



Information UPDATE

Wisconsin Department of Public Instruction/Elizabeth Burmaster, State Superintendent/P.O. Box 7841/ Madison, WI 53707-7841

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TO: District Administrators, CESA Administrators, CCDEB Administrators,
Directors of Special Education and Pupil Services, and Other Interested Parties

FROM: Carolyn Stanford Taylor, Assistant State Superintendent
Division for Learning Support: Equity and Advocacy

SUBJECT: Chapter 115, Wisconsin Statutes: Significant Changes in State Special Education
Law Effective July 1, 2006

On April 5, 2006, Governor Jim Doyle signed into law Act 258, which substantially conforms Wisconsin special education law to the requirements of the Individuals with Disabilities Education Act of 2004 (IDEA). Act 258 can be accessed on the website at <http://www.legis.state.wi.us/2005/data/acts/05Act258.pdf>. Both the State Senate and the Assembly unanimously voted enactment of the law. IDEA 2004 requires states to identify any state-imposed requirement that is not required to implement federal special education law and to minimize the number of such requirements. The department initiated a stakeholder process in February 2005 to undertake this activity. The stakeholders unanimously agreed to the changes in state law which will become effective July 1, 2006.

This document highlights state law provisions which are no longer required and changes which are in addition to IDEA 2004. The document, "IDEA 2004: Significant Changes in Special Education Law Effective July 1, 2005 - Interim Guidance," remains the department's understanding of significant changes in federal law and may be accessed at— <http://www.dpi.wi.gov/sped/doc/idea04change.doc>. However, descriptions related to state law which will change July 1 have been shaded and will be deleted July 1.

Questions regarding this document may be directed to the Special Education Team at (608) 266-1781.

KEY PROVISIONS NO LONGER REQUIRED BY STATE LAW

- Local education agencies (LEAs) no longer will submit special education plans to the department. However, LEAs now must submit local performance plans (LPPs) which include assurances that the LEA has in effect policies, procedures, and programs that comply with state and federal special education law and information required by federal law.
- LEAs no longer are required to annually provide a special education performance report to all parents and to the Department of Public Instruction (DPI). Instead, LEAs provide all data required for DPI to carry out its oversight responsibilities and DPI reports annually to the public on the performance of each LEA.
- Current law requires that an evaluation, an individualized education program (IEP), and an educational placement determination must be completed within 90 days of a special education referral or notice of reevaluation. This timeline has been eliminated beginning July 1, but has been replaced by a new one described in the next section.
- IEP team participants who administer tests, assessments, or other evaluation materials as part of an evaluation or reevaluation no longer are required to prepare a written summary of participant findings and make it available to all members of the IEP team at an IEP team meeting.
- LEAs no longer are required to notify parents of the qualifications of individuals who will conduct evaluations, but parents must continue to be notified of evaluators' names, if known.
- If an IEP team determines the child is not a child with a disability, the law no longer requires that the evaluation report identify educational needs of the child and services offered by the LEA, or by other entities, that may benefit the child.
- Short-term objectives and benchmarks no longer are required in IEPs except for students taking alternate assessments.
- IEPs no longer are required to include a description of how a child will be assessed when that child is taking an alternate statewide or district-wide assessment. Federal law requires LEAs to include a statement of why the child cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the child.
- IEPs no longer are required to include a description of the procedures for how parents are to be informed of their child's progress or of the sufficiency of that progress to achieve the annual goals. Federal law requires IEPs include a description of when reports of student progress will be provided to parents.
- LEAs no longer are required to inform parents of their right to additional time and a copy of their child's evaluation report at the beginning of IEP team meetings. However, parents are still entitled to additional time and a copy of their child's most recent evaluation report if requested.
- Following the determination that a child is or continues to have a disability, and prior to developing or revising an IEP for the child, LEAs no longer are required to ask each IEP participant whether he or she needs additional time or whether he or she wants a copy of the evaluation report before proceeding.

- Notices no longer will be required to include language relating to an LEA's obligation to inform parents of their right to additional time and a copy of their child's evaluation report. However, the law continues to require districts to provide more time at parent request.
- LEAs no longer will be required to provide parents with a copy of the procedural safeguards notice upon each notification of an IEP meeting or upon reevaluation of a child. Federal law requires a copy of the procedural safeguards notice be given to parents annually, and when there is an initial referral, when a parent requests an evaluation, the first time a parent files a due process complaint, and upon parent request.

KEY STATE PROVISIONS THAT ARE IN ADDITION TO, OR DIFFER FROM, IDEA

- LEAs are required to conduct an evaluation of a child when referred by a parent or a teacher unless one was conducted within a year. Note: Federal law does not require education agencies to conduct an evaluation for all students referred.
- LEAs must continue to notify parents of the names of individuals who will conduct evaluations, if known, but no longer are required to notify parents of evaluator's qualifications.
- Within 15 business days of receiving a special education referral for evaluation or initiating a reevaluation, the LEA must send to the child's parents either: a request for consent to evaluate the child, or notice that the LEA has determined that no additional assessments are necessary. Additionally, state law now conforms with federal law and requires that within 60 days after an LEA receives parental consent for an initial evaluation or sends the notice that no additional data are needed, the LEA must determine if the child is a child with a disability. The LEA must appoint an IEP team to make the eligibility determination. Exceptions to the 60-day timeline are allowed when the child's parent repeatedly fails or refuses to produce the child for an evaluation; or the child has transferred to an LEA after the 60-day period began and, before the previous LEA completed the evaluation so long as the subsequent LEA is making sufficient progress to ensure prompt completion of the evaluation, and the parents and subsequent LEA agree to a specific time when the evaluation will be completed. Extensions for completing evaluations no longer are allowed except in those situations noted. No extensions may be granted by DPI.
- Within 60 days after an LEA receives parental consent for a reevaluation or sends the notice that no additional data are needed, the LEA must determine if the child continues to be a child with a disability. Note: Federal law does not require the 60-day timeline for reevaluations.
- The special education teacher who participates on IEP teams must have recent training or experience related to the child's known or suspected area of special education needs. Prior to July 1, special education teachers were required to have both recent and extensive training and experience related to the child's known or suspected disability.
- As part of an evaluation, LEAs must provide information about previous interventions provided to children and the effect of those interventions.
- Within 30 days after a determination that the child is or continues to be a child with a disability, the LEA must develop an IEP and determine an educational placement.

- State law maintains the seamless process in the identification, educational planning and placement of children by making the IEP team responsible for these activities.
- If the parents or LEA staff (subject to the stated timelines above) determine at any meeting during the process of the evaluation, IEP development, or placement that additional time is needed to permit meaningful parental participation, the LEA must provide it.
- If a child is attending school in a nonresident school district under the full-time open enrollment program or in certain tuition waiver cases, the IEP team must include at least one person designated by the school board of the resident school district who has knowledge or special expertise about the child.
- LEAs are required to identify a child's particular area of impairment.
- Beginning not later than the first IEP that will be in effect when a child turns 14, and updated annually thereafter, the IEP must include a statement about appropriate, measurable postsecondary goals based on age-appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills and a description of transition services, including courses of study, needed to assist the student in reaching these goals. Note: Federal law requires such information for students age 16 and older.
- When an amendment is made to an IEP without an IEP team meeting, parents must receive a copy of their child's revised IEP. Note: Federal law only requires a copy of their child's revised IEP be provided when requested by the parent.

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This information update can also be accessed through the Internet:

<http://dpi.wi.gov/sped/bulindex.html>