

## Response to Comments on Part B State Plan Changes, 2013

Reg/Page	Change	Reason	Comment	Response
III / 18	Removed “in local newspapers” and replace with “on the school district website”	Readership of newspapers is down, more likely to notify public if publication is through electronic means	<ol style="list-style-type: none"> <li>1. Prefer to have publication in both newspaper and website</li> <li>2. Approve removal of newspaper requirement</li> </ol>	<p>Change made School districts will have the option to publish the public notice in the newspaper or on their website.</p> <p>A. Publishing one (1) public notice in local newspapers <b>or on the school district website</b> that describes the school district’s responsibility to provide special education and related services to children ages three (3) to twenty-one (21). The notice must also describe the LEA’s responsibility to refer infants and toddlers suspected of having a disability to the state Part C early intervention system.</p>
IV / 54-57	Added in new section setting forth the procedure for transition of children from Part C - First Steps to Part B Early Childhood Special Education with a description of the notification requirements, transition conference with the LEA, evaluations, timelines, IEP development, and summer third birthdays	IDEA requires states to have a transition procedure 34 CFR 300.124	<ol style="list-style-type: none"> <li>1. Need to reword so that rules specific to Part C are not included in Part B plan to avoid having to amend B when C makes changes. See attachment # 1 at end of chart</li> </ol>	
IV / 54			<p>Suggested change The State of Missouri has developed policies and procedures to ensure smooth and effective transition from Part C (First Steps) services to Part B (ECSE) services <b>at age three</b> for children with disabilities <del>at age three.</del></p>	<p>Accept <b>The State of Missouri has developed policies and procedures to ensure smooth and effective transition from Part C (First Steps) services to Part B (ECSE) services at age three for children with disabilities</b></p>

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<p>IV /54</p>			<p>Suggested change  <u>Notification to LEA from Part C</u></p> <p>In Missouri, all children in the Part C program are considered to be potentially eligible for Part B services. The Part C program notifies the LEA conducts notification to the LEA in which the child lives not fewer than 90 days before the child's third birthday that the child is approaching three years of age and may be eligible for early childhood special education services under Part B of IDEA. in accordance with the Part C State Plan.</p> <p>The Part C program has an opt out policy that allows parents to object to sending directory information notification to the LEA. The Part C program informs the parent that failure to send directory information to the LEA may result in a gap in services if the child is subsequently found eligible for Part B. If a parent first opts out of notification to the</p>	<p>Accept as modified  <u>Notification to LEA from Part C</u></p> <p><b>In Missouri, all children in the Part C program are considered to be potentially eligible for Part B services. The Part C program notifies the LEA in which the child lives in accordance with the Part C State Plan.</b></p> <p><b>The Part C program has an opt out policy that allows parents to object to notification to the LEA. If a parent first opts out of notification to the LEA and subsequently requests notification to the LEA, there may be a gap in services if the decision was made less than 90 days from the child's third birthday.</b></p>
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			<p>LEA and subsequently requests notification to the LEA, there may be a gap in services if the decision was made less than 90 days from the child's third birthday.</p>	
<p>IV / 54-55</p>			<p>Suggested change  <u>Transition Conference with LEA</u></p> <p>The Part C program requires that a transition conference with the LEA be held with family approval, not fewer than 90 days and, at the discretion of all parties, not more than nine months before the child's third birthday. The purpose of the transition conference with the LEA is:</p> <p>A. to explain the differences between Part C and Part B,          B. to explain the process the LEA will complete to determine the child's eligibility for services under Part B and, if eligible, any services the child may receive under Part B of the IDEA, and          C. to provide LEA personnel contact information to the parent</p> <p>With family approval, the Part C program must</p>	<p>Accept  <u><b>Transition Conference with LEA</b></u></p> <p><b>The Part C program requires that a transition conference with the LEA be held in accordance with the Part C State Plan. If invited, LEA personnel must participate in the meeting regardless of the time of year in which the meeting occurs. Meeting participation may be achieved through a variety of methods, including in person, phone conference, web conference etc</b></p>

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			<p><del>invite LEA personnel to the transition conference.</del>  <b>in accordance with the Part C State Plan.</b> If invited, LEA personnel must participate in the meeting regardless of the time of year in which the meeting occurs. Meeting participation may be achieved through a variety of methods, including in person, phone conference, web conference etc.</p>	
IV / 55			<p>Suggested change <u>Evaluations</u></p> <p>If the LEA suspects the child has a disability, an evaluation is conducted, in accordance with the procedures and timelines in Regulation III of the Part B State Plan, to determine if the child is eligible for Part B services.</p>	<p>Accept <u>Evaluation</u></p> <p><b>If the LEA suspects the child has a disability, an evaluation is conducted, in accordance with the procedures and timelines in Regulation III of the Part B State Plan, to determine if the child is eligible for Part B services.</b></p>
IV / 55			<p>Suggested change: <u>Timelines for IEP Development and Implementation</u></p> <p><del>If a child is referred to the Part C program 90 days or more before the child's third birthday, the Part C program must provide notification to the LEA in which the</del></p>	<p>Accept <u>Timelines for IEP Development and Implementation</u></p> <p><b>All children found eligible for Part C and who are also found eligible for Part B, including Part C Extension children described below must have an IEP developed before the child's third birthday.</b>  <b>The only exceptions to this requirement are (1) if the child was</b></p>

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			<p>child lives at least 90 days before the child's third birthday. If the child is found eligible for Part B services, an IEP must be developed by the child's third birthday.</p> <p>If a child is determined eligible for the Part C program more than 45 but less than 90 days before the child's third birthday, as soon as possible after determining the child's eligibility, the Part C program notifies the LEA in which the child lives that the child is approaching three years of age and may be eligible for early childhood special education services under Part B. In this case, the child must be evaluated by the LEA and, if found eligible for Part B services, an IEP must be developed by the child's third birthday.</p> <p>If a child is referred to the Part C program fewer than 45 days before the child's third birthday, the Part C program is not required to conduct an evaluation, assessment,</p>	<p><b>referred to Part C less than 90 days before the child's third birthday; (2) if the parent does not give parental consent to evaluate the child, which delays an evaluation by the school district and subsequent development of an IEP; or (3) if the parent first opts out of notification to the LEA and subsequently requests notification to the LEA less than 90 days from the child's third birthday, which delays an evaluation by the school district and subsequent development of an IEP.</b></p> <p><b>An invitation to the initial IEP team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representative of the Part C system to assist with the smooth transition of services.</b></p> <p><b>An IEP is developed in accordance with Regulation IV, Section 2 of the Part B State Plan. The IEP team must consider the content of the child's Part C Individualized Family Service Plan (IFSP) when developing the IEP.</b></p> <p><b>The obligation to make FAPE available to each Part C child who is eligible for ECSE begins on the child's third birthday, unless the parent of a child with a summer third birthday chooses Part C Extension instead of FAPE at age three.</b></p>
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			<p><del>or an initial Individualized Family Service Plan (IFSP) meeting. With parental consent, the Part C program notifies the LEA in which the child lives. In this case, Part B initial evaluation timelines set forth in Regulation III of the Part B State Plan are followed.</del></p> <p><del>The timelines for providing information to the LEA do not apply if the parents have elected not to have the Part C program provide information to the LEA.</del></p> <p><del>Development of the Individualized Education Program (IEP)</del>  <b>All children found eligible for Part C and who are also found eligible for Part B, including Part C Extension children described below, if the child was referred to Part C 90 days or more must have an IEP developed before the child's third birthday. or found eligible for Part C services more than 45 but less than 90 days before the child's third birthday,</b></p>	
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			<p><del>following the procedures set forth in Regulation IV of the Part B State Plan, by the child's third birthday.</del></p> <p>The only exceptions to this requirement are (1) if the child was referred to Part C less than 90 days before the child's third birthday; (2) if the parent does not give parental consent to evaluate the child, which delays an evaluation by the school district and subsequent development of an IEP; or (3) if the parent first opts out of notification to the LEA and subsequently requests notification to the LEA less than 90 days from the child's third birthday, which delays an evaluation by the school district and subsequent development of an IEP. An invitation to the initial IEP - this is fine.</p> <p><del>When developing the IEP,</del> An IEP is developed in accordance with Regulation IV, Section 2 of the Part B State Plan. The IEP team must consider the content of the child's Part C</p>	
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			<p>Individualized Family Service Plan (IFSP) <b>when developing the IEP.</b>  <b>The obligation to make FAPE available to each Part C child who is eligible for ECSE begins on the child's third birthday, unless the parent of a child with a summer third birthday chooses Part C Extension instead of FAPE at age three.</b></p>	
IV / 56			<p>Suggested change <b><u>Part C Extension for Children with Summer Third Birthdays</u></b>  <del>If a child is determined eligible for both Part C and Part B and has a third birthday on April 1 through August 15, the parent may choose to:</del>  <del>A. continue Part C services until the initiation of the local district's school year following the child's third birthday or</del>  <del>B. transition to Part B to receive early childhood special education and related services upon the child's third birthday.</del>  <b>Parents of a child determined eligible for both Part C and Part B, and who has a summer third birthday in</b></p>	<p>Accept <b><u>Part C Extension for Children with Summer Third Birthdays</u></b>   <b>Parents of a child determined eligible for both Part C and Part B, and who has a summer third birthday in accordance with Part C State Plan, may choose to: (1) continue Part C services until the initiation of the local district's school year following the child's third birthday, or (2) transition to Part B to receive FAPE on the child's third birthday.</b>   <b>Parents who choose to continue Part C services have the right, at any time, for their child with a summer third birthday to receive Part B services instead of Part C services. However, the LEA is not required to provide FAPE under Part B for the period of time a child is receiving services through Part C Extension.</b></p>

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			<p>accordance with Part C State Plan, may choose to: (1) continue Part C services until the initiation of the local district's school year following the child's third birthday, or (2) transition to Part B to receive FAPE on the child's third birthday.</p> <p><del>Parents of children who continue Part C services have the right, at any time, to receive Part B services instead of Part C services. However, the LEA is not required to provide a FAPE under Part B for the period of time a child is receiving services through the Part C extension.</del> <b>Parents who choose to continue Part C services have the right, at any time, for their child with a summer third birthday to receive Part B services instead of Part C services. However, the LEA is not required to provide FAPE under Part B for the period of time a child is receiving services through Part C Extension.</b></p> <p><del>Parents who choose the</del></p>	<p><b>Parents who choose the option to transition to Part B have the right for their child with a summer third birthday to receive FAPE through an IEP upon the child's third birthday. Parents who choose Part B services cannot later choose to return to Part C services once consent for Part B services is obtained and the child has turned three.</b></p>
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			<p><del>option to transition to Part B receive FAPE through an IEP upon the child's third birthday. Extended school year services must be considered for Part C children with summer birthdays who are eligible for Part B and chose to receive FAPE through an IEP. Parents who choose Part B services cannot later choose to return to Part C services once the child has turned three.</del> Parents who choose the option to transition to Part B have the right for their child with a summer third birthday to receive FAPE through an IEP upon the child's third birthday. Parents who choose Part B services cannot later choose to return to Part C services once consent for Part B services is obtained and the child has turned three.</p>	
V / 57 & 58	Added word "agency" before evaluation	Clarification		
V / 60	Replaced dependency with "the pendency"	Correct typo	Delete the word the pendency entirely	Accept- word deleted " ... the child's placement during <del>dependency</del> of due process proceedings;...."
V / 61	Added new section on parent	Federal requirement 34 CFR	1. Put this change in	1. Decline to place in the Procedural

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	<p>notification and consent to access public insurance; need annual notification to parent and a one-time consent, content of each described</p>	<p>300.154</p>	<p>the Procedural Safeguards (2 comments)</p> <ol style="list-style-type: none"> <li>2. Prefers the language/form developed by MSBA-SEAC</li> <li>3. Suggested language to be used in the plan and Procedural Safeguards about notice instead of proposed language</li> </ol>	<p>Safeguards. OSEP does not require that it be there. Districts can attach the 2 items together if they so desire.</p> <ol style="list-style-type: none"> <li>2. Adopt some of the proposed language. New section reads <b><u>Parental Consent to Access Public Insurance</u></b></li> </ol> <p><b>Before accessing a child’s or parent’s public benefits or insurance for the first time, and <u>annually</u> thereafter, a public agency must provide written notification, to the child’s parents- The notification must be written in language understandable to the general public and in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.</b></p> <p><b>A public agency must obtain parental consent before the public agency accesses a child’s or parent’s public benefits or insurance for the first time. This is a one-time consent, <i>i.e.</i>, the public agency is no longer required to obtain parental consent each time access to public benefits or insurance is sought.</b></p> <p><b>The annual notification must state:</b></p> <ol style="list-style-type: none"> <li>A. The public agency may not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive services in the IEP that it is required to provide at no cost to the parents.</li> </ol>
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				<p><b>B. The public agency may not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services.</b></p> <p><b>C. The public agency may not use a child's benefits under a public benefits or insurance program if that use would:</b></p> <ul style="list-style-type: none"> <li><b>a. Decrease available lifetime coverage or any other insured benefit;</b></li> <li><b>b. Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;</b></li> <li><b>c. Increase premiums or lead to cancellation of benefits or insurance;</b> <b>or</b></li> <li><b>d. Risk loss of eligibility for home and community-based waiver, based on aggregate health-related expenditures.</b></li> </ul> <p><b>D. Withdrawal of consent or refusal to provide consent for billing public insurance does not relieve the school district or other responsible public agency of its responsibility to ensure that all required services in the IEP are provided at no cost to</b></p>
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				<p><b>the parents.</b></p> <p><b>E. Parents have the right to consent or withdraw their consent for disclosure of their child’s personally identifiable information (e.g. records or information about the services that may be provided under the IEP) to the agency responsible for the administration of the State’s public benefits or insurance program at any time. Such disclosure will identify the purpose of the disclosure (e.g. billing for services), and the agency to which the disclosure may be made (e.g. MO HealthNet).</b></p>
V / 63	Added in adult student to group that can request mediation	Clarification	Add: Upon receipt of a written request to mediate, the responding party will provide a written response within five school days to the initiating party. A copy of the response will be provided to MODESE. (3 comments)	Decline- not required by the federal regulations.
V / 63	Added in sentence “Department funded mediation is not available to resolve disputes between parents or between districts and persons other than the parent (or adult student).”	Clarification		
V / 65	Added to section on ways the Administrative Hearing Commission will accept document “or as otherwise provided by the Administrative Hearing Commission Rules.”	Clarification		
V / 65	Reworded the sentence explaining who	Clarification		

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	can amend a due process complaint filed with the AHC			
V / 65	Added “of withdrawal or making a verbal request” to the procedure to withdraw a complaint	Requested by AHC to facilitate withdrawals		
V / 66	Replaced “Other Party Response” with “Answer” in the heading	Clarification		
V / 66	Replaced “a response” with “an answer”	Clarification		
V / 67	Added “or amended complaint” to the list of when a resolution meeting must be held	Added so parties are aware of the federal requirement		
V / 68	Added “The parties’ agreement does not need to be filed with, or adopted or approved by, the Administrative Hearing Commission to be legally binding.” To the section on written settlement agreements resulting from a resolution meeting	Requested by AHC to clarify that the resolution agreement is outside the jurisdiction of the AHC	<ol style="list-style-type: none"> <li>1. Agree with changes (3 comments)</li> <li>2. Add: Contractors procured by the Administrative Hearing Commission must also comply with state law as related to past experience with special education due process hearing(s) or employment by an education agency. (3 comments)</li> </ol>	Decline to make the requested addition to the state plan. The Department will consider adding it to any contracts for professional services to assist the Administrative Hearing Commission.
V / 68	Revised the wording on AHC Commissioner training from “has had at least 10 hours of” to “meets the training requirements of state law in regard to special education matters”	Requested by AHC		
V / 69	Added “or the student if they are the educational decision maker” to the list of who can make the due process hearing public	Clarification		
V / 69	Added “Any student over age 18 has the right to attend the hearing, unless their legal guardian, if any, objects.”	Clarification		

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V / 69	Added “Nor can the responding party raise defenses that were not raised in its response to the complaint unless the other party agrees.” to the section on the subject matter of the hearing	Balances the rights of the parties	<ol style="list-style-type: none"> <li>1. This change should not be made as it gives the complainant an advantage-responding party cannot know all defenses until discovery is complete. (2 comments)</li> <li>2. This is not authorized by IDEA or federal and state law (2 comments)</li> <li>3. IDEA only requires a response to address the issues – it does not say anything about pleading defenses.</li> <li>4. Support this addition (2 comments)</li> </ol>	This section will be removed as there is no support for it in the IDEA.
V / 69	Replaced “can” with “shall” in two paragraphs concerning the hearing decisions	Wording clarification requested by AHC		
V / 70	Reworded the section on finality of decision: Once the Administrative Hearing Commission has issued a final decision, no motion for reconsideration is permitted. However, if a final decision contains technical or typographical errors, a party may request correction of the errors if the correction does not change the outcome of the hearing or substance of the final hearing decision. Requests for a change of a technical or typographical error do not toll the time for an appeal.	To reflect guidance from OSEP that technical or typographical errors in a decision can be corrected after the decision is issued		

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	The Commissioner hearing the case makes the determination if a change is necessary.			
V / 70	Replaced “A” with “The Administrative Hearing Commission shall mail a”	Clarified who mails out final decision		
V / 70	Replaced “the party/parties” with “a party”	Language change		
V / 71	Added to the section on Administrative Hearing Commission Orders: If the Commissioner orders a party do an act or not do an act, the party must comply with the order. Objections to orders must be made as part of the record as promptly as possible. The Commissioner has the authority to dismiss an action with, or without, prejudice if the party filing the request fails to comply with an order. The Commissioner has the authority to preclude the other party from presenting defenses and may impose sanctions as allowed by the regulations of the Administrative Hearing Commission.	Requested by AHC to clarify authority		
V / 72 - 73	Reformatted the information on exclusions during a due process hearing. Added: Admissibility of evidence shall be determined by the Administrative Hearing Commission in accordance with Missouri law, including but not limited to § 536.070, RSMo. The Administrative Hearing Commission may exclude evidence or limit testimony even when no party objects.	Requested by AHC to put parties on notice of procedures	<ol style="list-style-type: none"> <li>1. This change conflicts with IDEA it is a right not to have the evidence admitted so cannot give the AHC discretion to deny this right. (2 comments)</li> <li>2. Only require to disclose not provide copies- district may have already given the copies to the parent and why should parents</li> </ol>	<p>Accept part of the comments. The section will be rewritten as follows:</p> <p><b>B. Exclusions</b></p> <p><b>1) The parties shall exchange lists of exhibits and lists of their witnesses at least five (5) business days before the hearing or two (2) days before an expedited hearing. Any party has the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to that party in accordance with this</b></p>

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			<p>provide student records- just indicate they will be used (2 comments)</p> <p>3. Object to the change (3 comments)</p>	<p><b>rule.</b></p> <p><b>2) Evidence or testimony may also be excluded at the hearing if:</b></p> <p style="padding-left: 20px;"><b>a) it is cumulative, irrelevant, or unnecessary;</b></p> <p style="padding-left: 20px;"><b>b) it represents the legal conclusion of a witness; or,</b></p> <p style="padding-left: 20px;"><b>c) it is speculation on the part of the witness.</b></p> <p><b>This is not an exhaustive list of all bases for excluding evidence or testimony.</b></p> <p><b>3) Admissibility of evidence shall be determined by the Administrative Hearing Commission in accordance with Missouri law, including but not limited to § 536.070, RSMo and the Individuals with Disabilities Education Act and supporting regulations.</b></p>
V / 73	Deleted the section titled Responding to Orders	The content has been included in the addition on page 70		
V / 73	Added “or as otherwise provided by” in place of “as set forth in the”	Clarification		
V/74	Replaced “the persons who serve as hearing officers” with “Commissioners who may hear due process complaints”	Clarification		
V / 74	Replaced “those persons” with “the Commissioners”	Clarification		
V / 74	Added “Only a court of law can award attorney’s fees.”	Clarification		
V / 75	Added “by order of a state court” in place of “pursuant to court order.”	Language change		
V/75	Added “The Administrative Hearing Commission cannot order a change of placement during a dispute; but the parent or guardian and the district can	Applied federal regulation to AHC authority		

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	agree to a change.”			
V / 80	<p>Added: <u>Bus/transportation Suspension</u>            Any transportation suspension of a student with a disability who has transportation as a related service in their IEP is considered an out of school suspension, even if the parent provides for transportation of the student. These suspensions are considered a removal which must be counted when determining if the student has had a disciplinary change of placement. All IDEA disciplinary procedures apply. If the district provides alternative transportation services to the student during the bus suspension, then the bus suspension is not considered a removal.</p>	<p>Corresponds to guidance from the U.S. Department of Education on discipline</p>	<ol style="list-style-type: none"> <li>1. This is not an OSEP requirement just a guidance. (2 comments)</li> <li>2. This issue should not be elevated to the level of a state regulation (2 comments)</li> <li>3. OSEP interpretation violates IDEA and is bad policy</li> <li>4. Unclear how much time is counted for a bus suspension- a full day or just a few hours.</li> <li>5. If an IEP calls for transportation as a related service could count a bus suspension as OSS for the duration of the bus ride and apply that time to the calculation of 10 days</li> <li>6. Comments to the federal regs state the issue of bus suspension is a policy that need not be included in the regulations</li> <li>7. Agree with the change (3 comments)</li> </ol>	<p>Accept the comments. This section will not be placed in the state plan and will be under further review by the Department.</p>
V / 80	<p>Reworded the paragraph on what constitutes a pattern of removal but</p>	<p>Easier to read</p>		

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	made no substantive change			
V / 81	Added “shall” in two places in the discussion of services during discipline	To clarify that the action is mandatory		
V / 83	Removed “a hearing must be held, except as follows”	Unnecessary language		
V / 83	Replaced “Department” with “Administrative Hearing Commission”	To comply with 162.961 RSMo		
V / 83	Removed “Cases re-filed will be assigned the same hearing Commissioner.”	Requested by AHC to comply with their procedure on assigning Commissioners		
V / 83	Added “Administrative Hearing”	Clarifies intent		
VI / 92	Added “Failure to provide a copy to the LEA or public agency will delay the starting of the timeline for the investigation of the complaint to the date the SEA sends a copy of the complaint to the LEA.”	OSEP directive in recent Q&A on dispute resolution		
VI / 92 - 93	Added “copy of the complaint” to list of items sent to public agencies upon receipt of a child complaint	To match practice		
VI / 93, 94	Added “or designee” in several spots where responsibility is placed on the Commissioner	For efficiency		
VI / 93	Added “in writing” to the agreement of parties to enter into mediation and extend the time limits for investigation of a child complaint	OSEP directive in recent Q&A on dispute resolution		
VI / 94	Added “Permission from a child’s parent or the adult student is required to share the final decision with a non-parent complainant. If permission is not given, the non-parent complainant will receive a copy of the final decision with all personally identifiable information redacted. In cases where it is impossible to remove personally identifiable information, the decision will not be provided to a non-parent complainant.”	Clarification of the confidentiality of personally identifiable information in child complaints		

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VII / 113 - 116	Added in new section on early childhood special education (ECSE) expenditure requirements Describes when and what expenditure must be reported and describes the limitations Sets forth the mandatory caseload requirements for an ECSE program (no change from prior plan just relocated)	To place the practice into the regulations		
VII / 116	Added “significant” to the title on disproportionality	Clarification	The conditions resulting in significance should be clearly explained and defined	This information is posted on the website. <a href="http://www.dese.mo.gov/se/compliance">http://www.dese.mo.gov/se/compliance</a>
VII / 117	Added “including disciplinary action resulting in suspension or expulsion” when discussing the consequences of a finding of significant disproportionality	To provide notice of practice		
VII / 118	Moved caseload requirements to new section on ECSE expenditures	Reorganization of the section		
X / 145	Added “for Separate School” to description of the justification	Clarification		
X / 147	Added “of students enrolled in” to replace “within”	Clarification		
X / 147	Added “local”	Clarification		
X / 147	Added “(including those moves to another district within the catchment area of the MSSD school the student currently attends)”	Clarification		
X / 147	Added “new” in two places	To clarify which district is impacted		
X / 147	Added “will not be served by MSSD and”	To clarify who must provide services		
X / 147	Added “through a placement other than MSSD”	To clarify who must provide services		
X / 148	Replaced “Upon receipt of the referral, MSSD” with “If found eligible, the LEA”	To clarify the responsibilities of the LEA and MSSD		

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X / 148	Added “guardian or surrogate parent and MSSD” to the list of individuals getting notice	To clarify the responsibilities of the LEA and MSSD		
X / 148	Added “will not be served by MSSD and and “through a placement other than MSSD.”	To clarify the responsibilities of the LEA and MSSD		
Comments not tied to a specific regulation			<ol style="list-style-type: none"> <li>1. Happy to see clarifications and removal of unnecessary language</li> <li>2. Need to clarify to show “mandatory”</li> </ol>	<ol style="list-style-type: none"> <li>1. Agree</li> <li>2. Decline. It is not clear what this comment is referencing. Mandatory language is used in the plan where appropriate.</li> </ol>

### Comments made on parts of the plan that were not proposed to be changed

Reg/Page	Language in current state plan	Reason	Comment	Response
IV / 42	K. a statement of the placement considerations and decision.		Add to definition of IEP section K: .No one continuum of placement must be sequentially experienced by the student before consideration of placement in a more/less restrictive placement (3 comments)	Accept the concept but will use different wording and place in the section on the continuum of placement on page 51 Add <b>A child does not have to fail in the less restrictive options on the continuum before the child is placed in a setting that is appropriate to his or her needs.</b>
IV / 45	IEP Team Attendance A member of the IEP Team shall not be required to attend an IEP meeting, in whole or in part, if the parent of a child		Add to IEP Team Attendance: Paraprofessionals who work or who have worked with the	Decline. The district must make available all required IEP team members. Paraprofessionals are not

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	<p>with a disability and the local educational agency agree, in writing, that the attendance of such member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting. A member of the IEP Team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if the parent, in writing, and the local educational agency consent to the excusal, and the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting</p>		<p>student may be invited to the IEP meeting and shall not be prohibited from accepting the invitation. (3 comments)</p>	<p>required members. Districts determine how to manage staff and can make available alternative methods for paraprofessionals to provide insight</p>
<p>IV / 50</p>	<p>Before a public agency places a child with a disability in or refers a child to a private school or facility, the agency shall initiate and conduct a meeting to develop an IEP for the child. The agency shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.</p> <p>After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency. If the private school or facility initiates and conducts these meetings, the public agency shall ensure that the parents and an agency representative are involved in any decision about the child's IEP and agree to any proposed changes in the IEP before those</p>		<ol style="list-style-type: none"> <li>1. Change public agency and agency to LEA (2 comments)</li> <li>2. Add to first paragraph: The parent may initiate the referral to the approved private agency or facility ( 2 comments)</li> </ol>	<ol style="list-style-type: none"> <li>1. Decline. Public agency is appropriate.</li> <li>2. Decline. Referral to a private agency as a placement is an IEP team decision. Choice of a particular private agency is the responsibility of the public agency/district.</li> </ol>

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	<p>changes are implemented.</p> <p>Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the <b>public agency</b> and the SEA.</p>			
IV / 50	<p>Alternative Means of Meeting Participation (34 CFR 300.328)</p> <p>When conducting IEP Team meetings, the parent of a child with a disability and a public agency may agree to use alternative means of meeting participation such as video conferences and conference calls.</p>		<p>Add:</p> <p>Parent may have invitees participate by conference call. Meetings cannot be discontinued solely due to a parent's invitee's participation the conference call(s) (3 comments)</p>	<p>Decline . The IDEA only requires districts to make alternative attendance available to parents. Districts may permit others to attend by telephone at their discretion.</p>
V / 65	<p><u>Sufficiency of Complaint</u></p> <p>In order for a due process complaint to go forward, it must be considered sufficient. The due process complaint will be considered sufficient (to have met the content requirements above) unless the party receiving the due process complaint (parent or the responsible public agency) notifies the Administrative Hearing Commission and the other party, in writing, within fifteen (15) calendar days of receiving the complaint, that the receiving party believes that the due process complaint does not meet the requirements listed above.</p> <p>Within five (5) calendar days of receiving the notification, the receiving party (parent or the responsible public agency) considers a due process complaint insufficient, the Administrative Hearing Commission must decide if the due process complaint meets the requirements listed above and notify the parent and the responsible public agency, in writing, immediately.</p>		<p>Remove this section (3 comments)</p>	<p>Decline this is a federal requirement. 34 CFR 300.508(d)</p>
X / 144	<p>Part of Eligibility Criteria for MSSD</p>		<p>Add the bold: Students who educationally benefit from special education and related</p>	<p>Decline language is unnecessary. Districts are already required to consider</p>

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			services that can be provided by local educational agencies <b>through consideration of placement options, including approved private agencies</b> , are not considered eligible for services through MSSD. ( 2 comments)	the full continuum of placements.
X / 145	Part of Eligibility Procedures		)	
X /145-146	<p><b>B. Eligibility Procedures</b> 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.</p> <p>1) All students identified as potentially in need of special education services shall be enrolled in and served by the local school district pending the determination of such need. This includes students whose performance indicates possible functioning within the range of severe to profound mental retardation.</p> <p>2) The local school district in which the student resides shall complete a comprehensive evaluation which is current within three (3) years. Additional evaluations may be</p>		<p>1. Reformat items 3 through 7 into 2 new sections entitled Enrollment by Parent and MSSD Acceptance of Student (2 comments)</p> <p>2. Remove referral. referred and refer from items 3 to 7 (2 comments)</p> <p>3. Add a section: “Enrollment by parent” Student becomes an MSSD student upon enrollment by the parent. Services by LEA continue up until enrollment by parent. “(2 comments)</p> <p>4. Add an new section: “MSSD acceptance of student” and include the paper work process for potential eligibility for attendance that MSSD in Jefferson City does (2 comments)</p> <p>5. Add the bold: 3) Following compilation of</p>	<p>1. Decline. No need to reorganize the information which is accurate.</p> <p>2. Decline the words are appropriately used</p> <p>3. Decline. The placement decision and timing of a change of placement is an IEP decision. Parents who are dissatisfied with the IEP decision can file a due process complaint.</p> <p>4. Decline. this information is covered in the legibility section.</p> <p>5. Decline. Districts are obligated to consider all</p>

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<p>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.</p> <p>3) Following compilation of evaluation information, the local district 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 district must consider all service options, including service through a separate school placement, to determine which is appropriate to meet the student's educational needs.</p> <p>4) When the IEP indicates the student is in need of services which the local district is unable to provide and which may be provided by MSSD, the local school district must forward documentation for eligibility review which includes:</p> <ul style="list-style-type: none"> <li>• the evaluation report;</li> <li>• current IEP, the preceding IEPs, or progress reports, if available; and,</li> <li>• justification of <b>for Separate School Placement</b> if the IEP Team is considering separate school as a placement option for the student.</li> </ul>		<p>evaluation information, the local district 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 district must consider all service options, <b>including MODESE approved private agencies listed on the MODESE website</b> including service through a separate school placement, to determine which is appropriate to meet the student's educational needs. ( 2 comments</p> <p>6. Remove part of item 6: 6) Should the district be notified that the student is eligible for MSSD, the district may refer the student. <del>The district shall notify parents of the decision and submit the referral only after the parents have been offered all rights available to them as explained in the Procedural Safeguards notice.</del> If the IEP at time of request does not reflect a total of 1,800 minutes of service per week, the district must reconvene the IEP Team before submitting the referral so as to ensure an IEP Team decision on actual minutes needed to provide FAPE. (2 comments)</p>	<p>options on the continuum.</p> <p>6. Decline. To eliminate this sentence would take away rights of the parents .</p>
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	<p>This documentation must provide justification for:</p> <p><b>Removal from Regular Education</b></p> <ul style="list-style-type: none"> <li>– Curriculum and goals of the regular education class and why the student is unable to access the general education curriculum.</li> <li>– Sufficiency of the district's efforts to accommodate the child with a disability in the regular classroom.</li> <li>– The degree to which the child with a disability will receive educational benefit from regular education.</li> <li>– The effect the presence of a child with a disability may have on the regular classroom environment on the education that the other students are receiving.</li> <li>– The nature and severity of the child's disability.</li> </ul> <p><b>Removal from LEA</b></p> <ul style="list-style-type: none"> <li>– Considered educating the child in the LEA.</li> </ul> <p><b>Identified supplementary aids and services that would be needed to educate the child in the LEA.</b></p> <ul style="list-style-type: none"> <li>– Articulated why the LEA cannot serve the child in the LEA in a placement that would benefit the child.</li> </ul>		<p>7. Unclear to what “the decision” (highlighted) is a reference</p>	<p>7. Accept. The word eligibility will be added before decision to clarify what is meant.</p>
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	<p>Parental consent must be obtained before the documentation for the eligibility review is submitted to MSSD or all personally identifiable information, as defined in 34 CFR 99.3, must be removed from the documentation before it is provided to MSSD.</p> <p>5) Following a professional review of this information provided by the LEA, the district shall be notified whether or not the student is eligible for services through MSSD. Such notice shall specify the placement site should the student be referred. The decision on such eligibility is not appealable.</p> <p>Students who are eligible for the Missouri Schools for the Severely Disabled based on the severity of the disability will not be accepted if they require permanent homebound placement as such a placement requirement would therefore preclude attendance at a separate day program such as MSSD. Students who otherwise qualify and require only intermittent homebound placement will be accepted for placement.</p> <p>6) Should the district be notified that the student is eligible for MSSD, the district may refer the student. The district shall notify parents of the</p>			
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	<p>decision and submit the referral only after the parents have been offered all rights available to them as explained in the Procedural Safeguards notice. If the IEP at time of request does not reflect a total of 1,800 minutes of service per week, the district must reconvene the IEP Team before submitting the referral so as to ensure an IEP Team decision on actual minutes needed to provide FAPE.</p> <p>7) Upon receipt of the referral, enrollment papers will be mailed to the parent. MSSD will notify the LEA of the date of the student's enrollment.</p>			