

CHAPTER 92**EDUCATIONAL SERVICES OF THE COMMISSION
FOR THE BLIND AND VISUALLY IMPAIRED****Authority**

N.J.S.A. 30:6-1 et seq. and 52:14B-1 et seq.; and P.L. 2003, c.122.

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R.2003 d.444, effective October 10, 2003.
See: 35 N.J.R. 1635(a), 35 N.J.R. 5106(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 92, Educational Services of the Commission for the Blind and Visually Impaired, expires on April 8, 2009. See: 40 N.J.R. 4491(a).

Chapter Historical Note

Chapter 92, Education Services of the Commission for the Blind and Visually Impaired, was adopted as R.1998 d.250, effective May 18, 1988. See: 30 N.J.R. 768(a), 30 N.J.R. 1824(a).

Chapter 92, Education Services of the Commission for the Blind and Visually Impaired, was readopted as R.2003 d.444, effective October 10, 2003. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. OVERVIEW OF EDUCATIONAL
SERVICES****10:92-1.1 Purpose and scope**

(a) The New Jersey Commission for the Blind and Visually Impaired operates a Statewide itinerant educational services program for eligible children which facilitates their inclusion in the least restrictive, most appropriate, educational setting. These services shall be provided in educational and/or other appropriate settings. Depending on individual needs, these services may include, but are not limited to, instruction in appropriate media, the use of specialized equipment and materials, and the use of accommodative techniques. There are three Commission education service programs, as set forth in (b) through (d) below.

(b) The itinerant education services program (reimbursement) facilitates the inclusion of children that are blind or visually impaired in the least restrictive, most appropriate, educational setting. For school aged students (aged three to 21 years), these services are provided in collaboration with local school districts through provider service agreements. The Appropriations Act for the 2002-03 fiscal year directs the State Department of Education to deduct each district's reimbursement to the Commission from its State aid payments.

(c) Specialized services are provided to infants and toddlers (aged Birth to three years), who are blind or visually impaired, as well as to their families, in partnership with the Department of Health and Senior Services through an early intervention subgrant. (By law, school districts are not responsible for children under age three, in accordance with N.J.A.C. 6A:14.)

(d) Specialized services are provided to school aged children who have significant multiple disabilities, who are blind or visually impaired, and who are not covered by reimbursement. These children include those who are enrolled in the Department of Human Services Campus Schools and those who are educated in their homes due to conditions that cause them to be medically frail.

Amended by R.2003 d.444, effective November 3, 2003.
See: 35 N.J.R. 1635(a), 35 N.J.R. 5106(a).

In (b), substituted "2002-03" for "1997-98" preceding "fiscal year"; in (c), amended N.J.A.C. reference; rewrote (d).

10:92-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Accommodative technique" means special knowledge and skills needed by children who are blind or visually impaired to accomplish the tasks of daily living.

“Adaptive equipment” means devices designed or used specifically to meet the unique educational needs of children who are blind or visually impaired.

“Appropriate learning medium” means the communication mode that is determined to be the most appropriate learning method to use for reading and writing by a student who is blind or visually impaired.

“Augmentative communication skills” means techniques needed by students who are multi-handicapped or deaf-blind to supplement their existing forms of communication.

“Blind” see “legally blind.”

“Braille” means a system of raised dots used to enable persons who are blind to read by touch.

“Compensatory skills” mean those techniques needed by individuals who are blind to complete academic program requirements. They include, but are not limited to, braille reading and writing, aural reading, organization, and personal advocacy.

“Early intervention” means a Statewide interagency program of services for infants and toddlers with disabilities and their families coordinated by the New Jersey Department of Health and Senior Services.

“Functional vision assessment” means an evaluation, conducted by a certified teacher of the blind and partially sighted, used to determine the modifications needed to maximize a student’s visual efficiency in the education program.

“Itinerant instructor” means certified teachers of the blind or partially sighted who travel from school to school. They provide vision related specialized instruction and consultation to students who are blind or visually impaired.

“Least restrictive” means that, to the maximum extent appropriate, a student with a disability is educated with students who are not disabled.

“Legally blind” means central visual acuity that does not exceed 20/200 in the better eye with best correction or fields of vision that are so limited that the widest diameter of visual field subtends an angle no greater than 20 degrees.

“Levels of service” means three categories of educational services that are provided by the Commission, under reimbursement. For each student who is blind or visually impaired, these are determined by the Commission’s instructor through assessment, visual functioning, educational needs and skill development.

“Nemeth code” means a specialized braille code used for mathematics and science.

“Provider service agreement” means a contract between the Commission and the school district defining the level of service that a student who is blind or visually impaired will receive from the Commission.

“Reimbursement” means transfer of funds by the Department of Education from a school district’s State aid payments to the Commission for educational services provided to students who are blind or visually impaired.

“Technical assistance” means consultative and instructional services provided to school personnel and parents that address the disability specific needs of students who are blind and visually impaired.

“Visual acuity” means the measurement of the ability of the eye to perceive the shape of objects in the direct line of vision and to distinguish detail.

“Visual field defect” means a defect in an area of vision that moves with the eye, as the eye turns in different directions. A visual field defect may be caused by brain damage, optic nerve damage, injury to the eye, or disease of the eye.

“Visually impaired” means central visual acuity that does not exceed 20/70 in the better eye with correction and/or fields of vision that are so limited that the widest diameter of visual field subtends an angle no greater than 40 degrees or field cuts caused by hemianopsia.

Amended by R.2003 d.444, effective November 3, 2003.

See: 35 N.J.R. 1635(a), 35 N.J.R. 5106(a).

Amended “Braille”, “Functional vision assessment”, “Least restrictive” and “Visually impaired”; added “Compensatory skills”.

SUBCHAPTER 2. ELIGIBILITY STANDARDS FOR EDUCATIONAL SERVICES

10:92-2.1 Eligibility determination

(a) The purpose of eligibility determination shall be to identify children, age 21 and younger, who, because of vision loss, require special instruction and/or disability specific services from the Commission in order to be included appropriately in the education process.

(b) Eligibility for education services shall be based on the following criteria:

1. Children whose central visual acuity does not exceed 20/70 in the better eye with correction and/or fields of vision that are so limited that the widest diameter of visual field subtends an angle no greater than 40 degrees or field cuts caused by hemianopsia.

2. Children must be 21 years of age or younger and have not completed secondary school.

3. Children must meet the residency requirements set forth in N.J.A.C. 10:91-2.6.

4. Children who meet the Commission's visual eligibility standard need not be classified "eligible for special education" by their local board of education to be eligible for Commission services.

(c) As a condition of continued eligibility, the Commission shall require within 90 days of parental notification, updated eye information every three years or when there is evidence of a change in visual function.

Amended by R.2003 d.444, effective November 3, 2003.
See: 35 N.J.R. 1635(a), 35 N.J.R. 5106(a).

In (b), rewrote 1, amended the N.J.A.C. reference in 2 and substituted "eligible for special education" for "educationally handicapped" in 4; in (c), substituted "every three years" for "on a periodic basis" following "updated eye information".

10:92-2.2 Notification of ineligibility

(a) The Commission shall notify by mail the parent or guardian of any child who applied or was referred for Commission education services whenever such child has been found to be ineligible.

(b) In the event that a school district does not enter into a provider service agreement with the Commission, the parent or guardian shall be notified in writing that their school district has not requested educational services from the Commission.

(c) Children closed from educational services because a school district did not comply with the provider service agreement may be referred for the Commission's vocational rehabilitation services as set forth in N.J.A.C. 10:95 or adaptive living skills services as set forth in N.J.A.C. 10:93.

(d) The ineligibility notice shall state:

1. The basis for the decision;
2. The effective date of the decision; and
3. The process for review.

(e) Appropriate explanations for any case closure shall be included in the case record.

SUBCHAPTER 3. ITINERANT EDUCATION SERVICES

10:92-3.1 Provider service agreements (reimbursement)

(a) The Commission provides a wide range of itinerant services to blind and visually impaired children and their

families. For children, aged three to 21, three different levels of service are provided in collaboration with local school districts through provider service agreements (contracts) that may be adjusted annually.

(b) As appropriate, Level I Services may be provided in any of the following areas, based upon individual student need, as determined by the Commission instructor. These services shall be provided by a Certified Teacher of the Blind and Partially Sighted and could require up to eight contacts per school year. The fee for Level 1 Services is \$1,035. Level I Services are:

1. The Commission's Certified Teacher of the Blind or Partially Sighted shall perform functional vision assessments to evaluate the student's practical use of vision in the education program;

2. As appropriate, the itinerant instructor shall provide the necessary specialized materials and introductory instruction to equipment which enable students who are blind or visually impaired to be educated with their sighted peers; and

3. The itinerant instructor shall provide consultation to students regarding their visual impairment and its educational implications in order to enhance their participation in the educational process.

4. Specialized deaf-blind services shall be provided to students who have auditory as well as visual impairment. Services to address this dual sensory loss include specialized consultation, assessment and evaluation, as well as provision of adaptive equipment and sign language materials.

(c) In the Level II Services category, as appropriate, services may be provided in any of the following areas, based upon individual student need, as determined by the Commission instructor. In addition, students shall be eligible for all services outlined in the Level I Services category. These services shall be provided by a Certified Teacher of the Blind and Partially Sighted and should require between nine and 30 contacts, per school year. The fee for Level II Services is \$3,450. Level II Services are:

1. This service category may be necessary for braille users who have already learned braille reading and writing and may need intermittent short-term instruction. This shall also support their participation in higher-level subject areas such as Nemeth Code for mathematics and science.

2. This service category may be necessary for students with moderate to severe vision loss. Many students who are legally blind need services that include assessment and selection of the most appropriate learning media that shall meet the literacy needs of the student. In addition, this level may be used for compensatory skills instruction.

3. Deaf-blind students are provided specialized training and assessment in the development of communication potentials, maximizing the use of residual hearing and vision, as well as developing augmentative communication skills and the use of adaptive technologies.

(d) The Level III Services category will be necessary for a student for whom highly specialized media, such as braille or a CCTV, have been determined to be the appropriate learning medium. In this service category, as appropriate, services may be provided in any of the following areas, based upon individual student needs, as determined by the Commission instructor. In addition, students will be eligible for all services outlined in the Level I and Level II services categories. A Certified Teacher of the Blind and Partially Sighted will provide a minimum of two contacts per week. The fee for Level III Services is \$10,280. Level III Services are:

1. Instruction in braille skills; and
2. Instruction in additional compensatory skills.

(e) When a school district does not enter into a provider service agreement with the Commission, the school district shall be responsible for all necessary services, including instruction, materials and adaptive equipment.

(f) A school district that has not previously contracted with the Commission may during the academic year request educational services by returning a signed contract.

(g) Following the end of the academic year, the Commission shall compose a report of services provided to each student. These reports shall be distributed to each student's school district and parent and shall furnish information regarding contact dates, instruction, technical assistance, materials, equipment, and services that were provided during the academic year.

(h) The Commission shall compose instructional assignments based on geography, staffing, and the itinerant nature of the education services program.

(i) Service contracts shall be offered to local school districts based on the individual instructional needs of students as assessed by the Commission.

Amended by R.2003 d.444, effective November 3, 2003.
See: 35 N.J.R. 1635(a), 35 N.J.R. 5106(a).
Rewrote the section.

10:92-3.2 Services to infants and toddlers

(a) The Commission shall provide specialized vision related services to infants and toddlers, ages birth to three, and their parents, guardians, or significant caregivers, based upon the eligibility criteria as set forth in N.J.A.C. 10:92-2.1, or upon the determination of a medical doctor that the young child has a severe visual impairment. For children, ages birth to three, services are provided in partnership with the Department of Health and Senior Services through an early intervention subgrant. As appropriate, the following services may be provided based upon infant, toddler and family needs, as determined by the Commission instructor:

1. Assessment and evaluation of visual impairment;
2. Collaboration with families;
3. Technical assistance to early intervention;
4. Transition to local school district programs to facilitate the inclusion of each child in the appropriate educational setting;
5. Deaf-blind services;
6. Loan of adaptive aids and materials; and
7. Specialized instruction.

10:92-3.3 Services to students with multiple disabilities including blindness or visual impairment

(a) The Commission shall provide specialized services to eligible school aged children with very severe multiple disabilities and who are not covered by reimbursement as defined in N.J.A.C. 10:92-1.1(d). Services may include:

1. Assessment and evaluation;
2. Technical assistance provided to the facility's education and support staff; and
3. The loan of educational aids, equipment and materials.

(b) The Commission shall provide an annual facility report which describes the services that have been provided.

Amended by R.2003 d.444, effective November 3, 2003.
See: 35 N.J.R. 1635(a), 35 N.J.R. 5106(a).

In (a), substituted "may" for "shall" following "Services" in the introductory paragraph.

10:92-3.4 Financial need standard

The financial need standard as set forth in N.J.A.C. 10:91-3.3 shall apply to education clients.

Amended by R.2003 d.444, effective November 3, 2003.
See: 35 N.J.R. 1635(a), 35 N.J.R. 5106(a).
Amended N.J.A.C. reference.

SUBCHAPTER 4. LOAN AND PROVISION OF MATERIALS, AIDS, AND EQUIPMENT

10:92-4.1 The George F. Meyer Instructional Resource Center

(a) The George F. Meyer Instructional Resource Center (The Meyer Center) shall provide to Commission education clients instructional materials and loan adaptive equipment as appropriate to individual student needs. As determined by the Commission instructor, these may include textbooks in braille or large print, as well as accommodative materials.

(b) In accordance with N.J.A.C. 10:91-3.2, the financial need standard shall not apply to equipment and materials loaned by the Meyer Center.

10:92-4.2 Loan of educational equipment

(a) As determined by the Commission instructor, equipment owned by the State of New Jersey may be lent to any eligible student. Equipment lent shall remain the property of the State of New Jersey.

(b) The following terms and conditions shall apply to the loan of equipment:

1. The borrower shall be permitted to use the equipment until such time as:

- i. He or she has graduated from high school;
- ii. The equipment is no longer necessary for the student's education program;
- iii. He or she ceases to be a Commission education student; or
- iv. The equipment is neglected or misused.

(c) When any of the circumstances set forth in (b)1i through iv above occur, the student, parent or guardian, or school district shall immediately notify their education instructor who shall make arrangements to return the equipment to the Meyer Center.

(d) In the event that State owned equipment on loan to a student is lost or stolen, the student or his or her parent or guardian or school official shall:

1. Notify the Commission instructor in writing;
2. Notify the police and complete a police report;
3. The parent or school district must file a loss or theft claim with his or her homeowner's and/or school insurance carrier, requesting that the settlement be made payable to the Commission for the Blind and Visually Impaired; and
4. Forward the check to the supervisor of the Meyer Center upon receipt of the settlement.

(e) If the equipment has been neglected, misused or lost, the Commission reserves the right not to lend additional equipment.

10:92-4.3 Student responsibilities for loaned equipment

(a) Students who borrow any equipment from the Meyer Center shall be responsible for the routine maintenance of the equipment according to the directions given to the student for the care of the equipment.

(b) The requirements for repair of loaned equipment are:

1. When equipment borrowed by a student requires repair, the student shall contact his or her education

instructor who will arrange for its return to the Meyer Center.

2. The student shall be provided with replacement equipment, based on availability.

10:92-4.4 Provision of braille materials

(a) The Meyer Center shall provide materials and textbooks, based on their availability, to students who are braille users as determined by the Commission instructor.

(b) Leisure books and magazines in braille may be obtained by students from the New Jersey Library for the Blind and Handicapped. More information may be obtained by telephoning the library, toll free, at (800) 792-8322.

Amended by R.2003 d.444, effective November 3, 2003.
See: 35 N.J.R. 1635(a), 35 N.J.R. 5106(a).
Rewrote (a).

10:92-4.5 Provision of large print textbooks and materials

Textbooks and other instructional materials, in adapted print size, may be provided to students as assessed by the Commission instructor.

Amended by R.2003 d.444, effective November 3, 2003.
See: 35 N.J.R. 1635(a), 35 N.J.R. 5106(a).
Rewrote the section.

10:92-4.6 Provision of taped textbooks

Education students are eligible to receive services from Recordings for the Blind and Dyslexic (RFB & D). The Commission shall authorize payment of the registration and service fees for school age education students. After registration, taped textbooks may be ordered directly from:

Recordings for the Blind and Dyslexic
20 Roszel Road
Princeton, NJ 08540
Telephone: 609-452-0606
800-221-4792

Amended by R.2003 d.444, effective November 3, 2003.
See: 35 N.J.R. 1635(a), 35 N.J.R. 5106(a).

Substituted "may be ordered" for "students shall be responsible for ordering" following "After registration,;" added an 800 number.

10:92-4.7 Provision of American Printing House for the Blind equipment and materials

(a) The American Printing House for the Blind, a Federally funded agency, provides books, equipment, and other materials to the Commission for use by children who are legally blind.

(b) All students who are legally blind and receiving Commission services shall be registered with the American Printing House each year by the Commission.

**SUBCHAPTER 5. COMMISSION SERVICES
AVAILABLE TO ELIGIBLE CHILDREN**

10:92-5.1 Additional services

(a) In addition to services specified in N.J.A.C. 10:92-3 and 4, the following shall be made available to eligible children subject to the availability of funds:

1. Camp Marcella, a summer camp experience, operated by the Commission for children who are blind and visually impaired;
2. Physical education/recreation in-service training;
3. Reader service, that is, payment to a person (other than a family member) who provides a service designed to equalize the student's participation in his or her education program;
4. Specialized evaluation and/or instruction from other Commission personnel in adaptive living skills services, as set forth in N.J.A.C. 10:93; and

5. Transition services, provided in accordance with N.J.A.C. 10:95.

Amended by R.2003 d.444, effective November 3, 2003.
See: 35 N.J.R. 1635(a). 35 N.J.R. 5106(a).

In (a)2, deleted "(workshops)" following "in-service training".

**SUBCHAPTER 6. EDUCATIONAL PROGRAM
OPTIONS**

10:92-6.1 School placement

(a) The Commission does not have the authority to provide or determine the educational placement of any student.

(b) The local board of education is legally responsible for the student's special education costs, tuition, and room and board, under the provisions of N.J.A.C. 6A:14.

Amended by R.2003 d.444, effective November 3, 2003.
See: 35 N.J.R. 1635(a). 35 N.J.R. 5106(a).

In (b), amended N.J.A.C. reference.