


MEMORANDUM

TO: County Superintendents
RESA Executive Directors
County Special Education Directors
Patsy Shank, Superintendent, WV Schools for the Deaf and the Blind
Fran Warsing, Superintendent, Office of Institutional Education Programs
RESA Special Education Administrators
West Virginia Advisory Council for the Education of Exceptional Children
Parent Educator Resource Centers
West Virginia Parent Training Information
West Virginia Advocates
Mountain State Parents Children and Adolescents Network
Mountain State Family Alliance
Due Process Hearing Officers
Mediators
West Virginia American Federation of Teachers
West Virginia Education Association

FROM:  Lynn Boyer, Ph.D.
Executive Director
Office of Special Programs, Extended and Early Learning
West Virginia Department of Education

SUBJECT: Policy 2419: Regulations for the Education of Students with Exceptionalities
Public Comment Period for Revisions

DATE: September 17, 2009

Proposed revisions to Policy 2419: *Regulations for the Education of Students with Exceptionalities* were placed on public review for a 60-day period by the West Virginia Board of Education at its September 2009 meeting. The 30-day public comment period will be open October 13 through November 12, 2009. Proposed revisions are required to bring the policy into compliance with December 2008 changes to the federal regulations implementing the Individuals with Disabilities Education Act of 2004 (IDEA), most notably regarding the parent's right to revoke consent for special education services and to clarify and strengthen the consistency of other sections of the policy with federal requirements. An Executive Summary of proposed revisions is attached.

In accordance with IDEA 2004 and the General Education Provisions Act, policy revisions must meet specific public participation requirements, including conducting public hearings opportunity for public review and comment. Proposed Policy 2419 is available for review and may be accessed from the West Virginia Department of Education Web site at <http://wvde.state.wv.us/policies/>. Written comments may be submitted October 13, 2009 through November 12, 2009 online at this site, by e-mail to smcquain@access.k12.wv.us, by FAX at (304) 558-3741 or by mail to the following address:

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Sandra McQuain, Assistant Director
Office of Special Programs
Building 6, Room 304
1900 Kanawha Blvd. E.
Charleston, WV 20305.

During the public comment period, public hearings will be conducted at locations across the state to receive oral comments. Written comments also may be submitted at the public hearings. A schedule of the time and location of the hearings follows. Directions to each site are attached.

Tuesday, October 13 6:30 – 8:30 pm	Capital High School 1500 Greenbrier Street Charleston, WV
Thursday, October 15 4:30 – 6:30 pm	Wheeling Park High School 1976 Park View Rd Wheeling, WV 26003-9311
Wednesday, October 21 6:30 – 8:30 pm	Robert C. Byrd High School One Eagle Way Clarksburg, WV
Thursday, October 22 6:30-8:30 pm	Martinsburg South Middle School 150 Bulldog Blvd. Martinsburg, WV
Tuesday, October 27 6:30 – 8:30	RESA I 400 Neville Street Beckley, WV RESA I Office

Please direct any questions to Dr. McQuain by e-mail, smcquain@access.k12.wv.us or to me at lboyer@access.k12.wv.us or by phone at (304) 558-2696.

Attachments

cc: OSP Staff
OAA Monitoring Staff

EXECUTIVE SUMMARY

WEST VIRGINIA DEPARTMENT OF EDUCATION

Policy Number and Title: Policy 2419: *Regulations for the Education of Students with Exceptionalities*

Background: Policy 2419 establishes the regulations for compliance with the federal Individuals with Disabilities Education Act of 2004 (IDEA 2004), and West Virginia Code, Chapter 18, Article 20 regarding provision of services to students with exceptionalities. The policy is formatted to include the *West Virginia Procedures Manual for the Education of Students with Exceptionalities*. The Manual outlines the policies and procedures districts must follow in meeting the requirements of IDEA and West Virginia Code.

Proposals: On December 1, 2008, the U.S. Department of Education published in the Federal Register revisions to the implementing regulations for IDEA. As a condition of its application for IDEA funding, the West Virginia Department of Education provided assurances Policy 2419, including the procedures manual, would be revised to conform to the new regulations. The regulations establish a parent's right to revoke consent for provision of special education services and require state education agency monitoring systems to identify district noncompliance with IDEA and ensure correction as soon as possible and no later than within one year of notification. In addition to the required revisions, changes to strengthen alignment with IDEA regulations and to clarify existing procedures are proposed. To comply with federal requirements, the policy must be published for public review for sixty days and comments must be accepted for a minimum of 30 days. Public hearings will be conducted during the comment period.

Revisions pursuant to December 1, 2008 IDEA regulatory changes:

- Procedures implementing the parent's right to revoke consent for provision of special education have been added to Chapter 5, Section 2.K. and Chapter 10, Section 6.
- Timelines and procedures for the WVDE to correct identified noncompliance have been added to Chapter 9, Section 2. B.
- State law determination regarding whether nonattorneys may represent a party in a due process hearing has been added to due process hearing rights, Chapter 11, Section 3.I.

Additional revisions:

- The timeline and procedures for obtaining parent consent for Medicaid billing have been clarified.
- The Student Assistance Team procedures for addressing referrals and requests for multidisciplinary evaluation have been reordered, and timelines and responsibilities have been delineated. The process for handling referrals and initial requests for evaluation has been aligned with IDEA regulations.
- Prior written notice requirements have been revised throughout to ensure consistency with IDEA regulations.
- The Eligibility Committee is required to provide parents of students meeting eligibility criteria for blindness, low vision, deafness, hard of hearing or deafblindness information regarding West Virginia Schools for the Deaf and the Blind.

- Special considerations for eligibility of students with giftedness have been revised to reflect current evaluation practices.
- Eligibility criteria for mental impairment have been clarified to align with certification patterns and student needs.
- Dates pertaining to implementation of Response to Intervention as a method for determining eligibility for specific learning disabilities have been extended per Dr. Paine's March 2009 memo and subsequent WVBE waiver.
- The order of the IEP considerations has been adjusted to align with IDEA regulations.
- Information duplicated in the *West Virginia Guidelines for Participation in State Assessments* has been removed.
- The least restrictive environment requirements have been reorganized, and the requirement to make placement based on student needs has been strengthened.
- Caseload requirements for preK programs serving students with Individualized Education Programs (IEPs) have been adjusted and clarified.
- Circumstances in which a mediation may be requested have been revised to reflect IDEA regulations.
- The timeline for appeal of a due process hearing decision to civil court has been changed to 90 days, consistent with IDEA regulations.
- Minor revisions have been made to attorney fee requirements to align with IDEA regulations.
- Former Policy 2419 caseloads no longer in effect under current policy have been deleted as the timeline for new caseloads is now in effect.

Impact: The proposed revisions bring Policy 2419 and the procedures manual into compliance with IDEA 2004, including December 1, 2008 revisions.

DIRECTIONS TO CAPITAL HIGH SCHOOL:

From Morgantown: Follow I-70S and merge into I-77S. Follow I-77S/I-64E to the Greenbrier Street exit. Turn left at the stop light and follow Rt. 114 to Capital High School, approximately 3.5 miles

From Parkersburg: Follow I-77 S and merge on to I-77S/I-64E to the Greenbrier Street exit. Turn left at the stop light and follow Rt. 114 to Capital High School, approximately 3.5 miles

From Huntington: I-64E to Greenbrier Street exit. Turn left at the stop light and follow Rt. 114 to Capital High School, approximately 3.5 miles

From Beckley: Follow I-77S/I-64W to Greenbrier Street exit. Turn right at the foot of the ramp and follow Rt. 114 to Capital High, approximately 3.5 miles

DIRECTIONS TO ROBERT C BYRD HIGH SCHOOL:

(From Clarksburg) – Follow Rt 20 South (Hardee's on the left), 3rd traffic light, merge into right turning lane at the church and McDonald's. Turn Right off of Rt. 20 onto Rt. 98 passing McDonald's. Follow Rt. 98, ascending the hill, travel down to the traffic light, turn left onto Eagle Way, follow road to school.

DIRECTIONS TO MARTINSBURG SOUTH MIDDLE SCHOOL:

Located on Bulldog Boulevard in Martinsburg, across from Martinsburg High. From Exit 13, turn right onto King Street heading east to Raleigh Street (2nd traffic light after passing over railroad tracks). Turn right onto South Raleigh. Go about 0.5 mile (six blocks) to Bulldog Boulevard. Turn left onto Bulldog Boulevard. School is on left, across from Martinsburg High School.

DIRECTIONS TO RESA I OFFICE:

Directions from I-77 & I-64:

- Harper Road Exit - turn onto Route 3 East.
- Travel approximately 2.2 miles to intersection of Route 3 East and Route 16 South.
- Continue straight through intersection onto Neville Street.
- Travel 0.2 mile to RESA-1 building on right ("*Old*" Federal Courthouse).

DIRECTIONS TO WHEELING PARK HIGH SCHOOL:

Coming from the East:

- Exit 5 off I-70 -Turn left on U.S. RT 40
- Turn right on 40 at first light - Proceed through 2 lights
- Turn right between large stone pillars to "Entrance -- Wheeling Park"
- Follow road, past swimming pool up the hill. This road leads directly to the school .

Coming from the West:

- Exit 4 off I-70 - Turn left on U.S. RT 40
- Proceed through first light for 0.3 miles
- Turn right between large stone pillars to "Entrance -- Wheeling Park"
- Follow road, past swimming pool, up the hill. This road leads directly to the school.