

**Proposed changes to the Missouri  
State Regulations Implementing Part B of the Individuals with Disabilities Education Act (IDEA)**

**Regulation XVI – State Operated Programs**

NOTE: This chart only shows substantive changes being proposed to the Part B State Regulations implementing the Individuals with Disabilities Education Act (IDEA). Other changes of a non-substantive nature, such as terminology or wording changes, spelling/punctuation/grammar corrections, etc. are not shown here. For a complete picture of all changes being proposed, the reader is directed to the regulatory document itself.

Regulation	Page	Proposed Regulation	Comments	Response
XVI	147	<b>ELIGIBILITY CRITERIA FOR MSSD</b> Only assessment results from comprehensive evaluations <b>less than three (3) years old and</b> consistent with the procedures in Regulation III, <del>Procedures for Evaluation and Determination of Eligibility</del> , will be considered during the MSSD eligibility process		Proceed with changes.
XVI	148	<p><del>(4) 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 MSSD, the public agency must forward documentation for eligibility review which includes:</del></p> <p><del>a. The <b>Comprehensive</b> evaluation report;</del></p> <p><del>b. Current IEP, the preceding IEPs, or <b>and available</b> progress reports, if available; and,</del></p> <p><del>c. The Justification for <b>S</b>eparate <b>S</b>chool <b>P</b>lacement if the IEP Team is considering separate school as a placement option for the student, including an explanation that MSSD would be the least restrictive educational environment for the student. The justification must include, but is not limited to, the following information:</del></p> <ul style="list-style-type: none"> <li><del>• The public agency considered educating the child <b>student</b> in the public agency;</del></li> </ul> <p><del>Provide specific statements of the placement options considered and the basis for rejection of each option, including support statements related to educational benefit to the student and the student’s ability to make progress in the public agency.</del></p> <ul style="list-style-type: none"> <li><del>• Identification of supplementary aids and services needed to educate the student in the public agency special</del></li> </ul>	<p>One concern indicated the language in the proposed change would seem the public agency should change the student’s IEP to show they have already selected separate placement on the IEP placement continuum prior to making a request to determine if the student is eligible to be served by MSSD.</p> <p>Suggested alternative language to the proposed change: <b>The public agency may forward information with a request for an eligibility review when a student’s IEP team is considering a change in placement to MSSD, because the student is unable to receive education benefit from instruction provided in any placement at the public agency. The public agency should include:</b></p> <ul style="list-style-type: none"> <li>a. <del>The <b>A Comprehensive</b></del> <b>Comprehensive</b> evaluation report;</li> <li>b. Current IEP, the <b>two</b> preceding IEPs, <del>if available, or</del> <b>and available</b> progress reports, <b>related educational records and other pertinent information for all services provided by the public agency.</b></li> <li>c. <del>The Justification for <b>S</b>eparate <b>S</b>chool <b>P</b>lacement</del> <b>Justification for Separate School Placement</b> if the IEP Team is considering separate school as a placement option for the student, including an explanation that MSSD</li> </ul>	<p>Proceed with change.</p> <p><del>(4) 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 MSSD, the public agency must forward documentation for eligibility review which includes:</del> <b>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</b></p>

Regulation	Page	Proposed Regulation	Comments	Response
		<p>education program; and</p> <ul style="list-style-type: none"> <li><del>An explanation as to why the public agency cannot serve the student at the public agency in a placement that would benefit the student. This can include, but is not limited to, a description of the student's progress and/or the adverse impact on the student to explain the educational benefit the student did or did not receive at the public agency, and the harmful effects of the student's continued placement in the public agency.</del></li> </ul> <p><b>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 MSSD, 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.</b></p>	<p>would be the least restrictive educational environment for the student.</p>	<p><b>MSSD. If the student is determined eligible, MSSD will send the public agency recommendations for needed instruction and services as appropriate.</b></p> <ul style="list-style-type: none"> <li>a. The <del>Comprehensive</del> evaluation report;</li> <li>b. Current IEP, the preceding IEPs, or <b>and available</b> progress reports, if available; and,</li> <li>e. The Justification for <del>S</del>eparate <del>S</del>chool <del>P</del>lacement if the IEP Team is considering separate school as a placement option for the student, including an explanation that MSSD would be the least restrictive educational environment for the student. The justification must include, but is not limited to, the following information: <ul style="list-style-type: none"> <li><del>The public agency considered educating the child <b>student</b> in the public agency;</del></li> </ul> <p>Provide specific statements of the placement options considered and the basis for rejection of each option, including support statements related to educational benefit to the student and the student's ability to make progress in the public agency.</p> <ul style="list-style-type: none"> <li><del>Identification of supplementary aids and services needed to</del></li> </ul> </li> </ul>

Regulation	Page	Proposed Regulation	Comments	Response
				<p><del>educate the student in the public agency special education program; and</del></p> <ul style="list-style-type: none"> <li><del>An explanation as to why the public agency cannot serve the student at the public agency in a placement that would benefit the student. This can include, but is not limited to, a description of the student's progress and/or the adverse impact on the student to explain the educational benefit the student did or did not receive at the public agency, and the harmful effects of the student's continued placement in the public agency.</del></li> </ul>
XVI	149	<p>(7) Upon receipt of the <b>completed</b> referral <b>form, IEP for separate placement, and Notice of Action for change of placement,</b> enrollment <del>papers</del> <b>documents</b> 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.</p>		Proceed with changes.

Regulation	Page	Proposed Regulation	Comments	Response
XVI	149	<p><del>(8) Within thirty (30) days following initial enrollment of the student, an IEP meeting shall be held. The purpose of this review is to confirm the appropriateness of continued placement in MSSD as the least restrictive environment to provide FAPE for the student. The student's teacher, other appropriate professional personnel from the public agency, a representative of the referring public agency, and the student's parent shall be invited to participate in this review. The parents shall be informed of their right to appeal, in accordance with the procedures provided in the Procedural Safeguards notice, any change in placement decision made as a result of this review.</del></p>		Proceed with change.
XVI	149	<p><del>(9) IEP Teams will be convened annually or more frequently, if needed, to review and/or rewrite, if appropriate, the IEPs for all students enrolled in MSSD. These conferences will be conducted in accordance with State regulations on individualized education program, and the least restrictive environment.</del></p> <p><b>(8) The public agency will convene an IEP meeting in collaboration with MSSD at least annually to review and/or revise IEPs for all students enrolled in MSSD.</b></p>	<p>One commenter made the following suggested change to the wording the proposed change:</p> <p><b>The public agency will convene an IEP meeting in collaboration with MSSD at least annually to review and/or revise IEPs for all each students enrolled in MSSD.</b></p> <p>Another commenter has concern that the wording of the proposed change to convene the IEP meeting will result in MSSD losing control of the IEP.</p>	<p>Proceed with suggested change</p> <p>The State Board Operated Program is responsible for implementation of the IEP and reporting student progress to the public agency and parent.</p>
XVI	149	<p><b>(9)</b> <del>(10)</del> 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:</p> <ul style="list-style-type: none"> <li>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</li> <li>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.</li> </ul>		Proceed with changes.

Regulation	Page	Proposed Regulation	Comments	Response
		<p>In such instances, the IEP Team, including a representative of <del>the public agency and the parent</del> <b>MSSD</b>, 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.</p>		
XVI	150	<p>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 <del>J</del>justification for <del>S</del>separate <del>S</del>school <del>P</del>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, <del>Procedures for Evaluation and Determination of Eligibility</del>, 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 <b>form</b>. If, during the thirty (30) day interim period, the new public agency fails to provide <del>the</del> Justification for <b>Continued</b> Separate School Placement <b>form</b>, the student will not be served by MSSD and shall be served by the public agency through a placement other than MSSD.</p>		Proceed with changes.
XVI	151	<p>(1) The current IEP and <b>comprehensive</b> evaluation report are adopted by the new <del>school district</del> <b>public agency</b> pursuant to transfer procedures provided within Regulation IV, <del>Least Restrictive Environment</del>.</p> <p>(2) The new public agency submits a copy of the student’s current IEP and <b>comprehensive</b> evaluation report to MSSD with a letter acknowledging adoption of the documents. In the same letter,</p>		Proceed with changes.

Regulation	Page	Proposed Regulation	Comments	Response
		<p>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 <del>district</del> <b>public agency</b> 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.</p>		
XVI	151	<p>(5) During the sixty (60) day interim placement, the <del>local district</del> <b>public agency</b> shall follow the referral procedures to seek eligibility determination in accordance with 1-46 above. If found eligible, the public agency will issue a notice of action to the parents, guardian or <b>educational</b> surrogate parent and MSSD confirming continued placement <del>in the State School</del>. If, during the sixty (60) day interim period, the public agency fails to submit the <del>J</del>justification for <del>S</del>separate <del>S</del>school <del>P</del>placement, the student will not be served by MSSD and shall be served by the public agency through a placement other than MSSD.</p>		Proceed with changes.
XVI	152	<p>Procedure to implement the interim placement:</p> <p>(1) The current IEP and <b>comprehensive</b> evaluation report are reviewed by the new public agency pursuant to transfer procedures provided within Regulation IV, <del>Least Restrictive Environment</del> and a decision made accepting or rejecting the IEP and evaluation report is documented.</p> <p>(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.</p> <p>(3) MSSD will issue a letter of interim placement assignment if the information submitted is viewed as substantiating the request.</p>		Proceed with changes.

Regulation	Page	Proposed Regulation	Comments	Response
		<p>(4) Enrollment <del>paperwork</del> <b>documents</b> 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.</p> <p>(5) During the sixty (60) day interim placement, the public agency shall follow the procedures to seek eligibility determination in accordance with 1-<del>46</del> above. If found eligible, the public agency will issue a notice of action to the parents, guardian, or <b>educational</b> surrogate <del>parent</del> and MSSD confirming continued placement <del>in the state school</del>. 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.</p> <p>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, <del>Procedural Safeguards</del>, and Regulation IV, <del>Individualized Education Programs</del>.</p>		
XVI	153	<p><b><u>REFERRAL PROCEDURES</u></b></p> <p>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 <del>may be enrolled</del> <b>seek enrollment</b> in either the Missouri School for the Deaf <b>MSD</b> or Missouri School for the Blind <b>MSB</b> 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 <del>this</del> <b>the enrollment and referral</b> process. Such requests for participation shall be honored when made during the school term and when schedules permit.</p> <p>(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.</p>		Proceed with changes.

Regulation	Page	Proposed Regulation	Comments	Response
		<p>(2) The public agency in which the student resides shall <del>complete a</del> <b>provide</b> comprehensive and appropriate evaluation information, current within three (3) years. <b>The public agency may be required to submit to MSB or MSD Additional evaluations, educational records, or other pertinent information</b> <del>may be required as determined necessary for individual students</del> <b>to clarify the student's educational needs.</b> The <b>requested additional evaluations</b> must be obtained in accordance with Regulation III, <del>Procedures for Evaluation and Determination of Eligibility.</del> <del>Additional educational records or other pertinent information may be required by MSB or MSD to clarify the student's educational needs.</del></p> <p>(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.</p> <p>(4) If the IEP Team is considering separate school as a placement option for the student, they must <b>submit documentation of</b> 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:</p> <ol style="list-style-type: none"> <li>a. Considered educating the <del>child</del> <b>student</b> in the public agency;</li> <li>b. Identified supplementary aids and services that would be needed to educate the <del>child</del> <b>student</b> in the public agency; and,</li> <li>c. Articulated why the public agency cannot serve the <del>child</del> <b>student</b> in the public agency in a placement that</li> </ol>		

Regulation	Page	Proposed Regulation	Comments	Response
		<p>would benefit the <del>child</del> <b>student</b>.</p> <p>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.</p> <p>(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. <b>MSD or MSB may request</b> <del>A</del><b>additional information may be requested on an individual student basis if necessary.</b> Following a professional review of this information, the public agency shall be notified whether <del>or</del> <del>not</del> 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. <b>If the student is determined eligible, MSD or MSB will send the public agency recommendations for instructional programming and services if appropriate.</b></p>		
XVI	154	<p><b><u>REFERRAL</u></b></p> <p>(5) <b>(1)</b> 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 <b>to consider the recommendations from MSD and MSB 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.</b></p> <p><b>After the parents have received an explanation of the Procedural Safeguards notice, the public agency shall submit the referral to MSB or MSD.</b> Notice of such decision to refer</p>		Proceed with changes.

Regulation	Page	Proposed Regulation	Comments	Response
		<p>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. <del>The public agency shall submit the referral only after the parents have received an explanation of the Procedural Safeguards. 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.</del></p> <p>(6) <b>(2) When referring the student, the public agency will send the newly revised IEP to MSB or MSD.</b> Upon receipt <del>acceptance</del> of the referral, <b>MSB or MSD will send</b> enrollment <del>documents</del> <b>papers</b> will be mailed to the parents <del>by MSB or MSD.</del></p> <p>(7) <b>(3) 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.</b> <del>Within thirty (30) days following initial enrollment of the student in MSB or MSD, an IEP meeting shall be held. The purpose of this review is to confirm the eligibility and appropriateness of continued enrollment in MSB or MSD as the least restrictive environment to provide a free appropriate public education for the student and to make necessary revisions in the student's IEP. The student's teacher, and other appropriate professional personnel from MSD or MSB, a representative of the referring public agency, and the student's parents shall be invited to participate in this review-meeting. The parents shall be informed of their right to appeal, in accordance with the Procedural Safeguards, any decision made as a result of this review, including any change in placement decision made as a result of this review. If the IEP Team meeting results in a determination that determines the student is ineligible for services at MSB or MSD, the referring public agency will be notified and</del></p>		

Regulation	Page	Proposed Regulation	Comments	Response
		<p>will need to locate another entity to implement the IEP or revise the IEP if appropriate, pursuant to proper IEP process <b>they shall inform the parents of their right to appeal in accordance with the Procedural Safeguards.</b></p> <p><del>(8) IEP Teams will be convened annually or more frequently, if needed, to review and/or rewrite, if appropriate, the IEPs for all students enrolled in MSB or MSD.</del></p> <p><del>(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 MSB or MSD because a separate school no longer appears to be the student's least restrictive environment. In such instances, the IEP Team reviews the IEP, existing data, and education record to determine the plan through which the student will be transitioned to the public agency for services.</del></p>		
XVI	155	<p><b><u>REEVALUATION</u></b></p> <p>The public agency shall conduct a reevaluation as required by state regulations.</p> <p>Results of the reevaluation shall be submitted to MSB and MSD for review. Additional data, <b>including additional evaluation information</b>, may be requested by MSB or MSD <b>and must be provided by the public agency</b> to clarify the student's educational needs.</p>		Proceed with changes.
XVI	156	<p><b><u>SUBSEQUENT REFERRAL PROCEDURES</u></b></p> <p>The following procedures have been adopted by the State Board of Education for annual enrollment.</p> <p>(1) Missouri School for the Deaf-<b>MSD</b> or Missouri School for the Blind-<b>MSB</b> shall <del>mail</del> <b>send</b> a copy of the Letter of Referral to the referring public agency on an annual basis <b>including information the public agency needs to make its annual referral determination. The information shall include information on the student's progress during the school year.</b></p>		Proceed with changes.

Regulation	Page	Proposed Regulation	Comments	Response
		<p>(2) Personnel from the referring public agency shall be invited to review the educational progress displayed by the student during the proceeding school term and participate in the development of the student's IEP.</p> <p>(2) (3) If the referring public agency <b>IEP Team</b> determines <b>the student has</b> a continuing need for services from the Missouri School for the Deaf <b>MSD</b> or Missouri School for the Blind <b>MSB</b>, as <b>the IEP Team must</b> documented <b>the need for continuing services in the IEP.</b> in the student's IEP, <b>T</b>he superintendent of the public agency shall amend any identifying information concerning the student or parents, as is necessary, sign the referral form, and submit the referral to the Missouri School for the Deaf <b>MSD</b> or Missouri School for the Blind <b>MSB</b>.</p> <p>(3) (4) The determination of whether to accept the <del>re</del>-referral for the new school year is a unilateral decision to be made by Missouri School for the Deaf <b>MSD</b> or Missouri School for the Blind <b>MSB</b> and is not appealable. Upon rejection of the <del>re</del>-referral, a public agency is responsible for provision of a free appropriate public education.</p> <p>(4) (5) The Missouri School for the Deaf <b>MSD</b> or Missouri School for the Blind <b>MSB</b> shall <b>mail-send</b> a Letter of Notification to the parents <del>or guardian</del> and public agency of every student enrolled in the previous year who is expected to return and who has been referred by the public agency.</p>		