

## CHAPTER 14

### SPECIAL EDUCATION

#### Authority

N.J.S.A. 18A:4-15, 18A:7A-1 et seq., 18A:7B-1 et seq., 18A:7C-1 et seq., 18A:39-1.1, 18A:40-4, 18A:46-1 et seq., 18A:46A-1 et seq.; and U.S.P.L. 93-112, Sec. 504, 94-142, 99-457, 101-476, 105-17, and 108-446.

#### Source and Effective Date

R.2006 d.315, effective August 4, 2006.  
See: 38 N.J.R. 2253(a), 38 N.J.R. 3530(b).

#### Chapter Expiration Date

Chapter 14, Special Education, expires on August 4, 2011.

#### Chapter Historical Note

Chapter 14, Special Education, was adopted as 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: 35 N.J.R. 1991(a), 35 N.J.R. 4714(c).

Chapter 14, Special Education, was readopted as R.2006 d.315, effective August 4, 2006. As a part of R.2006 d.315, Appendices A through E were repealed, and Appendices A through G, were adopted as new rules, effective September 5, 2006. See: Source and Effective Date. See, also, section annotations.

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## SUBCHAPTER 1. GENERAL PROVISIONS

### Law Review 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 September 5, 2006 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.);

2. 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;

3. 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;

4. 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;

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

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

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

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

9. 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 education 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 and qualified 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.

(i) A school district shall not require a child to obtain a prescription for a substance covered by the Controlled Dangerous Substances Act (21 U.S.C. §§801 et seq.) as a condition of attending school, receiving an evaluation for eligibility for special education and related services or for receiving special education and related services.

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.