

**CHAPTER 14
SPECIAL EDUCATION**

Authority

N.J.S.A. 18A:4-15, 18A:7A-1 et seq., 18A:7B et seq., 18A:7C-1 et seq., 18A:40-4, 18A:46-1 et seq., 18A:48-8, 39:1-1, U.S.P.L. 93-112, Sec. 504, 94-142, 101-476 and 99-457.

Source and Effective Date

R.2003 d.387, effective September 8, 2003.
See: 35 N.J.R. 1991(a), 35 N.J.R. 4714(c).

Chapter Expiration Date

Chapter 14, Special Education, expires on September 8, 2008.

Chapter Historical Note Chapter 14, Special Education, was adopted by R.1998 d.334, effective July 6, 1998. See: 30 N.J.R. 1219(b), 30 N.J.R. 2435(a).

Chapter 14, Special Education, was readopted by R.2003 d.387, effective September 8, 2003. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 6A:14-1.1 General requirements
- 6A:14-1.2 District eligibility for assistance under IDEA Part B
- 6A:14-1.3 Definitions

SUBCHAPTER 2. PROCEDURAL SAFEGUARDS

- 6A:14-2.1 General requirements
- 6A:14-2.2 Surrogate parents and foster parents
- 6A:14-2.3 Parental consent, notice, participation and meetings
- 6A:14-2.4 Native language
- 6A:14-2.5 Protection in evaluation procedures
- 6A:14-2.6 Mediation
- 6A:14-2.7 Due process hearings
- 6A:14-2.8 Discipline/suspension/expulsions
- 6A:14-2.9 Student records
- 6A:14-2.10 Reimbursement for unilateral placement by parents

SUBCHAPTER 3. SERVICES

- 6A:14-3.1 General requirements
- 6A:14-3.2 Case manager
- 6A:14-3.3 Location, referral and identification
- 6A:14-3.4 Evaluation
- 6A:14-3.5 Determination of eligibility for special education and related services
- 6A:14-3.6 Determination of eligibility for speech-language services
- 6A:14-3.7 Individualized education program
- 6A:14-3.8 Reevaluation
- 6A:14-3.9 Related Services

SUBCHAPTER 4. PROGRAMS AND INSTRUCTION

- 6A:14-4.1 General requirements
- 6A:14-4.2 Placement in the least restrictive environment
- 6A:14-4.3 Program options
- 6A:14-4.4 Program criteria: speech-language services
- 6A:14-4.5 Program criteria: supplementary instruction
- 6A:14-4.6 Program criteria: resource programs
- 6A:14-4.7 Program criteria: special class programs, secondary, and vocational rehabilitation
- 6A:14-4.8 Program criteria: home instruction

- 6A:14-4.9 Home instruction due to temporary illness or injury for students with or without disabilities
- 6A:14-4.10 Exceptions
- 6A:14-4.11 Statewide assessment
- 6A:14-4.12 Graduation

SUBCHAPTER 5. PROVIDING EDUCATIONAL AND RELATED SERVICES

- 6A:14-5.1 General requirements
- 6A:14-5.2 Approval procedures for clinics or agencies

SUBCHAPTER 6. REQUIREMENTS FOR SERVICES IN NONPUBLIC SCHOOLS

- 6A:14-6.1 Equitable participation under IDEA Part B
- 6A:14-6.2 Provision of programs and services provided under N.J.S.A. 18A:46A-1 et seq. and 18A:46-19.1 et seq.
- 6A:14-6.3 Fiscal management provided under N.J.S.A. 18A:46A-1 et seq. and 18A:46-19.1 et seq.
- 6A:14-6.4 End of the year report provided under N.J.S.A. 18A:46A-1 et seq. and 18A:46-19.1 et seq.
- 6A:14-6.5 Placement in accredited nonpublic schools which are not specifically approved for the education of disabled students

SUBCHAPTER 7. RECEIVING SCHOOLS

- 6A:14-7.1 General requirements
- 6A:14-7.2 Approval procedures to establish a new receiving school
- 6A:14-7.3 Amendment procedures for receiving schools
- 6A:14-7.4 Annual procedures for private schools for the disabled
- 6A:14-7.5 Responsibilities of district boards of education
- 6A:14-7.6 Provision of programs
- 6A:14-7.7 Termination or withdrawal from a receiving school
- 6A:14-7.8 Fiscal management
- 6A:14-7.9 Records
- 6A:14-7.10 Monitoring and corrective action

SUBCHAPTER 8. PROGRAMS OPERATED BY THE DEPARTMENTS OF CORRECTIONS AND HUMAN SERVICES, AND THE JUVENILE JUSTICE COMMISSION

- 6A:14-8.1 General requirements
- 6A:14-8.2 Procedural safeguards
- 6A:14-8.3 Provision of programs

SUBCHAPTER 9. MONITORING, CORRECTIVE ACTION AND COMPLAINT INVESTIGATION

- 6A:14-9.1 Monitoring and corrective action
- 6A:14-9.2 Complaint investigation

SUBCHAPTER 10. EARLY INTERVENTION PROGRAMS

- 6A:14-10.1 Early intervention programs serving children between birth and age three
- 6A:14-10.2 General requirements when district boards of education contract with early intervention programs under contract with the Department of Health and Senior Services for students age three

APPENDIX A
 APPENDIX B
 APPENDIX C
 APPENDIX D
 APPENDIX E

SUBCHAPTER 1. GENERAL PROVISIONS

Law Reviews and Journal Commentaries

Special Education: A Promise to Children with Disabilities. Viola S. Lordi. 193 N.J.L.J. 10 (1998).

6A:14-1.1 General requirements

(a) The rules in this chapter supersede all rules in effect prior to October 6, 2003 pertaining to students with disabilities.

(b) The purpose of this chapter is to:

1. Ensure that all students with disabilities as defined in this chapter, including students with disabilities who have been suspended or expelled from school, have available to them a free, appropriate public education as that standard is set under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400 et seq.); and, in furtherance thereof, to:

i. Ensure that the obligation to make a free, appropriate public education available to each eligible student begins no later than the student's third birthday and that an individualized education program is in effect for the student by that date;

ii. Ensure that a free, appropriate public education is available to any student with a disability who needs special education and related services, even though the student is advancing from grade to grade;

iii. Ensure that the services and placement needed by each student with a disability to receive a free, appropriate public education are based on the student's unique needs and not on the student's disability;

2. Ensure that students with disabilities are educated in the least restrictive environment;

3. Ensure the provision of special education and related services;

4. Ensure that the rights of students with disabilities and their parents are protected;

5. Assist public and private agencies providing educational services to students with disabilities; and

6. Ensure the evaluation of the effectiveness of the education of students with disabilities.

(c) The rules in this chapter shall apply to all public and private agencies providing publicly funded educational programs and services to students with disabilities.

1. Programs and services shall be provided to students age three through 21.

2. Programs and services may be provided by a district board of education at its option to students below the age of three and above the age of 21.

3. Each district board of education shall provide information regarding services available through other State, county and local agencies to parents of children with disabilities below the age of three.

(d) Each district board of education is responsible for providing a system of free, appropriate special education and related services to students with disabilities age three through 21 which shall:

1. Be provided at public expense, under public supervision and with no charge to the parent;

2. Be administered, supervised and provided by appropriately certified professional staff members;

3. Be located in facilities that are accessible to the disabled; and

4. Meet all requirements of this chapter.

(e) With the exception of students placed in nonpublic schools according to N.J.A.C. 6A:14-6.5, all students with disabilities shall be placed in facilities or programs which have been approved by the Department of Education according to N.J.S.A. 18A:46-14 and 15.

(f) Each district board of education shall ensure that the hearing aids worn by children who are deaf and/or hard of hearing are functioning properly.

(g) All special education programs and services provided under this chapter shall be subject to review and approval by the Department of Education.

(h) All public and private agencies that provide educational programs and services to students with disabilities shall maintain documentation demonstrating compliance with this chapter.

Amended by R.2000 d.230, effective June 5, 2000.

See: 32 N.J.R. 755(a), 32 N.J.R. 2052(a).

In (b), added i through iii.

Amended by R.2003 d.387, effective October 6, 2003.

See: 35 N.J.R. 1991(a), 35 N.J.R. 4714(c).

In (c)2, substituted "its" for "their" preceding "opinion".

Law Review and Journal Commentaries

Attorneys' fees and damages in special education cases. Candice Sang-Jasey and Linda D. Headley, 212 N.J.Law. 38 (Dec. 2001).