

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

**Regulation X – 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	Current Regulation	Proposed Regulation	Rationale for the change
X	141	<p>A. Eligibility Criteria for MSSD</p> <p>1) Students with severe disabilities are those students who generally have significant cognitive deficits as evidenced by one (1) of the two (2) methods described below:</p> <p>The student obtains scores falling four (4) or more standard deviations below the mean on standardized measures of cognitive functioning and shows commensurate deficits in at least two (2) areas of adaptive functioning.</p>	<p>A. Eligibility Criteria for MSSD</p> <p><b>The public agency must establish the existence of a severe or profound intellectual disability.</b> Students with severe disabilities <del>are those students who</del> generally have significant cognitive deficits as evidenced by <del>one (1) of the two (2) methods</del> <b>method a or b</b> described below:</p> <p><b>a)</b> The student obtains scores falling four (4) or more standard deviations below the mean on standardized measures of cognitive functioning and shows commensurate deficits in at least two (2) areas of adaptive functioning.</p>	Wording was added for clarification.
X	142	<p>OR</p> <p>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 intellectual and adaptive behavior skills, and the student requires a pervasive level of supports across all life areas, as defined by the American Association on Intellectual and Developmental Disabilities (AAIDD) classification system.</p> <p>This identification shall result from comprehensive evaluation that is consistent with the procedures in Regulation III, Procedures for Evaluation and Determination of Eligibility.</p>	<p>OR</p> <p><b>b)</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 intellectual <b>cognitive ability</b> and adaptive behavior skills <b>as evidenced by a description of,</b> and the student requires a <b>student's need for</b> pervasive level <b>levels</b> of supports across all life areas, as defined by the American Association on Intellectual and Developmental Disabilities (AAIDD) classification system. <b>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.</b></p> <p><del>This identification shall result from comprehensive evaluation that is</del> <b>Only assessment results</b> from comprehensive evaluation that is <b>evaluations</b> consistent with the procedures in Regulation III, Procedures for Evaluation and</p>	Wording was added to clarify the process used to determine eligibility and to clarify and update language regarding the types of scores required for eligibility.

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X	142	<p>2) The LEA shall provide justification of why it is not the least restrictive environment for the student. The district must demonstrate why it cannot educate the student in the local school and justify why the services they have provided are not adequate to meet the needs of the student.</p> <p>The presence of significant cognitive deficits may permeate a student's educational condition so as to render the student severely disabled. A student with severe or multiple disabilities would evidence the presence of significant cognitive deficits along with one (1) or more of the other educationally disabling conditions.</p> <p>Students who educationally benefit from special education and related services that can be provided by the LEAs 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 Impaired/Deaf, Visually Impaired/Blind, Learning Disabilities, Emotional Disturbance, Other Health Impaired, Traumatic Brain Injury, or Orthopedically Impaired can receive an appropriate education when served by LEAs.</p> <p>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>	<p>Determination of Eligibility, <b>will be considered during the MSSD eligibility process.</b></p> <p>1) The <del>LEA</del> <b>public agency</b> shall provide justification of why it <del>is not the least restrictive environment for the student. The district must demonstrate why it cannot educate the student in the local school and justify why the services they have provided are not adequate to meet the needs of the student.</del></p> <p><del>The presence of significant cognitive deficits may permeate a student's educational condition so as to render the student severely disabled. A student with severe or multiple disabilities would evidence the presence of significant cognitive deficits along with one (1) or more of the other educationally disabling conditions.</del></p> <p>Students who educationally benefit from special education and related services that can be provided by the <del>LEAs</del> <b>public agency</b> 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 <del>Impaired</del> <b>Impairment</b>/Deaf, <del>Visually Impaired</del> <b>Visual Impairment</b>/Blind, Learning Disabilities, Emotional Disturbance, Other Health <del>Impaired</del> <b>ment</b>, Traumatic Brain Injury, or <del>Orthopedically Impaired</del> <b>Orthopedic Impairment</b> can receive an appropriate education when served by <del>LEAs</del> <b>public agencies.</b></p> <p><del>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.</del></p>	<p>Language was removed that was redundant or more fully explained later in the eligibility process.</p> <p>Tense of the examples of disabilities was changed to become grammatically correct.</p> <p>The language regarding students' eligible age for enrollment was moved to section 7 of this same series because it discusses enrollment.</p>
X	143	<p>4) When the IEP indicates the student is in need of services which the LEA is unable to provide and which may be provided by MSSD, the LEA must forward documentation for eligibility review which includes:</p>	<p>4) When the IEP indicates the student is in need of services which the <del>LEA</del> <b>public agency</b> is unable to provide and which may be provided by MSSD, the <del>LEA</del> <b>public agency</b> must forward documentation for eligibility review which includes:</p>	<p>Wording was added to clarify the items required in the Justification for Separate School Placement to eliminate confusion regarding what is</p>

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		<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 for Separate School Placement if the IEP Team is considering separate school as a placement option for the student. This documentation must provide justification for:</li> </ul> <p>Removal from Regular Education</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>Removal from LEA</p> <ul style="list-style-type: none"> <li>– Considered educating the child in the LEA.</li> </ul> <p>Regulation X – State Operated Programs Page 144</p> <ul style="list-style-type: none"> <li>– Identified supplementary aids and services that would be needed to educate the child in the LEA.</li> <li>– Articulated why the LEA cannot serve the child in the LEA in a placement that would benefit the child.</li> </ul> <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>	<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>• <del>the justification</del> <b>Justification</b> for Separate School Placement if the IEP Team is considering separate school as a placement option for the student, <b>including an explanation that MSSD would be the least restrictive educational environment for the student</b>. <del>This documentation must provide justification for</del> <b>The Justification must include, but is not limited to, the following information:</b></li> </ul> <ul style="list-style-type: none"> <li><b>a) the public agency considered educating the child in the public agency; 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.</b></li> <li><b>b) identification of supplementary aids and services needed to educate the student in the public agency special education program; and</b></li> <li><b>c) 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.</b></li> </ul> <p><del>Removal from Regular Education</del></p> <ul style="list-style-type: none"> <li><del>— Curriculum and goals of the regular education class and why the student is unable to access the general education curriculum.</del></li> <li><del>— Sufficiency of the district's efforts to accommodate the child with a disability in the regular classroom.</del></li> </ul>	<p>required and necessary for schools to submit with regard to eligibility determinations and to eliminate the likelihood of receiving unnecessary, duplicative information to address different parts of the eligibility process.</p>

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			<ul style="list-style-type: none"> <li><del>—The degree to which the child with a disability will receive educational benefit from regular education.</del></li> <li><del>—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.</del></li> <li><del>—The nature and severity of the child's disability.</del></li> </ul> <p style="text-align: center;"><u>Removal from LEA</u></p> <ul style="list-style-type: none"> <li><del>—Considered educating the child in the LEA.</del></li> <li><del>—Identified supplementary aids and services that would be needed to educate the child in the LEA.</del></li> <li><del>—Articulated why the LEA cannot serve the child in the LEA in a placement that would benefit the child.</del></li> </ul> <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>	
<b>X</b>	<b>144</b>	<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 MSSD 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>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. <del>Such notice shall specify the placement site should the student be referred.</del> The <b>eligibility</b> decision on such eligibility is not appealable.</p> <p>Students who are <b>would otherwise be</b> eligible for MSSD based on the severity of the disability will not be accepted if they require <del>permanent</del> homebound placement as such a placement <del>requirement</del> would therefore preclude attendance at a separate day program such as MSSD. Students who otherwise qualify and require only intermittent <del>homebound placement</del> <b>services in the home</b> will be accepted <b>eligible</b> for placement <b>referral</b>.</p>	<p>A MSSD-required action was removed from this section and a sentence was reworded for clarification.</p> <p>Wording was also changed to clarify the ability of schools to obtain eligibility determinations and to refer homebound students to MSSD.</p>
<b>X</b>	<b>144</b>	6) Should the district be notified that the student is eligible for	6) Should the district be notified that the student is eligible for	This section was changed to

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		MSSD, the district may refer the student. The district 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. 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 free appropriate public education (FAPE).	MSSD, the district may refer the student. The district 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. <del>If the</del> <b>The IEP, at time of request referral, does not must</b> reflect a <del>total of 1,800</del> <b>the actual number of</b> minutes of service per week <b>needed to provide FAPE, or</b> 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 free appropriate public education (FAPE).	require that the minutes of service listed in the IEP should reflect the individual child's needs.
X	144	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.	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. <b>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.</b>	The new language was previous language moved from a section above.
X	144	8) Within thirty (30) days following initial enrollment of the student, an IEP/placement review conference 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 school, a representative of the referring district, 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.	8) Within thirty (30) days following initial enrollment of the student, an IEP/ <del>placement review conference</del> <b>meeting</b> 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 <del>school</del> <b>public agency</b> , a representative of the referring <del>district</del> <b>public agency</b> , 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.	Language was added to clarify that the "placement review conference" is actually an IEP meeting. The "placement review conference" language was removed.
X	144-145	10) 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 he or she is functioning at a level higher than the required cognitive measure or 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 educational services for the student to return to the local school district.	10) 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: <del>he or she is functioning at a level higher than the required cognitive measure or 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 educational services for the student to return to the local school district</del> <b>public agency.</b>	Wording was removed and added to clarify the process and considerations for when MSSD may no longer be the least restrictive environment for the child.

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			<ul style="list-style-type: none"> <li>• <b>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></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.</b></li> </ul> <p><b>In such instances, the IEP Team, including a representative of the public agency and the parent, 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.</b></p>	
X	145	<p>D. Transfer of Students</p> <p>1) Transfer of students enrolled in MSSD</p> <p>A student who is enrolled in a MSSD school and moves from one LEA to another (including those moves to another district 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 sixty (60) days, during which the new LEA follows the transfer procedures provided within Regulation III, Procedures for Evaluation and Determination of Eligibility, 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 LEA will complete the</p>	<p>D. Transfer of Students</p> <p>1) <b>Transfer of students enrolled in MSSD:</b></p> <p>A student who is enrolled in a <b>an</b> MSSD school and moves from one <del>LEA</del> <b>public agency</b> to another (including those moves to another <del>district</del> <b>public agency</b> 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 <del>sixty (60)</del> <b>thirty (30)</b> days, during which the new <del>LEA</del> <b>public agency</b> follows the transfer procedures provided within Regulation III, Procedures for Evaluation and Determination of Eligibility, to confirm concurrence with placement in MSSD as the least restrictive educational environment for the student. If</p>	<p>The State Plan was changed during last revisions to allow for a 60-day interim placement (as opposed to a 30-day interim placement) for students who are currently enrolled in MSSD; however, only 30-days is needed for this interim placement period because in this instance, the student was and continues to be an MSSD student. The changes were made to revert back to a 30-day interim</p>

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		Justification for Continued Separate School Placement. If, during the sixty (60) day interim period, the new LEA fails to provide Justification of Separate School Placement, the student will not be served by MSSD and shall be served by the LEA through a placement other than MSSD.	this review results in determination that MSSD is the least restrictive environment, the new <b>LEA public agency</b> will complete the Justification for Continued Separate School Placement. If, during the <del>sixty (60)</del> <b>thirty (30)</b> day interim period, the new <b>LEA public agency</b> fails to provide Justification of Separate School Placement, the student will not be served by MSSD and shall be served by the <b>LEA public agency</b> through a placement other than MSSD.	placement period.
X	148-149	<p>4) If the IEP Team is considering separate school as a placement option for the student, they must document the justification for such placement in writing. This documentation must include that the district has:</p> <ul style="list-style-type: none"> <li>• considered educating the child in the LEA;</li> <li>• identified supplementary aids and services that would be needed to educate the child in the LEA; and,</li> <li>• articulated why the LEA cannot serve the child in the LEA in a placement that would benefit the child.</li> </ul>	<p>4) If the IEP Team is considering separate school as a placement option for the student, they must document the justification for such placement in writing, <b>including an explanation that MSB or MSD would be the least restrictive educational environment for the student.</b> <del>This</del> <b>The justification</b> documentation must include <b>information</b> that the <del>district</del> <b>public agency</b> has:</p> <ul style="list-style-type: none"> <li>• considered educating the child in the <b>LEA public agency</b>;</li> <li>• identified supplementary aids and services that would be needed to educate the child in the <b>LEA public agency</b>; and,</li> <li>• articulated why the <b>LEA public agency</b> cannot serve the child in the <b>LEA public agency</b> in a placement that would benefit the child.</li> </ul> <p><b>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.</b></p>	Wording was changed in the MSB/MSD eligibility determination procedures to clarify that the school must make a determination that MSB or MSD would be the least restrictive environment for the student before seeking an eligibility determination. The new language also more closely matches the eligibility determination language for MSSD students.
X	149	6) Should the district be notified that the student is eligible for MSB or MSD, the district may refer the student. 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. The district shall submit the referral only after the parents have received an explanation of the Procedural Safeguards. 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.	6) Should the district be notified that the student is eligible for MSB or MSD, the district may refer the student after holding an IEP meeting. 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. The district shall submit the referral only after the parents have received an explanation of the Procedural Safeguards. <del>If the</del> <b>The</b> IEP, at time of <del>request</del> <b>referral</b> , <del>does not</del> <b>must</b> reflect a total of <del>1,800</del> <b>the actual number of</b> minutes of service per week <b>needed to provide FAPE</b> , or the district must reconvene the IEP Team before submitting the referral so as to ensure	This section was changed to require that the minutes of service listed in the IEP should reflect the individual child's needs.

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			an IEP Team decision on actual minutes needed to provide FAPE.	