range of severe to profound intellectual disability.
- (2) The public agency in which the student resides shall complete a comprehensive evaluation which is current within three (3) years. Additional evaluations may be required as determined necessary for individual students. The evaluation information must be obtained in accordance with state regulations on evaluation. Additional educational records or other pertinent information may be required by MSSD to clarify the student's educational needs.

- (3) Following compilation of evaluation information, the public agency where the student resides is responsible for development of an IEP for the current school term in accordance with the requirements of state regulations. The public agency must consider all service options, including service through a separate school placement, to determine which is appropriate to meet the student's educational needs.
- (4) If the IEP Team is considering separate school as a placement option for the student, the public agency must forward the evaluation report, current IEP, and justification for separate school placement to MSSD for eligibility consideration. The preceding IEPs, if applicable, and related educational records and other pertinent information for all services provided by the public agency shall also be forwarded. MSSD may request additional information on an individual student basis if necessary. Following a professional review of this information, the public agency shall be notified whether the student is eligible for services through MSSD. The eligibility determination is not appealable and is a unilateral determination made by MSSD. If the student is determined eligible, MSSD will send the public agency recommendations for needed instruction and services as appropriate.
- (5) Following a professional review of this information provided by the public agency, the public agency shall be notified whether or not the student is eligible for services through MSSD. The eligibility decision is not appealable.

Students who would otherwise be eligible for MSSD based on the severity of the disability will not be accepted if they require homebound placement as such a placement would preclude attendance at a separate day program such as MSSD. Students who otherwise qualify and require only intermittent services in the home will be eligible for referral.

- (6) Should the public agency be notified that the student is eligible for MSSD, the public agency may refer the student. The public agency shall notify parents of the eligibility decision and submit the referral only after the parents have been offered all rights available to them as explained in the Procedural Safeguards notice. The IEP, at time of referral, must reflect the actual number of minutes of service per week needed to provide FAPE, or the public agency must reconvene the IEP Team before submitting the referral so as to ensure an IEP Team decision on actual minutes needed to provide free appropriate public education (FAPE).
- (7) Upon receipt of the completed referral form, IEP for separate placement, and Notice of Action for change of placement, enrollment documents will be mailed to the parent. MSSD will notify the LEA of the date of the student's enrollment. A student with a severe disability may enroll in MSSD upon attaining the age of five (5) years. Extended School Year services shall be provided to students who attain age five (5) years during the summer, if eligible for such services.
- (8) The public agency will convene an IEP meeting in collaboration with MSSD at least annually to review and/or revise IEPs for students enrolled in MSSD.

- (9) At any time the IEP Team may determine, based on general functioning level and progress shown, that the student is no longer eligible for MSSD, either because:
- a. The student's cognitive and adaptive levels of functioning and performance at school no longer demonstrate a need for pervasive levels of supports across all life areas and a separate school placement no longer appears to be the student's least restrictive environment, or
  - b. A separate school placement is no longer the student's least restrictive environment because he or she demonstrates a need for homebound instruction that exceeds the scope of what would reasonably be considered intermittent in nature.

In such instances, the IEP Team, including a representative of MSSD, convenes to review/revise the IEP to consider placement in the least restrictive environment. The Team should consider IEP goal progress data, other existing data in the education record, information in the most recent reevaluation, and any relevant medical information. MSSD will develop an IEP based on the IEP Team's decisions, including services and IEP goals to be implemented by the public agency in accordance with the IDEA transfer processes, when the student re-enrolls at the public agency. The public agency will provide the parent with prior written notice of the change in placement and change in services.

### **REEVALUATION**

The public agency shall conduct a reevaluation as required by state regulations. Results of the reevaluation shall be submitted to MSSD for review. Additional data may be requested by MSSD to clarify the student's educational needs.

### **TRANSFER OF STUDENTS ENROLLED IN MSSD**

A student who is enrolled in an MSSD school and moves from one public agency to another (including those moves to another public agency within the catchment area of the MSSD school the student currently attends), may transfer enrollment immediately on the basis of the justification for separate school placement, current IEP, and evaluation report. This is considered an interim placement, not to exceed thirty (30) days, during which the new public agency follows the transfer procedures provided within Regulation III to confirm concurrence with placement in MSSD as the least restrictive educational environment for the student. If this review results in determination that MSSD is the least restrictive environment, the new public agency will complete the Justification for Continued Separate School Placement form. If, during the thirty (30) day interim period, the new public agency fails to provide the Justification for Continued Separate School Placement form, the student will not be served by MSSD and shall be served by the public agency through a placement other than MSSD.

**TRANSFER OF STUDENTS WITH SEVERE DISABILITIES FROM A SEPARATE SCHOOL (DAY) FACILITY (IN MISSOURI PUBLIC AGENCY, A SPECIAL SCHOOL DISTRICT, OR AN OUT-OF-STATE PROGRAM)**

A sixty (60) day interim placement at MSSD may be available for students with severe disabilities who are changing public agencies due to a change in residence. These students must have been receiving services in their public agency, through cooperative arrangement with another public agency, in a special school district, or in an out-of-state program for students with severe disabilities.

To qualify for this interim placement, the following criteria must be met:

- (1) The current IEP and comprehensive evaluation report are adopted by the new public agency pursuant to transfer procedures provided within Regulation IV.
- (2) The new public agency submits a copy of the student's current IEP and comprehensive evaluation report to MSSD with a letter acknowledging adoption of the documents. In the same letter, the new public agency will verify the previous placement provided educational services in a self-contained classroom with students with severe disabilities in a separate school building. In addition, the public agency requests that the student be served in a sixty (60) day interim placement to confirm concurrence with placement in MSSD as the least restrictive educational environment for the student.
- (3) MSSD will issue a letter of interim placement assignment if the information submitted is viewed as substantiating the request.
- (4) Enrollment documents must be completed at the onset of the sixty (60) day interim placement period. MSSD will notify the public agency of the date of the student's enrollment.
- (5) During the sixty (60) day interim placement, the public agency shall follow the referral procedures to seek eligibility determination in accordance with 1-4 above. If found eligible, the public agency will issue a notice of action to the parents, guardian or educational surrogate and MSSD confirming continued placement. If, during the sixty (60) day interim period, the public agency fails to submit the justification for separate school placement, the student will not be served by MSSD and shall be served by the public agency through a placement other than MSSD.

If MSSD is not confirmed as the student's least restrictive educational environment, the public agency is notified of this decision and becomes responsible for providing the required special education and related services in accordance with Regulation V and Regulation IV.

## **TRANSFER OF STUDENTS WHO PREVIOUSLY ATTENDED MSSD, MOVED OUT OF STATE, AND HAVE RETURNED TO MISSOURI**

To qualify for this interim placement, the following criteria must be met:

- (1) The student attended MSSD in the 12 months prior to seeking readmission,
- (2) The student moved out of state and had an IEP placement other than a separate day school,
- (3) The student moved back to Missouri, and
- (4) The parent agrees to the interim placement at MSSD.

Procedure to implement the interim placement:

- (1) The current IEP and comprehensive evaluation report are reviewed by the new public agency pursuant to transfer procedures provided within Regulation IV and a decision made accepting or rejecting the IEP and evaluation report is documented.
- (2) The new public agency submits a copy of the student's current IEP and evaluation report to MSSD with documentation of the acceptance or rejection of the documents. In a letter, the new public agency will verify the previous placement at MSSD within the prior twelve (12) months. In addition, the public agency requests that the student be served in a sixty (60) day interim placement to confirm concurrence with placement in MSSD as the least restrictive educational environment for the student.
- (3) MSSD will issue a letter of interim placement assignment if the information submitted is viewed as substantiating the request.
- (4) Enrollment documents must be completed at the onset of the sixty (60) day interim placement period. MSSD will notify the public agency of the date of the student's enrollment.
- (5) During the sixty (60) day interim placement, the public agency shall follow the procedures to seek eligibility determination in accordance with 1-4 above. If found eligible, the public agency will issue a notice of action to the parents, guardian, or educational surrogate and MSSD confirming continued placement. If, during the sixty (60) day interim period, the public agency fails to submit all the documentation needed to determine eligibility for placement at MSSD, the student will not be served by MSSD and shall be served by the public agency through a placement other than MSSD.

If MSSD is not confirmed as the student's least restrictive educational environment, the public agency is notified of this decision and becomes responsible for providing the required special education and related services in accordance with Regulation V and Regulation IV.

## **C. MISSOURI SCHOOL FOR THE BLIND AND MISSOURI SCHOOL FOR THE DEAF**

The Missouri School for the Blind (MSB) and Missouri School for the Deaf (MSD) are established by state law to serve those students referred to the State Board of Education by local public agencies who may require such services to receive a free appropriate public education. If the evaluation information and the Individualized Education Program (IEP) compiled by the local public agency supports separate school placement as the student's least restrictive educational environment, the local public agency may seek determination of student eligibility for services. The following procedural information is supplied to assist public agencies in accessing services from MSD and MSB.

### **ELIGIBILITY FOR MSB AND MSD**

**MSB:** Students who are Blind or Visually Impaired, for purposes of MSB eligibility, are those students who meet the state eligibility criteria for Visual Impairment. Students who meet the state eligibility category criteria for Missouri Schools for the Severely Disabled (MSSD) are not eligible for MSB.

**MSD:** Students who are Deaf or Hearing Impaired, for purposes of MSD eligibility, are those students who meet the state eligibility criteria for Deaf/Hearing Impaired. Students who meet the state eligibility criteria for MSSD are not eligible for MSD.

A student may enroll in MSB and MSD upon attaining the age of five (5) years. Extended School Year services shall be provided to students who attain age five (5) years during the summer, if eligible for such services.

In order to assure compliance with applicable state and federal laws and regulations governing identification, evaluation, IEP development, and educational placement procedures for students who seek enrollment in either the MSD or MSB program, the following procedures have been adopted by the State Board of Education. The public agency is encouraged to request a professional employee of MSB or MSD to participate in the enrollment and referral process. Such requests for participation shall be honored when made during the school term and when schedules permit.

- (1) All students identified as potentially in need of services from the State Board Operated Programs shall be enrolled in public agency programming pending the determination of such need.
- (2) The public agency in which the student resides shall provide comprehensive and appropriate evaluation information, current within three (3) years. The public agency may be required to submit to MSB or MSD additional evaluations, educational records, or other pertinent information as determined necessary to clarify the student's educational needs. The requested additional evaluations must be obtained in accordance with Regulation III.

- (3) Following compilation of evaluation information, the public agency where the student resides is responsible for development of an IEP for the current school term in accordance with the requirements of state regulation provisions for IEPs within Regulation IV. The public agency must consider all service options, including service through a separate school placement, to determine which is appropriate to meet the student's educational needs.
- (4) If the IEP Team is considering separate school as a placement option for the student, they must submit documentation of the justification for such placement in writing, including an explanation that MSB or MSD would be the least restrictive educational environment for the student. The justification documentation must include information that the public agency has:
  - a. Considered educating the student in the public agency;
  - b. Identified supplementary aids and services that would be needed to educate the student in the public agency; and,
  - c. Articulated why the public agency cannot serve the student in the public agency in a placement that would benefit the student.

The public agency must submit to MSB or MSD any supporting evidence of each of the preceding statements that justify the IEP Team's decision.

- (5) When the IEP indicates the student is in need of services which the public agency is unable to provide and which may be provided by the MSB or MSD, the public agency may forward the evaluation report, current IEP, and justification for separate school placement to MSB or MSD for eligibility review. The preceding IEPs, if applicable, and related educational records and other pertinent information for all services provided by the public agency shall also be forwarded. MSB or MSD may request additional information if necessary. Following a professional review of this information, the public agency shall be notified whether the student is eligible for services through MSB or MSD. The eligibility determination is not appealable and is a unilateral determination made by MSB or MSD, respectively. If the student is determined eligible, MSB or MSD will send the public agency recommendations for instructional programming and services if appropriate.

## REFERRAL

- (1) Should the public agency be notified that the student is eligible for MSB or MSD, the public agency may refer the student after holding an IEP meeting to consider the recommendations from MSB and MSD and modify the IEP accordingly if needed. The IEP, at time of referral, must reflect the actual number of minutes of service per week needed to provide FAPE, or the public agency must reconvene the IEP Team before submitting the referral so as to ensure an IEP Team decision on actual minutes needed to provide FAPE.

After the parents have received an explanation of the Procedural Safeguards notice, the public agency shall submit the referral to MSB or MSD. Notice of such decision to refer



shall be given to the parent in accordance with the law, including an explanation of their right to appeal the action through use of their due process hearing rights.

- (2) When referring the student, the public agency will send the newly revised IEP to MSB or MSD. Upon acceptance of the referral, MSB or MSD will send enrollment documents to the parents.
- (3) The public agency will convene an IEP meeting in collaboration with MSSD at least annually to review and/or revise IEPs for students enrolled in MSSD.
- (4) If at any time MSB or MSD believes a modification to the student's IEP is required, including instances wherein MSB or MSD does not believe MSB or MSD is the Least Restrictive Environment, MSB or MSD will notify the public agency that an IEP Team meeting is necessary. The public agency must hold an IEP Team meeting within a reasonable time of MSB's or MSD's notification to the public agency of the need for an IEP Team meeting. The student's teacher and other appropriate professional personnel from MSD or MSB shall be invited to participate in this meeting. If the IEP Team determines the student is ineligible for services at MSB or MSD, they shall inform the parents of their right to appeal in accordance with the Procedural Safeguards.

### **REEVALUATION**

The public agency shall conduct a reevaluation as required by state regulations.

Results of the reevaluation shall be submitted to MSB and MSD for review. Additional data, including additional evaluation information, may be requested by MSB or MSD and must be provided by the public agency to clarify the student's educational needs.