

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #5

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SEP 21 4 04 PM '95

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: West Virginia Board of Education TITLE NUMBER: 126

W.Va. Code 18-2-5; 18-20-1-5; and Public Law 94-142 as amended
CITE AUTHORITY: by Public Law 101-476; W.Va. Const. Article XII, §2

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W.Va. Code §§29A-3B-1, et seq.; W.Va. Board of Education v. Hechler
180 W.Va. 451; 376 S.E.2d 839 (1988)

AMENDMENT TO AN EXISTING RULE: YES X, NO _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 16

TITLE OF RULE BEING AMENDED: Regulations for the Education of
Exceptional Students (2419)

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: _____

TITLE OF RULE BEING ADOPTED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS October 21, 1995.



Victor A. Barone
Director, Legal Services

FISCAL NOTE WORKSHEET

(Submit 4 Copies)

HD NO _____ DRAFT NO _____ BILL NO _____ RESOLUTION NO _____

SUBJECT Policy 2419: Regulations for the Education of Exceptional Students FUND _____

SOURCE OF REVENUE: GENERAL FUND SPECIAL OTHER (SPECIFY) _____

COST OF ESTIMATE BASED ON: AN ORIGINAL ESTIMATE BUDGET BILL OTHER (SPECIFY) _____

INCOME ESTIMATE BASED ON: AN ORIGINAL ESTIMATE BUDGET BILL OTHER (SPECIFY) _____

SHOW OVER-ALL EFFECT IN ITEMS 1 AND 2 &
GIVE EXPLANATION OF BREAKDOWN BY FISCAL YEAR INCLUDING LONG-RANGE EFFECT

EFFECT OF PROPOSAL	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
1. ESTIMATED TOTAL COST	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
PERSONAL SERVICES CURRENT EXPENSES REPAIRS/ALTERATIONS EQUIPMENT OTHER	\$	\$	\$	\$	\$
2. ESTIMATED TOTAL REVENUES	\$	\$	\$	\$	\$

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

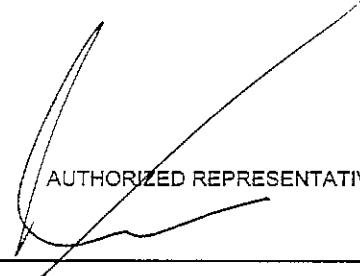
Assumptions:

These regulations contain revisions which provide more general policy requirements with each school district specifying detailed procedures for implementation in the district's policies and procedures. This will require revisions to existing procedures; however, no additional requirements are anticipated.

DATE 9/21/95

AGENCY
Education

AUTHORIZED REPRESENTATIVE



EXECUTIVE SUMMARY
POLICY 2419: REGULATIONS FOR THE EDUCATION OF EXCEPTIONAL
STUDENTS

BACKGROUND:

Policy 2419 was last revised in 1990 to reflect requirements in the federal regulations for the Individuals with Disabilities Education Act (IDEA) and state legislation. Since that time there have been additional changes required by federal monitoring of the West Virginia Department of Education and the approval of the West Virginia State Plan for implementation of IDEA. The proposed revisions to Policy 2419 were placed on public comment at the May 1995 State Board of Education meeting. Nine (9) organizations and seventy-five (75) individuals responded with a total of 760 comments. All comments were logged and reviewed. A copy of the complete log is available to State Board of Education members, upon request, and will be available in the Office of Special Education Programs and Assurances for public review following the State Board of Education's action regarding the proposed policy.

PURPOSE:

The proposed revisions to Policy 2419 incorporate new requirements and return to the language of federal regulations and state legislation whenever possible. In addition, the revisions reflect the elimination of requirements contained in other State Board of Education policies and the comments provided by the public.

PROPOSED CHANGES:

The proposed revisions provide general policy requirements to foster more child-centered, school-based decision making. Each school district must develop detailed procedures for implementation that must be submitted and approved by the West Virginia Department of Education. The basic proposed changes include a change in format, closer alignment with federal language and elimination of redundancies.

Generally, major changes reflected in the policy include:

- ▶ Both the proposed new and the current definitions of Mental Impairments have been included in Section 3.0 with specific effective dates to allow a year to train personnel on appropriate assessment and implications for implementation of the new definition.

- ▶ The proposed caseloads on page 26 of Section 5.0 Administration of Services have been replaced with the caseload language in the current Policy 2419. Maintaining the current caseloads will afford the department an opportunity to conduct a more comprehensive study of the potential impact of alternative methods of determining caseloads.
- ▶ Section 6.0 Discipline was revised to reflect current state code from the Safe Schools legislation.
- ▶ Within Section 7.0 Procedural Safeguards, federal language regarding access to records and destruction of records has been reinserted to afford parents rights that are not currently in Policy 4350.

The positive comments submitted regarding the overall policy and separate sections, generally, were in support of:

- the format and simpler language, which commenters felt made the policy easier to read and understand;
- the reduction in the prescriptiveness of the requirements, which commenters stated would provide districts and schools more flexibility to focus on making child-centered decisions regarding appropriate services;
- the return, whenever possible, to the basic requirements and language of the federal regulations, which individuals also believe will provide greater flexibility in the appropriate implementation of the policy; and
- the elimination of redundancies, such as requirements that are included in other State Board of Education policies, to streamline Policy 2419 and focus its intent on individual students and the individualized education planning process.

Specific proposed revisions that received positive support from five (5) or more individuals include:

- in Section 1.0, allowing schools to use either the School-Based Assistance Team, as specified in current Policy 2419, or other existing school teams to perform the same required function;

- in the evaluation and eligibility sections, placing greater emphasis on a student's educational performance by requiring observations of the student in the classroom, and moving toward more functional definitions and eligibility criteria;
- reducing the number of specific timelines throughout the policy so that districts can design procedures, including timelines, that are reasonable for their circumstances; and
- providing districts/schools greater flexibility in determining, within the parameters established by the regulations, who will serve on the required teams/committees, such as the Eligibility Committee and the Individualized Education Program (IEP) Committee.

All changes in the proposed revisions are *italicized* in the proposed policy and are based upon public comment. The accepted comments, which resulted in recommended changes in the proposed policy, the reason(s) they were accepted, and their location in proposed Policy 2419 are listed below. Minor changes, such as editorial corrections or rewording for clarity, are not included on the list.

Changes Recommended in Proposed Policy 2419 Based Upon Public Comment

<u>Location</u>	<u>Change</u>	<u>Rationale</u>
2.0.B.2.c.	<i>Add "enrolled in an early intervention or other preschool program,"</i>	Clarifies that team member requirement only applies to children with special needs who have been receiving services.
2.0.B.2.	<i>Reorganized components</i>	Clarifies intent.
2.0.C.4.	<i>Replaced "her or his potential" with "the need",</i>	Clarifies that evaluations must be conducted of all students' potential for communication.
3.0.C.4.	<i>Speech/Language Impairments (Moved to 3.0.C.12)</i>	Consistent with alphabetical sequence of categorical areas.
3.0.C.5.	<i>Reworded definition for Deaf and Hard of Hearing</i>	Consistent with the federal definition.

<u>Location</u>	<u>Change</u>	<u>Rationale</u>
3.0.C.6.b. 1) a) & b)	Delete "at the 68% confidence level" from the definition of Gifted.	Term applies to interpretation of test scores, not to eligibility determinations.
3.0.C.7.	Retained current definition and criteria for Mental Impairments, and included AAMR definition with a proposed effective date of July 1, 1996.	To allow a school year to train in the functional assessments necessary to correctly determine eligibility using the AAMR definition.
3.0.C.10.	Changed term "Preschool Disabled" to "Preschool Special Needs"	Term is consistent with common, current terminology and practice.
3.0.C.12.b.1) b)	Changed the language quotient (LQ) to "77 or less".	An LQ of 77 reflects clinically significant scores falling at or below -1.5 to -2.0 standards deviations from the mean. An LQ of 77 will strengthen the eligibility criteria and benefit truly language delayed students.
4.0.B.3 & 4.0.C.4.	Changed "No later than 16 (or younger, if determined appropriate)" to "no later than age 14."	Lower age is consistent with when Four Year Plans are required and with the proposed reauthorization of IDEA.
4.0.C.5.	Add phrase "and provision for home use, if determined appropriate by the IEP Committee."	To more clearly convey the full intent of the federal regulations pertaining to assistive technology.
4.0.D.2.b.	Added "or for gifted students, content pacing, and peer group interaction with the use of curriculum and grouping modifications within the regular class cannot be achieved satisfactorily."	Further clarifies how the LRE requirement applies to gifted students.

<u>Location</u>	<u>Change</u>	<u>Rationale</u>
4.0.D.3.a.	The definition of the Regular Education: Full-Time placement option was rewritten to permit up to 21% "pull-out" under this option.	This definition is consistent with the federal regulations. Including up to 21% "pull-out" will enable West Virginia to provide more accurate data to the U.S.D.O.E. that is comparable to the data of other states.
4.0.D.3.b. & c.	The definitions of these two (2) placement options were reworded.	To more clearly describe the options.
5.0.D.	Proposed language on determining teachers' caseloads based on contact hours has been deleted and the current caseload requirements from 1.4.C.3. and the Program Area Regulations of current Policy 2419 have been maintained.	To allow the department time to conduct a more comprehensive and in-depth study of the impact of alternative methods of determining teachers' caseloads.
6.0.B.	Sub-sections B & C, were combined into "B. Suspension/Expulsion." and Sub-section "D. Court Order" was deleted.	Sub-section B is consistent with the requirements in West Virginia Code relevant to suspension and expulsion. Section D was deleted because this policy does not govern a district's or school's access of the legal system.
7.0.D.7.	Delete phrase "upon request".	This will require districts to provide the parent with a copy of the IEP as required by current Policy 2419. The IEP serves as a communication tool and as written notice of the district's intent to provide specific services. The IEP,

<u>Location</u>	<u>Change</u>	<u>Rationale</u>
		therefore, can serve as one of the notices to parents required by the federal regulations.
7.0.H.	Added requirements pertaining to parents' rights to access records and the destruction of records.	These specific requirements are included in IDEA, but are not included in FERPA or Policy 4350. The additional requirements, therefore, are consistent with current federal regulations.
7.0.I.3.	Deleted phrase "or on stipulations made by the parties."	The deleted phrase is not a federal requirement. This change is consistent, with federal regulations and provisions of the department's corrective action plan resulting from the federal monitoring review.
8.0.A.2.b.	Reinserted statement pertaining to the SBE's responsibility to establish special education standards.	This statement is in current Policy 2419 and applies to programmatic issues.
8.0.B.n.	Added a statement pertaining to the required complaint process.	Consistent with SEA responsibilities required by federal regulations.
8.0.C.3.	Added language regarding the responsibilities of districts and teachers to make a good faith effort to provide the services/instruction needed by a student.	Further clarifies intent of the federal requirements and clearly explains accountability responsibilities.

<u>Location</u>	<u>Change</u>	<u>Rationale</u>
8.0.C.4.f.	Added a statement regarding districts' responsibilities to students who require assistive technology services/devices as a part of their programs.	Consistent with current federal regulations.

Changes in the **Glossary** include the addition of the term "nonaversive behavioral strategies", which is used in Section 6.0, Discipline. References to "assistive technology" or "assistive technology devices and services" were added to the definitions of "Related Services," "Special Education", and "Supplementary Aids". The definition of "Parental Consent" was retitled "Consent" and moved to its proper location in this section. In addition, throughout the policy the word "calendar" was added before the word "days" to clarify the exact intent of the timeline requirements and to be consistent with federal regulations, [except in Section 6.0 where the law clearly states "school days"].

Many of the comments were not accepted as changes in the policy, primarily, because the suggested changes: a) were contrary to the language/requirements of federal or state laws and regulations; b) would have an unknown financial impact; or c) would result in the addition/maintenance of more specific requirements in the policy. The latter will be addressed through the LEA policies and procedures revision and approval process, which is administered by the WVDE and monitored by the U.S.D.O.E.

IMPACT:

The changes will result in the incorporation of all current, required language in federal and state regulations related to students with exceptionalities (disabled and gifted) and greater flexibility for local school districts to determine specific, appropriate procedures to implement the policy. County school districts may need to revise current policies and procedures to reflect these changes; however, federal procedures under IDEA would allow districts until June 1996 to revise their procedures.

TITLE 126
LEGISLATIVE RULES
BOARD OF EDUCATION

SERIES 16
REGULATIONS FOR THE EDUCATION OF
EXCEPTIONAL STUDENTS (2419)

§126-16-1. General.

1.1. Scope. These regulations apply to preschool, special needs, early childhood, middle childhood, adolescent and adult students whose educational programs require special education and related services. These apply to three year olds, as of their third birth date, through five year olds with disabilities and those who are between five and 21 years of age prior to September 1 of such school year, unless the student has met graduation requirements as specified by the Individualized Education Program and within the state/local policy pertaining to graduation requirements.

West Virginia's mandatory special education statute legislates a child identification effort by county boards of education. Chapter 18, Article 20, Section 2, of the West Virginia Code, states, "The board of education of each county is empowered and is responsible for providing suitable educational facilities, special equipment and such special services as may be necessary. Special services include provisions and procedures for finding and enumerating exceptional children of each type..." The mandated target group for the state child find requirements includes individuals with disabilities between birth and 21 years of age, gifted students from first through eighth grades, and exceptional gifted in grades nine through 12. Part H of IDEA requires interagency collaboration in child find activities targeting children from birth through 5 years of age.

The intent of the federal and state legislative child find mandates is to require an aggressive search by the state and local education agencies for:

1.1.1. individuals with disabilities ages birth to 21, gifted individuals from first through eighth grades, and exceptional gifted in grades nine through 12, who are out of school and not receiving preschool, early childhood, middle childhood, adolescent, or adult educational programs; and

1.1.2. children with disabilities who are enrolled in preschool, early childhood, middle childhood, adolescent, and adult educational programs, gifted students who are in grades one through eight, and exceptional gifted students in grades nine through 12, but who are receiving programs and services inappropriate to meet their needs.

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1.2. Authority. These regulations are issued and in force pursuant to Chapter 18, Article 20, Section 5, of the West Virginia Code, entitled "Education of Exceptional Children", and "The Education for All Handicapped Children Act of 1975", Public Law 94-142 as amended by the Individuals with Disabilities Education Act of 1990 (IDEA), Public Law 101-476. Chapter 18, Article 20, charges the State Board of Education with the responsibility for establishing regulations governing programs and services for the education of exceptional students.

1.3. Filing Date. September 21, 1995

1.4. Effective Date. October 21, 1995

1.5. Repeal of former rule. This legislative rule repeals and replaces WV 126CSR16 "Regulations for the Education of Exceptional Students" filed May 15, 1992 and effective June 16, 1992.

1.6. Right to a Free, Appropriate Public Education. Special education and related services shall be made available to all individuals with disabilities who are between three and 21 years of age, all gifted students in grades one through eight, and all exceptional gifted students in grades nine through 12. West Virginia Code Chapter 18, Article 20, the state's mandatory special education statute and the Individuals with Disabilities Education Act are reaffirmations that education is a right and not a privilege extended to all exceptional individuals. The intent of the mandates is to assure that all of the aforementioned individuals with disabilities have available a free appropriate public education which includes special education and related services to meet their unique educational needs. This applies to all public agencies (health and human resources and corrections) that provide special education and related services to exceptional students.

1.7. Purpose and Intent of the IEP. Individualized Education Program (IEP) requirements describe two components: a process and a document. This policy emphasizes that the process is fundamental and that the document must reflect the full and complementary involvement of parents and educators. The overall IEP requirement, as described in the Individuals with Disabilities Education Act, has the following purposes and functions:

1.7.1. The IEP meeting serves as a communication vehicle between parents and school personnel and enables them, as equal participants, to jointly decide what the student's needs are, what services will be provided to meet those needs, and what the anticipated outcomes may be.

1.7.2. The IEP process provides an opportunity for resolving any differences between the parents and the public agency concerning the special education needs of an exceptional student; first, through the IEP meeting; and second, through the procedural protections that are available to the student and the student's parents.

1.7.3. The IEP sets forth in writing a commitment of resources necessary to enable an exceptional student to receive needed special education and related services.

1.7.4. The IEP is a management tool that is used to ensure that each exceptional student is provided special education and related services appropriate to the student's special learning needs.

1.7.5. The IEP is a compliance/monitoring document that may be used by authorized monitoring personnel from each governmental level to determine whether an exceptional student is actually receiving the free appropriate public education (FAPE) agreed to by the parents and the school.

1.7.6. The IEP serves as an evaluation device for use in determining the extent of the student's progress toward meeting the projected outcomes.

§126-16-2. Identification/Referral.

2.1. Policy Statement: Each public agency shall conduct child find activities to ensure that all students with disabilities, ages 0-21, gifted students from first through eighth grades and exceptional gifted in grades nine-12, are identified and referred for appropriate evaluation. Specific methods for conducting these activities, including procedures for the referral of students in private/parochial schools or for referral by any interested person or agency, shall be stated in each public agency's policies and procedures.

2.1.1. Public Awareness

a. Each public agency shall conduct an on-going awareness campaign that informs the public of the nature of exceptional students, the availability of special education and related services, and the persons to contact for initiating a referral.

2.1.2. Referrals

a. Each public agency shall establish a child identification system which includes referrals from at least the following sources:

- A. the screening process;
- B. school teams;
- C. private/parochial schools; and
- D. any interested person or agency.

2.1.3. School Teams

a. Each public agency shall establish a team in each school to assist in the identification/referral of students experiencing difficulties in the educational program.

b. Each public agency shall define the membership of the team and its relationship to the special education process.

§126-16-3. Evaluation and Reevaluation.

3.1. Policy Statement: Each public agency shall conduct an initial multidisciplinary evaluation of a student and conduct reevaluations of the student to determine the student's educational needs. Specific methods for providing those activities shall be stated in each public agency's policies and procedures.

3.1.1. General Responsibilities

a. Each public agency shall conduct a full and individual multidisciplinary evaluation of the student's educational needs in accordance with Section 8.1.5 before any action is taken with respect to the initial placement of an exceptional student in a program providing special education and related services.

b. Each public agency shall conduct an appropriate, individual multidisciplinary reevaluation to determine the educational needs of each eligible student every three (3) years, or more frequently if conditions warrant, or if the student's parent or teacher requests an evaluation.

c. Each public agency shall complete the initial multidisciplinary educational evaluation and convene an Eligibility Committee and determine eligibility, as specified in Section 3.0 of this policy, within 80 days of receipt of the written parental consent for evaluation.

3.1.2. Multidisciplinary Evaluation Team

a. An evaluation shall be conducted by a multidisciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of suspected exceptionality.

b. The multidisciplinary evaluation team (MDET) shall also consist of:

A. the student's regular education teacher, or

B. if the student does not have a regular education teacher, a regular education teacher qualified to teach a student of her or his age, or

C. for a child of less than school age enrolled in an early intervention or other preschool special needs program, an individual qualified to teach a child of her or his age,

D. at least one person qualified to conduct individual diagnostic examinations of students, such as a certified school psychologist, speech-language pathologist or audiologists, and

c. Members of the MDET shall:

A. be appropriately certified, licensed or otherwise qualified to administer the evaluations for which they are responsible;

B. trained in the use of the specific assessment instruments or techniques for which they are responsible;

C. knowledgeable in the area of concern; and

D. knowledgeable in the applicable state and federal regulations.

E. for a student suspected of being sensory impaired (deaf, hard-of-hearing, blind, partially-sighted, or deaf-blind), physically disabled (orthopedically impaired, other health impaired, traumatic brain injured), or of having a voice disorder to verify the existence of a structural or functional pathology, a licensed physician.

3.1.3. Evaluation Components

a. For an initial evaluation, the student shall be evaluated in all areas related to the suspected exceptionality including, if appropriate, health, vision, hearing, social and emotional status, adaptive behavior, general intelligence, academic performance, communicative status, motor abilities, assistive technology services and/or devices, career interests and vocational aptitudes.

b. For reevaluations, the student shall be evaluated in all areas related to the exceptionality to determine if the exceptionality continues to adversely affect the student's educational performance to the extent that specially designed instruction is required to meet the student's educational needs.

A. Reevaluations of a sensory impaired student shall be conducted more frequently if specified on the certified audiologist's or physician's report.

B. A reevaluation of a gifted student shall be conducted prior to the end of the eighth grade consisting of, at least, an appropriate individual achievement measure and an educational performance review.

c. The student's academic, behavioral, motoric and/or communicative performance shall be observed by at least one multidisciplinary evaluation team member, other than the student's regular classroom teacher, in the regular classroom and, when appropriate, in at least one other setting.

A. In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

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B. When the student is suspected of having only speech/language impairments or being gifted, the MDET shall determine if observations are to be conducted.

d. For a nonspeaking student, the student shall be evaluated to determine the need for an alternative means of communication.

e. The public agency shall document information from the parent concerning the student, such as developmental history and behavior in the home and community, and make the written information available to the Eligibility Committee.

f. Each evaluator, including the classroom teacher, shall write, sign and date an individual evaluation report and make the written report available to the Eligibility Committee.

§126-16-4. Eligibility.

4.1. Policy Statement: Each public agency shall establish and convene an Eligibility Committee to determine: 1) if the referred student meets the eligibility criteria in one of the designated exceptionalities; 2) if the determined exceptionality adversely affects the student's educational performance; and, 3) if the student needs specially designed instruction. Specific methods for conducting these activities shall be stated in each public agency's policies and procedures.

4.1.1. Eligibility Meetings

a. The public agency shall establish an Eligibility Committee (EC) of at least three (3) members who are knowledgeable about the student, the meaning of the written evaluation results, the eligibility criteria and the process of determining eligibility.

b. Additional individuals with specific expertise in the area(s) of concern may be included in the EC meeting at the discretion of the public agency.

4.1.2. Eligibility Committee Responsibilities

a. The EC shall carefully consider documented information from a variety of sources, such as aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior.

b. The EC shall:

- A. utilize the results of the multidisciplinary evaluation as the primary source of information to determine if:
 - (a) the student meets the eligibility criteria in one of the designated exceptionalities;
 - (b) the exceptionality adversely affects the student's educational performance; and
 - (c) the student needs specially designed instruction;
- B. compile and submit determination results for eligible students to the IEP Committee;
- C. document the specific exceptionality for state and federal reporting purposes;
- D. recommend options for those students deemed ineligible and refer the student to the school team; and
- E. notify parents in writing of the results of the EC.

4.1.3. Definitions and Eligibility Criteria

a. Autism

A. Autism is a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three that adversely affects a student's educational performance. Other characteristics often associated with autism are irregularities and impairments in communication, engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a student's educational performance is affected primarily because the student has a behavior disorder, as defined in these regulations.

- B. Documentation will assure that the student meets a total of six (or more) items from (a), (b), and (c), with at least two from (a), and one each from (b) and (c):
- (a) qualitative impairment in social interaction, as manifested by at least two of the following:
 - (A) marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction
 - (B) failure to develop peer relationships appropriate to developmental level
 - (C) a lack of spontaneous seeking to share enjoyment, interests, or achievements with other people (e.g., by a lack of showing, bringing, or pointing out objects of interest)
 - (D) lack of social or emotional reciprocity

(b) qualitative impairments in communication as manifested by at least one of the following:

(A) delay in, or total lack of, the development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime)

(B) in individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others

(C) stereotyped and repetitive use of language or idiosyncratic language

(D) lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level

(c) restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one of the following:

(A) encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus

(B) apparently inflexible adherence to specific, nonfunctional routines or rituals

(C) stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting, or complex whole-body movements)

(D) persistent preoccupation with parts of objects

b. Behavior Disorders

A. A behavior disorder is a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects the student's educational performance:

(a) an inability to learn which cannot be explained by intellectual, sensory, or health factors;

(b) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(c) inappropriate types of behavior or feelings under normal circumstances;

(d) a general pervasive mood of unhappiness or depression;

(e) a tendency to develop physical symptoms or fears associated with personal or school problems; or

(f) a schizophrenic condition.

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B. The term does not apply to students who are socially maladjusted, unless it is determined that they meet the above definition.

C. Documentation will assure that a student meets all of the following criteria:

- (a) continues to exhibit a behavior disorder consistent with the definition after interventions have been implemented;
- (b) exhibits the characteristic(s) over an extended period of time and to a marked degree; and
- (c) exhibits behavior(s) that is not primarily the result of physical, sensory, or intellectual deficits.

c. Blind and Partially Sighted

A. Blindness or partial sight is an impairment in vision that even with correction adversely affects the student's educational performance.

B. Documentation will assure that the student meets one or more of the following:

- (a) Visual acuity - A measure of 20/70 or less in the better eye with best correction recorded in either far point or near point;
- (b) Visual field limitation - Angle of vision is 20 degrees or less in the better eye; or
- (c) Progressive eye disease - A deteriorating eye condition which will result in loss of visual efficiency (e. g., glaucoma, retinitis pigmentosa or macular degeneration) as verified by a licensed optometrist or ophthalmologist.

d. Deaf-Blind

A. Deaf-blindness is concomitant hearing and visual impairments the combination of which cause such severe communication and other developmental and educational problems that these impairments cannot be accommodated by special education services solely for the deaf or hard of hearing, or for the blind or partially sighted student.

B. Documentation will assure that a student meets all of the following:

- (a) the eligibility criteria for deaf and hard of hearing; and
- (b) the eligibility criteria for blind and partially sighted.

e. Deaf and Hard of Hearing

A. Deafness and other hearing impairments are auditory acuity deficits that delay or inhibit the development of speech and/or language skills and adversely affect developmental and educational performance.

(a) A hearing impairment is a deficit in hearing, whether permanent or fluctuating, that adversely affects the student's educational performance but that is not included under the deafness in this section.

(b) Deafness is a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, to the extent that specially designed instruction is required.

B. Documentation of one or all of the following:

- (a) a hearing loss; and/or
- (b) auditory pathology impairments resulting in one of the impairments defined above.

f. Gifted

A. Giftedness is exceptional intellectual abilities that are evidence of outstanding capability, and require specially designed instruction and/or services beyond those normally provided by the regular school program.

B. For gifted students, grades one (1) through eight (8) documentation that a student meets both of the following:

- (a) Intellectual Ability
 - (A) General intellectual ability, 2.0 or more standard deviations above the mean on a full scale comprehensive test of intellectual ability, with consideration of 1.0 standard error of measurement, or
 - (B) Intellectual functioning 2.0 or more standard deviations above the mean, with consideration of 1.0 standard error of measurement at the 68% confidence interval on a verbal or nonverbal scale of a comprehensive test of intellectual ability, if the student is disabled or economically disadvantaged, or if the student's primary language is other than English; and

(b) Achievement/Performance

(A) At least one area of academic achievement as measured by an individual standardized achievement test, indicating that the student requires specially designed instruction, or

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(B) At least one area of classroom performance, as determined during the multidisciplinary evaluation, indicating that the student requires specially designed instruction.

C. For exceptional gifted, grades 9 through 12, documentation that a student meets all of the following:

- (a) the eligibility criteria for gifted; and
- (b) the eligibility criteria for one or more of the disabilities as defined in this section, and/or
- (c) the definition for economically disadvantaged in the Glossary of these regulations, and/or
- (d) underachieving which takes into consideration the student's ability level, educational performance and achievement levels, and/or
- (e) psychological adjustment disordered as documented by a comprehensive psychological evaluation.

D. Special Considerations:

(a) When a student is being considered for eligibility based upon an ability score that falls within the minus range of a 1.0 standard error of measurement, at 2.0 standard deviations above the mean, the EC must document that the student has the potential to achieve or perform at a level expected of a student scoring 2.0 standard deviations above the mean:

(b) Before the end of the eighth grade year, the EC shall review the evaluation data for each identified gifted student to determine continued eligibility as an exceptional gifted student in grades 9 - 12. The records for each eighth grade student are then referred to the IEP Committee.

(c) The IEP Committee will review all the records of each identified eighth grade gifted student and write a four year plan that includes honors/advanced education, when appropriate. The implementation of this plan is required.

(d) If the eighth grade student has been determined eligible as an exceptional gifted student, the IEP is revised and the student continues in grades 9 - 12 as a special education student.

(e) If the student is not eligible as an exceptional gifted student, the four year plan is the individualized plan that is implemented and reviewed annually by the school, parent and student. The student is considered a general education student with a required individualized plan.

g. Mentally Impaired

(The following definition and eligibility criteria remain effective until June 30, 1996.)

A. Mental impairments are evidenced by significantly subaverage general intellectual functioning resulting in or associated with impairments in adaptive behavior and manifested during the developmental period.

(a) The term "mildly mentally impaired" refers to those students who require specially designed instruction in basic academic and practical skills in order to develop adequate social, personal and vocational competence sufficient for self-maintenance.

(b) The term "moderately mentally impaired" refers to those students who require special instruction in basic communication, sensorimotor, self-help, and independent-living skills and vocational training in order to function in employment/supported employment and community living/supervised community living.

(c) The term "severely mentally impaired" refers to those students who require systematic instruction in self-help skills and routines in order to function in society with assistance in all areas, including the possibility of functioning in specially-designed work settings. Medical, health and dysfunctional behaviors are prevalent with these students.

(d) The term "profoundly mentally impaired" refers to those students who have extremely limited capabilities in all areas of development and who are totally dependent on society.

B. Documentation will assure that a mildly mentally impaired student meets all of the following criteria:

(a) general intellectual functioning between minus two (2) and minus three (3) standard deviations with consideration of 1.0 standard error of measurement at the 68% confidence interval;

(b) levels of adaptive behavior between minus two (2) and minus three (3) standard deviations in one or more of the following areas: motor development, self-help skills, social/emotional functioning or communication;

(c) levels of achievement at or below minus two (2) standard deviations in one or more of the following academic areas: reading recognition, reading comprehension, math computation, math reasoning, spelling or written expression; and

(d) educational performance is adversely affected.

C. Documentation will assure that a moderately mentally impaired student meets all of the following criteria:

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(a) general intellectual functioning between minus three (3) and minus four (4) standard deviations with consideration of 1.0 standard error of measurement at the 68% confidence interval;

(b) levels of adaptive behavior at or below minus three (3) standard deviations in one or more of the following areas: motor development, self-help skills, social/emotional functioning or communication; and

(c) educational performance is adversely affected.

(d) documentation will assure that a severely mentally impaired student meets all of the following criteria:

(A) general intellectual functioning between minus four (4) and minus five (5) standard deviations with consideration of 1.0 standard error of measurement at the 68% confidence interval;

(B) developmental functioning at or below 50% of the normal rate or level of development in two (2) or more of the following areas: sensorimotor development, communication, social/emotional functioning or self-help skills; and

(C) educational performance is adversely affected.

(e) Documentation will assure that a profoundly mentally impaired student meets all of the following criteria:

(A) developmental functioning at or below 25% of the normal rate or level of development in two (2) or more of the areas of 1) cognition, 2) sensorimotor development, 3) communication, 4) social/emotional functioning and 5) self-help skills; and

(B) educational performance is adversely affected.

(The following definition and eligibility criteria will become effective until July 1, 1996.)

a. Mental impairments are substantial limitations in present functioning characterized by significantly subaverage intellectual functioning existing concurrently with related limitations in two or more of the following applicable adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure, and work. Mental impairments manifest before age 18.

b. Documentation that the student meets all of the following:

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- 1) general intellectual functioning level is approximately 70 to 75 or below on scales with a mean of 100 and standard deviation of 15;
- 2) related limitations in two or more adaptive skill areas substantially below the average level of functioning; and
- 3) age of onset is 18 or below

h. Orthopedically Impaired

A. Orthopedic impairments are severe physical conditions which adversely affect the student's educational performance. The term includes: disabilities caused by congenital anomaly (e.g., spina bifida, congenital amputation, and osteogenesis imperfecta), disabilities caused by disease (e.g., osteomyelitis, poliomyelitis, arthritis), and disabilities from other causes (e.g., amputation, cerebral palsy, dystrophies and atrophies, and conditions which cause contracture).

B. Documentation of both of the following:

- (a) a physical disability as diagnosed and described by a licensed physician; and
- (b) the existence of learning and/or behavior problems as a result of the physical disability or health condition.

i. Other Health Impaired

A. Other health impairments are disabilities of limited strength, vitality, or alertness due to chronic or acute health problems such as heart condition, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, cancer or diabetes that adversely affect the student's educational performance.

B. Documentation of both of the following:

- (a) a chronic or acute medical or health condition as diagnosed and described by a licensed physician; and
- (b) learning and/or behavior problems existing as a result of the medical or health condition.

j. Preschool Special Needs

A. Preschool special needs are developmental delays in two (2) or more of the following areas: cognition, fine motor, gross motor, communication, social/emotional/affective development, self-help or one or more of the disabilities as defined in this section, except specific learning disabilities, are manifested in children ages 3-5.

B. Documentation of the following:

(a) is functioning at, or lower than, 75% of the normal rate of development in two (2) or more of the following areas: cognition, fine motor, gross motor, communication, social/emotional/affective development, self-help skills, or

(b) meets eligibility criteria for one or more of the disabilities as defined in this section, except specific learning disabilities.

C. Special Considerations:

(a) Special education and related services for the eligible preschool child shall be provided as of the child's third birthday.

(b) For a child transitioning from a Part H early intervention program, an interagency transition plan must be developed to assure that when a child turns three (3) years of age either an IEP or Individual Family Service Plan (IFSP) has been developed and implemented by the local educational agency.

(c) For a child who turns three (3) in the spring/summer, continuation of IEP services by the Part H program until the beginning of the school year is permissible.

(d) If appropriate, a child who turn three (3) years old in the fall may begin Part B services under the local educational agency at the beginning of the school year preceding the third birthday.

k. Specific Learning Disabilities

A. Specific learning disabilities are a heterogenous group of disorders manifested by significant deficits in the acquisition and use of listening, speaking, reading, writing, reasoning, or mathematical abilities. Specific learning disabilities are intrinsic to the individual and may be present across the life span. Although specific learning disabilities may occur with other disabilities (for example, sensory impairments or behavior disorders), or with extrinsic influences (such as cultural differences, insufficient or inappropriate instruction), specific learning disabilities are not the result of these disabilities or influences. Deficits in attention, self-regulatory behaviors, social perception, and social interaction may also exist but do not by themselves constitute a specific learning disability.

B. Documentation of all of the following:

(a) General intellectual functioning at or above one standard deviation below the mean, in consideration of 1.0 standard error of measurement;

(b) A severe discrepancy between achievement and intellectual ability in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, mathematics calculation, or mathematics reasoning.

(A) The discrepancy shall be determined by a comparison of age-based standard scores of ability and achievement. A regression formula shall be used to determine the severity of the discrepancy. A severe discrepancy is defined as a minimum of 1.75 standard deviations difference, taking regression and 1.0 standard error of measurement into account.

(B) A method utilizing the standard error of the difference scores shall be used only if the technical data (i. e., test correlations) necessary to account for the effects of regression are not available.

(C) A severe discrepancy between ability and achievement that is NOT primarily the result of:

1. a sensory or motor disability,
2. a mental impairment,
3. a behavior disorder,
4. environmental or cultural differences or economic disadvantage as determined by comparing the student to other students in a similar situation (e. g., the same geographical area, similar socio-economic status, etc.); or
5. insufficient or inappropriate instruction.

C. Special Considerations:

(a) When a student is suspected of being learning disabled, the multidisciplinary evaluation team must also complete a team report that includes:

- (b) whether a student has a specific learning disability;
 - (A) the basis for making the determination;
 - (B) the relevant behavior noted during the

classroom observation of the student;

academic functioning;

- (C) the relationship of that behavior to the student's

any;

- (D) the educationally relevant medical findings, if

(E) whether there is a severe discrepancy between achievement and ability which is not correctable without special education and related services;

(F) determination concerning the effects of environmental or cultural difference or economic disadvantage;

(G) written certification by each team member as to whether the report reflects her or his conclusions. If the report does not reflect her or his conclusions, the team member must submit a separate statement presenting those conclusions.

(c) The EC, on the basis of all evaluation data, may determine that a student is eligible for special education services when a valid determination of general intellectual functioning and/or a severe discrepancy cannot be obtained due to special considerations. The specific information regarding the criterion in question which supports the decision shall also be documented on the Specific Learning Disabilities Team Report.

I. Speech/Language Impairments

A. A speech/language impairment is a communication disorder such as stuttering (fluency), a language impairment, impaired articulation, or voice disorder that adversely affects a student's educational performance.

B. Documentation will assure that a student exhibits one or more of the following communication disorders:

(a) Language - A student exhibits a language disorder when:

(A) language abilities are significantly below expected language performance for the students' chronological age, cognitive stage of development, gender or cultural/social background; and

(B) a language quotient (LQ) of 77 or less and/or at least 1.5 standard deviation (SD) below the mean, or a significant discrepancy between language and nonverbal reasoning.

(b) Articulation - A student exhibits an articulation disorder when:

(A) reduced intelligibility due to speech sound errors are below the expected performance levels for the student's chronological age, cognitive stage of development, gender, or cultural/social background; and

(B) application of developmental norms and severity ratings from diagnostic tests verify speech sounds which may not develop without intervention.

(c) Fluency - A student exhibits a fluency disorder when:
(A) the presence of interruptions or dysfluencies in one or more speaking situations are inconsistent with normal patterns of fluency; and

(B) interpretation of evaluation data verifies the existence of a dysfluency disorder.

(d) Voice - A student exhibits a voice disorder when:

(A) disorder(s) in pitch, loudness or quality exist;
and

(B) the existence or absence of a structural or functional pathology is verified by an otolaryngologist.

(C) Special Considerations:

(A) Lack of discrepancy between cognitive level (i. e., mental age) and communication performance (i. e., language age) shall not be the sole factor to determine a severely speech and language disordered student's eligibility for services. Other

factors which must be considered are informal evaluation results, physical ability, educational and therapy history. _

(B) A student's eligibility for speech and language services cannot be determined on the basis of having a primary language other than English or a language difference. Appropriate evaluation must verify the presence of a disorder in the primary and/or all languages spoken.

(C) Eligibility of preschool children shall be based on developmental norms for communication.

m. Traumatic Brain Injury

A. Traumatic brain injury is an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory/perceptual/motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

B. Documentation of all of the following criteria:

- (a) an injury to the brain caused by a physical force or internal occurrence has been diagnosed by a licensed physician or neuropsychologist; and
- (b) the existence of cognitive, language, behavior, executive skills and/or motor problems as a result of the injury.

§126-16-5. Individualized Education Program Process.

5.1 Policy Statement: Each public agency shall initiate and conduct meetings for the purpose of developing, reviewing and, if appropriate, revising the Individualized Education Program (IEP) for an exceptional student at least once a year. Specific methods for conducting these activities shall be stated in each public agency's policies and procedures.

5.1.1. Individualized Education Program Committee Timelines

a. The Individualized Education Program (IEP) Committee shall be convened to develop a written IEP within thirty (30) calendar days of the determination of eligibility and prior to the initiation of services.

5.1.2. Individualized Education Program Committee Membership

a. General - The public agency shall establish an IEP Committee which shall include the following participants:

- A. a representative of the public agency, other than the student's teacher, who is qualified to provide, or supervise the provision of, special education;
- B. one or more of the student's current teacher (s), including the referring and, when entitled, the receiving regular education teachers;
- C. the student's parent(s);
- D. the student, if appropriate; and,
- E. other individuals, at the discretion of the parent(s) or agency.

b. Initial Evaluation - For an initial evaluation, the IEP Committee shall also include:

- A. a member of the multidisciplinary evaluation team; or
- B. a representative of the public agency, the student's teacher, or some other person who is knowledgeable about the evaluation procedures used with the student and is familiar with the results of the evaluation.

c. Adolescent Transition - When considering transition services for a student with disabilities, beginning no later than age 14 (or younger, if determined appropriate), the public agency shall also invite:

- A. the student;
- B. person(s) responsible and/or knowledgeable of the vocational education program options and requirements, if the student is being considered for vocational education; and,
- C. a representative of any other agency that is likely to be responsible for providing or paying for the provision of transition services.

D. Private/Parochial Schools - When considering services for a student in a private/parochial school, the public agency shall include on the IEP Committee:

(a) a representative of the private/parochial school, if the student is enrolled in the private/parochial school and receives special education and related services from the public agency; or

(b) a representative of a private school or facility, if placement in the private school or facility for special education and related services is being considered or being utilized.

5.1.3. Individualized Education Program Content

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a. The IEP for each student shall include:

A. a statement of the student's present levels of educational performance which show a direct relationship to the other components of the IEP;

B. a statement of annual goals, including short term instructional objectives, which show a direct relationship to the present levels of educational performance;

C. a statement of the specific special education and related services to be provided to the student with projected dates for the initiation of services and the duration of the services;

D. a statement of the extent to which the student will be able to participate in regular educational programs including a description of the modifications (supplementary aids and services) necessary to ensure the student's participation in the regular education program;

E. appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved; and,

F. a statement delineating extended school year services as specified in 5.1.4.e. of this section.

b. The IEP for a gifted student shall also include acceleration and/or the effects of acceleration on the student's graduation.

c. The IEP for a blind or partially sighted student shall also include ways that the use of braille will be appropriately integrated in the student's classes and school activities, or justification for not recommending the reading and writing of braille.

d. The IEP for a student beginning no later than age 14 (or younger, if determined appropriate) shall also include:

A. a statement of the needed transition services based on the individual student's needs, taking into account the student's preferences and interests, in the following areas:

(a) instruction;

(b) community experiences;

(c) the development of employment and other post-school

adult living objectives; and

(d) if appropriate, acquisition of daily living skills and

functional vocational evaluation.

B. if appropriate, a statement of each public agency's and each participating agency's responsibilities for linkages or both, before the student leaves the school setting; and/or

C. if the IEP Committee determines that services are not needed in one or more areas specified in A. a-d, the IEP must include a statement to that effect and the basis upon which the determination was made.

D. The IEP for a student requiring assistive technology services and/or devices shall also include a specific statement of such services, including the nature and amount of such services and provision for home use, if determined appropriate by the IEP Committee.

5.1.4. Individualized Education Program Committee Responsibilities

a. If additional evaluation is necessary, the IEP Committee shall refer the student for additional evaluation and may continue to develop the components of the IEP for which evaluation information is available.

b. The IEP Committee shall assure that:

A. to the maximum extent appropriate exceptional students, including students in public or private institutions or other care facilities, are educated with other students who are non-exceptional;

B. the removal from the regular educational environment occurs only when the nature or severity of the exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily or for gifted students, content pacing and peer group interaction with the use of curriculum and grouping modifications within the regular class cannot be achieved sufficiently; and

C. the reasons for any removal of an exceptional student from the regular educational environment are documented.

c. The student's placement shall be documented as one of the following placement options:

A. Regular Education: Full-Time--wherein the student's specially designed instruction and related services are delivered with nonexceptional individuals outside regular education classes or integrated community settings for less than 21% of the school day. This may include students placed in:

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provided within regular class,
with special education/related services provided outside regular class, or
a resource room.

- regular class with special education/related services
- regular class with instruction within the regular class and with special education/related services provided outside regular class, or
- regular class with special education services provided in a resource room.

B. Regular Education: Part-time-- wherein the student's specially designed instruction and related services are delivered with nonexceptional individuals outside regular education classes or integrated community settings for at least 21% but no more than 60% of the school day. This may include students placed in:

provided within the resource room, or
class.

- resource rooms with special education/related services
- resource rooms with part-time instruction in a regular class.

C. Special Education: Separate Class-- wherein the student's specially designed instruction and related services are delivered outside regular classes or integrated community settings for more than 60% of the school day. This may include students placed in:

a regular class, or
campus.

- separate special classrooms with part-time instruction in a regular class, or
- separate special classrooms full-time on a regular school campus.

D. Special Education: Special School-- wherein the student's specially designed instruction and related services are delivered in a special school that serves only exceptional students for more than 50% of the student's instructional day.

E. Special Education: Out-of-School Environment-- wherein the student's specially designed instruction and related services are temporarily delivered in a nonschool environment, such as a public library, group home or mental health center.

F. Special Education: Residential Facility --wherein the student's specially designed instruction and related services are delivered in a facility which provides twenty-four (24) hour care and supervision.

d. The IEP Committee shall assure that the educational placement of each exceptional student:

- A. is determined at least annually;
- B. is based on the student's written IEP;

C. is in the student's home school, unless the student's IEP requires some other arrangements;

D. is as close as possible to the student's home;

E. is made in consideration of any potential harmful effect on the student or on the quality of services that the student needs;

F. provides for participation with nonexceptional students in nonacademic and extracurricular services and activities to the maximum extent appropriate to the needs of the student; and,

G. is appropriate to meet the individual needs of the student and not based on any of the following:

- (a) category of exceptionality;
- (b) availability of special education placement options;
- (c) availability of educational or related services;
- (d) availability of staff;
- (e) availability of space; and
- (f) curriculum content or methods of curricular delivery.

e. The IEP Committee shall annually determine and document a student's need for extended school year services in accordance with the following:

A. Students with disabilities entitled to extended school year (ESY) services are those who require special education and related services in excess of the regular school year to maintain identified critical skills as described in the current IEP.

B. Documentation that a student meets the local educational agency's criteria for determining whether the student:

- (a) exhibits, or may exhibit, regression during an interruption in educational programming;
- (b) exhibits, or may exhibit, a limited ability to recoup, or relearn skills, once programming has resumed; and,
- (c) exhibits regression/recoupment problem(s) that interfere with the maintenance of identified critical skills as described in the current IEP.

C. The lack of clear evidence of such factors may not be used to deny a student extended school year services, if the IEP Committee determines the need for such services and includes ESY in the IEP.

D. The ESY services shall consist of activities developed to maintain skills identified on the IEP developed for the academic year.

(a) The IEP Committee shall document the duration, number of hours per week, and physical location of the special education and related services to be delivered.

(b) The type and length of the program which the student requires is determined on an individual basis by the IEP Committee.

(c) ESY services for a student with disabilities do not have to be comparable to the program previously provided during the academic year.

E. Students are not automatically excluded from consideration for ESY services because of the category of disability or the type of special education instruction that they require during the summer to receive a free appropriate public education.

F. Annually inform parents of students with disabilities of the availability of extended year programming and the procedures and criteria for determining a student's need for ESY services, and of their right to refuse extended year services.

§126-16-6. Administration of Services.

6.1. Policy Statement: Each public agency shall provide the special education and related services necessary to implement each student's Individualized Education Program (IEP). Specific methods for providing the services, including the accurate collection and reporting of student data, shall be stated in each public agency's policies and procedures.

6.1.1. Initiation of Services

a. A complete IEP shall be in effect prior to the provision of special education and related services.

b. Services shall be implemented as soon as possible following the completion of the IEP.

c. Short delays in the immediate initiation of services can occur when IEP Committee meetings are held during the summer or a vacation period, or when arrangements for services, such as transportation, must be made.

d. A current IEP shall be in effect at the beginning of each school year for each exceptional student receiving special education and related services.

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6.1.2. Provision of Staff

a. Each public agency shall provide qualified personnel with the training and skills necessary to implement the IEP of each student assigned to them.

b. Professional special education personnel shall meet minimum certification standards for the area(s) of exceptionality(ies) in which they have primary responsibility for the provision of related and/or instructional services.

c. Service personnel shall be appropriately trained and supervised by qualified professionals.

6.1.3. Provision of Services

a. Students with exceptionalities shall be provided services in settings that serve age-appropriate nonexceptional peers.

b. Appropriate grouping of students with exceptionalities for specially designed instruction must be based upon meeting the students' similar social, functional and/or academic needs, as specified in their IEPs.

6.1.4. Caseloads

a. The maximum caseload for teachers providing special education services for students with behavior disorders, mental impairments, orthopedic impairments, and specific learning disabilities are as follows:

A. Regular Education: Full-time

Assign no more than 40 exceptional students (unduplicated) who are placed in Regular Education: Full-time to a teacher providing consultative services. A teacher providing consultative services may serve additional exceptional students (duplicated), but the maximum number served shall not exceed a total of 45 students.

B. Regular Education: Part-time

Assign no more than 30 students (unduplicated) who are placed in Regular Education: Part-time to a teacher providing services. A teacher providing services can serve additional exceptional students (duplicated), but the maximum number served shall not exceed a total of 35 students. The caseload during any one instructional period for a teacher providing services shall not exceed eight (8) students at the early childhood education level (ECE) or ten (10) students at the middle childhood (MCE) and adolescent education (AE) levels.

C. Special Education: Separate Class

The caseloads for teachers providing instructional services to exceptional student who are served in regular education for 40% or less of the instructional day are specified in the program area sections in these regulations for each exceptionality.

D. Caseloads for special education teachers assigned to provide a combination of consultative, supplementary and separate class services shall be determined on a percentage basis.

E. When students from more than one programmatic level are served together in one instructional period, the maximum class size shall be that of the programmatic level of the youngest student(s) served.

b. The maximum caseloads for teachers providing special education services for students with autism, blind and partial sight, deafness-blindness, deafness and other hearing impairments, giftedness, other health impairments, preschool special needs, speech/language impairments, and traumatic brain injuries placed in Regular Education: Full-time or Regular Education: Part-time are as follows:

A. Autism

(a) Regular Education: Full-time - Assign no more than 20 students

(b) Regular Education: Part-time - Assign no more than ten (10) students with a limit of six (6) during any one instructional period.

(c) Special Education: Separate Class - Assign no more than four (4) students with autism. An aide shall be assigned on the basis of student needs.

B. Behavior Disorders

(a) Special Education: Separate Class -
(A) Assign no more than four (4) students without a full-time aide with a limit of four (4) during any one instructional period.

(B) Assign no more than eight (8) students with a full-time aide with a limit of eight (8) during any one instructional period.

C. Blind and Partially Sighted

(a) Regular Education: Full-time - Assign no more than 30 students.

(b) Regular Education: Part-time -Assign no more than 15 students with a limit of five (5) during any one instructional period.

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- (c) Special Education: Separate Class
 - (A) Assign no more than five (5) students without a full-time aide with a limit of five (5) during any one instructional period.
 - (B) Assign no more than ten (10) students with a full-time aide with a limit of ten (10) during any one instructional period.

D. Deaf-Blind

- (a) Regular Education: Full-time - Assign no more than 20 students.
- (b) Regular Education: Part-time - Assign no more than ten (10) students with a limit of five (5) during any one instructional period.

E. Deaf and Hard of Hearing

- (a) Regular Education: Full-time - Assign no more than 30 students.
- (b) Regular Education: Part-time - Assign no more than 15 students with a limit of five (5) during any one instructional period.
- (c) Special Education: Special Class
 - (A) Assign no more than five (5) students without a full-time aide with a limit of five (5) during any one instructional period.
 - (B) Assign no more than ten (10) students with a full-time aide with a limit of ten (10) during any one instructional period.

F. Gifted

- (a) Regular Education: Full-time - Assign no more than 45 students.
- (b) Regular Education: Part-time
 - (A) Assign no more than 40 students.
 - (B) Assign no more than 15 students during any one instructional period.
- (c) Special Education: Separate Class - Assign no more than 15 students with a limit of 15 during any one instructional period.

G. Mentally Impaired

- (a) Special Education: Separate Class
 - (A) Assign no more than eight (8) mildly mentally impaired students without a full-time aide with a limit of eight (8) during any one instructional period.

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(B) Assign no more than 12 mildly mentally impaired students with a full-time aide with a limit of 12 during any one instructional period.

(C) Assign no more than five (5) moderately mentally impaired students without a full-time aide with a limit of five (5) during any one instructional period.

(D) Assign no more than 12 moderately mentally impaired students with a full-time aide with a limit of 12 during any one instructional period.

(E) Assign no more than six (6) mildly or moderately mentally impaired students to a combination program without a full-time aide with a limit of six (6) during any one instructional period.

(F) Assign no more than eight (8) moderately or severely mentally impaired students to a combination program with a full-time aide with a limit of eight (8) during any one instructional period.

(G) Assign no more than six (6) severely mentally impaired students with a full-time aide with a limit of six (6) during any one instructional period.

(H) Assign no more than nine (9) severely mentally impaired students with two full-time aides with a limit of nine (9) during any one instructional period.

(I) Assign no more than six (6) profoundly mentally impaired students with a full-time aide with a limit of six (6) during any one instructional period.

(J) Assign no more than nine (9) profoundly mentally impaired students with two full-time aides with a limit of nine (9) during any one instructional period.

(b) Instructional Assistance - In a severely or profoundly mentally impaired separate class of three (3) or less students, an aide shall be assigned on the basis of student needs.

(c) Combination Program - A combination program for students with different levels of severity (e.g. severe-profound, moderate-severe) may be used. Academic, self-care, affective, communication and sensorimotor needs of these students must be similar.

H. Orthopedically Impaired

(a) Special Education: Separate Class

(A) Assign no more than ten (10) students with a full-time aide with limit of ten (10) during any one instructional period.

(B) In a separate class of three (3) or less students with orthopedic impairments, an aide shall be assigned on the basis of student needs.

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I. Other Health Impaired

Students identified as other health impaired shall be assigned to and served by personnel who have the training necessary to implement the student's IEP.

J. Preschool Special Needs

(a) Time Allocations - Special education and related services for eligible preschool special needs children shall be provided on a regular basis as follows:

(A) Family Consultation - a minimum of one hour per week which includes direct instruction with the child and family and/or consultative services with the family.

(B) Center -Based Programs (REFT, REPT, Separate Class) - a minimum of twelve (12) hours per week as follows:

1. Regular Education: Full-time - Regular instruction in community based and/or regular education program(s) occurs with consultation/implementation of modifications to the regular program provided by special education personnel in accordance with the child's IEP.

2. Regular Education: Part-time - Regular instruction in community based and/or regular education program(s) occurs 40% or more of the child's total instructional time with supplemental services provided by special education personnel in accordance with the child's.

3. Special Education Program: Separate Class - Special education and related services are provided by special education personnel in accordance with the child's IEP for 60% or more of the child's total instructional time.

(C) Combination Center-Based/Family Consultation Program - a minimum of twelve (12) hours per week separate class instruction with time allocations for family consultation services as determined by the IEP Committee.

(b) Caseloads

(A) Family Consultation - Assign no more than 15 children.

(B) Center-Based Programs

1. Regular Education: Full-time - Assign no more than 20 children.

2. Regular Education: Part-time - Assign no more than 15 children.

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3. Special Education Program:

Separate Class -

- Assign no more than eight (8) eligible children per session with an aide for a maximum caseload of sixteen (16).

- Assign no more than ten (10) eligible children per session with two (2) aides for a maximum caseload of twenty (20).

(C) Combination Center-Based/Family

Consultation Program

1. Assign no more than eight (8) children per session with an aide for a maximum caseload of sixteen (16).

2. Assign no more than ten (10) children per session with two (2) aides for a maximum caseload of twenty (20).

K. Specific Learning Disabilities

(a) Special Education: Separate Class

(A) Assign no more than eight (8) students without a full-time aide with a limit of eight (8) during any one instructional period.

(B) Assign no more than 12 students with a full-time aide with a limit of 12 during any one instructional period.

L. Speech/Language Impairments

(a) Regular Education: Full-time - Assign no more than 50 students without an aide.

(b) Regular Education: Part-time -

(A) Assign no more than 50 students for those receiving services less than five hours per week with a limit of five (5) during a session.

(B) The caseload during any one instructional period for a therapist providing supplementary services shall not exceed eight (8) students at early childhood education level (ECE) or ten (10) students at the middle childhood (MCE) and adolescent education (AE) levels.

(c) Special Education: Separate Class

(A) Assign no more than ten (10) students without an aide with a limit of ten (10) during any one instructional period.

(B) Assign no more than 12 students with a full-time aide with a limit of 12 during any one instructional period.

(Special Education: Separate Class is a program delivery option for severely or multiply communicatively impaired students and those who exhibit normal potential in performance areas but severe language deficits. Application shall be made to the State Department of Education for approval of individual programs.)

M. Traumatic Brain Injuries

Students identified as having traumatic brain injuries shall be assigned to and served by personnel who have the training necessary to implement the students' IEPs.

6.1.5. Other Schooling

a. Out-of-State Placement

A. Prior to placing a student in a private school or facility outside of West Virginia, the public agency shall document:

(a) a free appropriate public education cannot be provided within the county, within the region, or within the state, and that those determinations are justified;

(b) more than one private school or facility was investigated in regard to the feasibility of providing services;

(c) the selected private school or facility has approved status in the state in which it is located, and assurances were provided that the school or facility meets the requirements of the IDEA, as amended;

(d) a current and complete IEP has been developed;

(e) a current signed contract between the public agency and the private school or facility exists; and

(f) a written plan, including timelines, for developing an appropriate program within the county or in cooperation with others in the region or state has been developed and that the plan has been approved by the county superintendent of schools.

b. Private /Parochial School or Facility Placement

A. Before a public agency places a student with a disability in, or refers a student to, a private school or facility the public agency shall:

(a) initiate and conduct a meeting to develop an IEP for the student; and

(b) ensure that a representative of the private school or facility attends the meeting; or

(c) use other methods to ensure participation by the private school or facility, including individual or conference telephone call if the representative cannot attend.

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B. If a student with a disability is enrolled in a parochial or other private school and receives special education and related services from a public agency, the public agency shall:

- (a) initiate and conduct meetings to develop, review, and revise an IEP for the student; and
- (b) ensure that a representative of the parochial or other private school attends the meeting; or
- (c) use other methods to ensure participation by the private school, including individual or conference telephone calls if the representative cannot attend.

C. Even if a private school or facility implements a student's IEP, responsibility for compliance with Part B of the IDEA remains with the public agency and the state education agency.

c. Home/Hospital Instruction

A. Home/hospital instruction shall be provided to exceptional students who, due to injury, noncommunicable illness or a health condition, are unable to attend school for more than three (3) weeks, cumulatively as diagnosed and confirmed by a licensed physician.

B. The public agency shall obtain from a licensed physician a written statement indicating:

- (1) the reasons why the student must remain at home or in the hospital, and
- (2) the condition under which the student can return to school with the expected date of such return.

C. The public agency may request that the parents obtain a second physician's opinion at the expense of the county school district.

D. Home/hospital instruction is an extension of the IEP.

E. The schedule of instruction shall be established by the teacher, the parent(s) and, when appropriate, a public agency representative.

F. For exceptional students placed on extended home instruction, the public agency shall obtain a licensed physician's statement of need for continued home/hospital instruction when the term of such instruction reaches six (6) months in length.

§126-16-7.0. Discipline.

7.1 Policy Statement: Each public agency shall: 1) protect the rights of an eligible student with a disability whenever suspension from school is considered as disciplinary action; 2) design and/or use nonaversive behavioral strategies; and 3) provide instruction/interventions to assist the student to function as independently as possible in integrated settings. Specific methods for implementing these requirements shall be stated in each public agency's policies and procedures.

7.1.1. Temporary removal

a. A student with a disability may be temporarily removed from school, despite a causal relationship between the student's disability and the misconduct, for his or her own protection, the protection of school personnel, or the protection of other pupils.

b. Temporary removal may be administered for up to three consecutive school days or ten cumulative school days per year.

7.1.2. Suspension/Expulsion

a. A student with a disability may be temporarily removed, suspended or expelled for a period in excess of three consecutive school days or ten cumulative school days, **only** when such student has committed an act involving the possession of a firearm.

b. When a firearm is involved an IEP Committee must be convened to determine the alternative educational setting for a period of not more than forty-five school days. If the parent contests the change in placement, the "stay put" process of IDEA is waived and the student remains in the alternative setting for up to forty-five (45) school days.

c. Prior to or during the forty-five school days, an IEP Committee must convene to determine if there is a causal relationship between the student's disability and the possession of a firearm. If a causal relationship does not exist, then the student may be expelled for twelve (12) consecutive months.

d. Special education and related services must be provided during the expulsion.

§126-16-8.0. Procedural Safeguards.

8.1. Policy Statement: Each public agency shall protect the rights of each exceptional student and her or his parents, with respect to the provision of a free appropriate public education. Specific methods for addressing these requirements shall be stated in each agency's policies and procedures.

8.1.1. Prior Notice; Content of Notice.

a. Written notice must be given to the parents of an exceptional student within a reasonable time before the public agency:

A. proposes to initiate or change the identification, evaluation or educational placement of the student or the provision of a free appropriate public education to the student; or

B. refuses to initiate or change the identification, evaluation or educational placement of the student or the provision of a free appropriate public education to the student.

b. The notice must include:

A. a full explanation of all of the procedural safeguards available to the parents;

B. a description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, and a description of any options the public agency considered and the reasons why those options were rejected;

C. a description of each evaluation procedure, test, record or report the public agency uses as a basis for the proposal or refusal; and

D. a description of any other factors which are relevant to the public agency's proposal or refusal.

c. The notice must be:

A. written in language understandable to the general public; and

B. provided in the native language of the parent or other mode of communication used by the parent, unless it clearly is not feasible to do so.

d. If the native language or other mode of communication of the parent is not a written language, the public agency shall take steps to assure:

A. that the notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

B. that the parent understands that content of the notice; and

C. that there is written evidence that the above requirements have been met.

8.1.2. Parental Consent

a. Parental consent must be obtained before:

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- A. conducting a preplacement evaluation; and
- B. initial placement of an exceptional student in a program providing special education and related services.

b. Except for preplacement evaluation and initial placement, consent shall not be required as a condition of any benefit to the parent or student.

c. The public agency shall use the impartial due process hearing procedures to determine if the student may be assessed or initially provided special education and related services without parental consent. If the hearing officer upholds the public agency, the public agency may evaluate or initially provide special education and related services subject to the parent's rights to appeal the hearing decision through civil action

8.1.3. Surrogate Parents

a. Each public agency shall assure that the rights of a student are protected when:

- A. no parent can be identified;
- B. the public agency cannot determine the whereabouts of a parent; or
- C. the student is a ward of the state under the West Virginia Statutes.

b. The duty of a public agency includes the assignment of an individual to act as a surrogate for the student.

c. Public agencies shall assure that a person selected as a surrogate has no interest that conflicts with the interests of the student represented and has knowledge and skills that assure adequate representation of the student.

d. A person assigned as a surrogate may not be an employee of a public agency which is involved in the education or care of the student. A person who otherwise qualifies to be a surrogate parent is not an employee of the public agency solely because he or she is paid by the public agency to serve as a surrogate parent.

e. The surrogate parent may represent the student in all matters related to:

- A. the identification, evaluation and educational placement of the student; and,
- B. the provision of a free appropriate public education to the student through the development and implementation of the IEP.

8.1.4. Parental Participation - To assure parental participation in the special education process, the public agency shall:

a. provide written notification to the student's parent(s) of the EC meeting and afford the parents the opportunity to participate in the meeting. The written notice must include the purpose, time and location of the meeting, and a full explanation of all the procedural safeguards available to the parents;

b. provide written notification to the student's parent(s) of the IEP Committee meeting and afford the parents the opportunity to participate in the meeting;

A. Each public agency shall take steps to assure that one or both of the parents of the exceptional student are present at each meeting and are afforded the opportunity to participate, including:

(a) notifying parents of the meeting early enough to assure that they will have the opportunity to attend; and

(b) scheduling the meeting at a mutually agreed on time and place.

B. The written notice must include the purpose, time, and location of the meeting, who will be in attendance and a full explanation of all the procedural safeguards available to the parents.

C. If a purpose of the meeting is also the consideration of adolescent transition services for the student, the written notice must also:

(a) indicate this purpose;

(b) indicate that the agency will invite the student; and,

(c) identify any other agency that will be invited to send a representative.

c. take whatever action is necessary to insure that the parent understands the proceedings at a meeting including arranging for an interpreter for parents who are deaf or whose native language is other than English;

d. conduct the IEP Committee meeting without a parent in attendance only when the public agency has documentation that other methods of assuring parent participation, such as correspondence, telephone calls, and visits to the parents' home have been attempted.

A. If neither parent can attend, the public agency shall use other methods to insure parent participation, including individual or conference telephone calls.

B. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must have a record of its attempts to arrange a mutually agreed on time and place such as:

and the results of those calls;

(a) detailed records of telephone calls made or attempted

responses received; and/or

(b) copies of correspondence sent to the parents and any

results of those visits.

(c) detailed records of visits made with the parents and the

e. use other methods, including individual or conference telephone calls, to insure participation of a representative of a private school or facility when it is appropriate for a representative to participate but one cannot be in attendance;

f. obtain written parental consent for initial placement in special education or implement the due process hearing procedures to obtain consent; and

g. provide the parent a copy of the IEP, upon request.

8.1.5. Evaluation

a. Implement the following procedures to protect each student in the selection, administration and interpretation of evaluation procedures and instruments:

A. select and administer testing and evaluation materials and procedures so as not to be racially or culturally discriminatory;

B. administer evaluations in the student's native language or other mode of communication unless it clearly is not feasible to do so;

C. use formal evaluation instruments/procedures for the specific purpose for which they have been validated;

D. use no single procedure as the sole criterion for determining an appropriate educational program for a student;

E. administer the tests and other evaluation materials in conformance with the instructions provided by their publisher;

F. include tests and other evaluation materials tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and

G. select and administer tests and other materials so as to assure that when a test is administered to a student with impaired sensory, manual or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual or speaking skills except where those skills are the factors which the test purports to measure.

b. Conduct a full and individual evaluation of a student's educational needs according to 8.1.5.a.A-G (above) prior to any action regarding initial placement of an exceptional student in a special education program.

8.1.6. Independent Education Evaluation

a. The parents of an exceptional student have the right to obtain an independent educational evaluation of the student. Each public agency shall provide to parents, on request, information about where an independent educational evaluation may be obtained.

b. A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency. However, the public agency may initiate an impartial due process hearing to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation but not at public expense.

c. If the parent obtains an independent educational evaluation at private expense the results of the evaluation:

A. must be considered by the public agency in any decision made with respect to the provision of a free appropriate public education to the student; and

B. may be presented as evidence at a due process hearing regarding that student.

d. If a hearing officer requests an independent educational evaluation as part of a due process hearing, the cost of the evaluation must be at public expense.

e. Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the evaluator(s), must be the same as the criteria which the public agency uses when it initiates an evaluation.

8.1.7. Agency Responsibilities for Transition Services

- a. If the student does not attend the IEP meeting, the public agency shall take other steps to ensure that the student's preferences and interests are considered.
- b. If an agency invited to send a representative to a meeting does not do so, the public agency shall take other steps to obtain the participation of the other agency in the planning of any transition services.
- c. If a participating agency fails to provide agreed upon transition services contained in the IEP, the public agency responsible for the student's education shall, as soon as possible, initiate a meeting for the purpose of identifying alternative strategies to meet the transition objectives and, if necessary, revising the student's IEP.
- d. Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

8.1.8. Opportunity to Examine Records -

- a. The parents of an exceptional student shall be afforded an opportunity to inspect and review all education records with respect to:
 - A. the identification, evaluation and educational placement of the student; and
 - B. the provision of a free appropriate public education to the student through the development and implementation of an IEP.
- b. The public agency shall comply with a request without unnecessary delay and before any meeting regarding an IEP or any hearing relating to the identification, evaluation or educational placement of the student, or the provision of FAPE to the student, and in no case more than 45 calendar days after the request has been made.
- c. The public agency shall inform parents when personally identifiable information collected, maintained or used is no longer needed to provide educational services to the student. The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitations.

8.1.9. Impartial Due Process Hearings

a. A parent or a public agency may initiate a hearing relevant to the proposal or refusal to initiate or change the identification, evaluation or educational placement of the student or the provision of a free appropriate public education by submitting a written request for a due process hearing to the West Virginia Department of Education and/or the superintendent of the public agency.

b. Public agencies shall:

A. provide information to parents relevant to submitting written requests for due process hearings; or

B. forward any written requests received for due process hearings to the West Virginia Department of Education within five (5) days of the date of receipt.

c. A hearing officer may grant specific extensions of time beyond the timelines at the request of either party or on stipulations made by the parties.

d. Each hearing involving oral arguments must be conducted at a time and place which is reasonably convenient to the parents and student involved.

e. The impartial hearing officer shall preside at the hearing, shall conduct the proceedings in a fair and impartial manner and shall take steps to assure that all hearings will be conducted and completed as quickly as possible.

f. Hearing officers shall have the power to issue subpoenas requiring testimony and/or the production of books, papers, and physical or other evidence. Any person served with a subpoena pursuant to this section may object and ask the hearing officer in writing to quash or modify the subpoena as illegally or improvidently issued. The hearing officer shall immediately issue a decision on that validity of the subpoena. Any person served with a subpoena pursuant to this section shall have the right to petition the United States District Court for the county in which the hearing is to be held for an order to quash any subpoena issued pursuant to this section. A hearing officer may petition said court for an order of enforcement of a subpoena issued by the hearing officer. Nothing in this section shall prohibit the hearing officer from refusing to issue subpoenas which are requested for purposes of harassment, abuse of process, delay or which are obviously directed to persons who have no direct evidence in the matter to be heard.

g. Although the process of mediation is not a requirement, a public agency may suggest mediation in disputes concerning the identification, evaluation and/or educational placement of an exceptional student and the provision of a free appropriate public education to a student through the development and implementation of an IEP. Mediation can

lead to resolution of differences between parents and agencies without the development of an adversarial relationship. However, mediation must not be used to deny or delay a right to a due process hearing

h. At all stages of due process procedures, interpreters for the deaf or interpreters fluent in the primary language of the home shall be provided as needed at public expense.

i. Any party to a hearing has the right to:

A. be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of exceptional students;

B. present evidence and confront, cross-examine and compel the attendance of witnesses;

C. prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;

D. obtain a written or verbatim record of the hearing; and,

E. obtain written findings of fact and decisions.

j. Parents involved in hearings must be given the right to:

A. have the student who is the subject of the hearing present; and

B. open the hearing to the public.

k. The public agency shall inform parents that attorney's fees may be awarded to parents to cover attorneys' fees and related costs when the parent is the prevailing party, subject to certain constraints, and that such attorney's fees may be agreed to by the parties or awarded by a court.

l. A decision made in a hearing is final, unless a party to the hearing appeals the decision through civil action.

m. Any party aggrieved by the findings and decisions made in a hearing has the right to bring a civil action in any state court of competent jurisdiction within 120 days of the date of the issuance of the hearing officer's written decision or in a district court of the United States.

n. Student Status During Proceedings:

A. During the pendency of any administrative or judicial proceedings, unless the public agency and the parents of the student agree otherwise, the student must remain in the student's present educational placement.

B. If the issue subject to any administrative or judicial proceeding involves an application for initial admission to public school, the student, with the consent of the parents, must be placed in the public school program until the completion of all the proceedings.

§126-16-9.0. Accountability.

9.1 Policy Statement: Each public agency shall implement federal and state laws, regulations and policies that affect the provision of quality educational opportunities. The State Board of Education promulgates regulations to implement this policy and commits the Department of Education to work with public agencies to provide educational services that are student focused, successful and accountable.

9.1.1. Responsibilities of the West Virginia Board of Education

a. The West Virginia Board of Education has primary responsibility for ensuring that educational services are provided to all eligible exceptional students. The general supervision of programs for exceptional students is vested with the West Virginia Board of Education.

b. To accomplish the objectives of serving all eligible exceptional students, it is the responsibility of the State Board to:

A. establish regulations pertaining to the education of all eligible exceptional students in the state;

B. establish standards pertaining to the education of all eligible students in the state;

C. establish regulations to protect student and parent rights as they pertain to the education of all eligible exceptional students in the state;

D. assure that eligible exceptional students in the state, including individuals in residential institutions and private schools, receive an education in accordance with state and federal laws;

E. establish certification requirements for personnel providing educational services to eligible exceptional students;

F. approve allocations and disburse state and federal funds designated for the education of eligible exceptional students; and

G. administer education programs, including programs providing special education and related services for exceptional students, in the state's correctional institutions in accordance with applicable state and federal laws and regulations.

9.1.2. Responsibilities of the West Virginia Department of Education.

a. The department has a primary leadership role in developing quality educational services for eligible exceptional students in the state, providing guidance in the implementation of State Board of Education policies and regulations governing the education of eligible exceptional students, and providing direction and assistance for special education in the state.

b. It is the responsibility of the department to:

A. assist local educational agencies in the development and modification/adaptation of educational programs of study to meet the needs of exceptional students in early, middle, adolescent and adult education;

B. serve as the advocate for special education in state government;

C. work closely with, and provide staff support to, the West Virginia Advisory Council for the Education of Exceptional Children;

D. perform statewide planning for educational services for eligible exceptional students;

E. develop, provide and participate in programs for the training of educational personnel;

F. disseminate information concerning educational services for exceptional students to interested agencies, organizations and individuals;

G. serve as liaison with other state and regional agencies, parent and professional organizations, and private agencies serving exceptional students;

H. serve as liaison with colleges and universities preparing personnel to work with exceptional students;

I. serve as liaison with federal projects and national agencies which provide services for exceptional students;

J. inform local educational agencies, parents and other agencies of the content and implications of regulations and state and federal laws pertaining to the education of eligible exceptional students;

K. review and/or revise the State Plan for special education, as required by the U.S. Department of Education;

L. develop the necessary procedures, guidelines, forms and instruments to implement the State Board of Education policies and state and federal laws governing the education of exceptional students;

M. monitor the implementation of special education programs for all eligible exceptional students in the state, including individuals in residential institutions and private schools, to assure compliance with federal laws and regulations, state laws, policies, standards and regulations;

N. administer a process for investigating and resolving complaints;

O. initiate enforcement procedures in accordance with the State Plan, when determined that a public agency has violated these regulations;

P. review public agency special education plans and recommend action to the State Superintendent of Schools;

Q. administer the Individuals with Disabilities Education Act funds and monitor programs funded from these monies;

R. maintain reports and summary information on special education in the state;

S. compile and disseminate decisions, opinions and interpretations of the state and federal laws pertaining to education of exceptional students;

T. review and recommend action on certification requests of special education teachers and other agency personnel serving eligible exceptional students;

U. provide direct educational services, including special education and related services for exceptional students, in the state's correctional institutions in accordance with written procedures developed to implement applicable state and federal laws and regulations; and

V. administer the due process hearing system which shall:

(a) provide assistance in alternative means for submitting due process hearing requests in instances where parents are unable to submit written requests;

(b) maintain a list of attorneys trained to serve as hearing officers. The listing shall include a statement of the qualifications of each person. This information shall be provided to each public agency and to any party who requests the information in writing;

(c) inform parents, if the parent initiates a due process hearing or if the parent requests the information, of any free or low-cost legal and other relevant services available in the area and that new federal legislation allows for the award of attorneys' fees to parents to cover attorneys' fees and related costs when the parent is the prevailing party in a due process hearing, subject to certain constraints, and that such attorney's fees may be agreed to by the parties or awarded by a court;

(d) assure that not later than 45 days after the department receives a written request for a due process hearing:

(A) a final decision is reached in the hearing; and

(B) a copy of the decision is mailed to each of the parties.

(e) transmit findings and decisions from due process hearings, after deleting any personally identifiable information, to the West Virginia Advisory Council for the Education of Exceptional Children and make those findings and decisions available to the public;

(f) provide impartial due process hearing officers who:

(A) meet the following criteria:

1. a law degree,
2. admission to the West Virginia Bar,
3. demonstrated competencies in due

process, special education law, effective writing and speaking, decision-making, and related areas, as evidenced through application, interview and competency-based training.

(B) shall not be:

1. a person who is an employee of a public agency which is involved in the education or care of the student; or
2. any person having a personal or professional interest which would conflict with objectivity in the hearing; or
3. a school board official; or
4. a lawyer who represent boards of education or parents in actions against boards of education.

(C) shall be ineligible to begin hearing officer training or to serve as hearing officers during the pendency of any action in which they are involved and for one year following the conclusion of said representation;

(D) otherwise qualifies to conduct a hearing is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

(E) upon receipt of a written request for a due process hearing, select a hearing officer by:

1. using a programmed selection process based upon rotation to select the hearing officer from the roster of qualified hearing officers;
2. making an initial determination whether the selected hearing officer has a personal or professional interest which would conflict with objectivity in the hearing;
3. selecting a new hearing officer if a conflict is determined; and
4. allowing either party to submit a challenge for cause to remove a biased hearing officer. Should a challenge for cause be filed, the state superintendent shall investigate the challenge and determine if cause for removal exists. The decision by the superintendent shall be final and not subject to appeal.

9.1.3. Responsibilities of Local Educational Agencies.

a. Each local educational agency has the responsibility for establishing and maintaining the special education programs and related services needed to provide a free appropriate public education for eligible exceptional students.

b. Special education programs and services can be provided by any one or more of the following: a single local educational agency; two or more local educational agencies cooperatively; a regional educational service agency (RESA); or contract(s) for services from other public or private agencies or individuals.

c. Each public agency must provide special education and related services to a child with a disability in accordance with an individualized education program. However, Part B of the IDEA does not require any agency, teacher, or other person be held accountable if a child does not achieve the growth projected in the annual goals and objectives. These regulations do not relieve agencies and teachers from making good faith efforts to assist the student in achieving the goals and objectives listed in the IEP, or limit the parents' right to complain and ask for revisions in the student's program, or to invoke due process procedures, if a parent feels these efforts are not being made.

d. It is the responsibility of each public agency to:

A. establish written policy and procedures to implement these regulations and to provide free public education for eligible exceptional students;

B. provide qualified staff who are appropriately trained and adequate in number to implement these regulations;

C. conduct referral, evaluation, IEP development and placement activities within the timelines specified in these regulation

D. conduct sweep screening in accordance with WV Code §18-5-17;

E. provide the special equipment, materials and supplies required to implement these regulations and provide the services specified in students' IEP;

F. provide the assistive technology devices or assistive technology services or both, if specified in students' IEPs as a part of the students' special education, related services or supplementary aids and services;

G. make available to exceptional students the variety of educational programs and services available to nonexceptional students served by the public agency, including, but not limited to, art, music, industrial arts, consumer and homemaking education, and vocational education;

H. make available physical education services, specially designed if necessary, to every exceptional student, including students enrolled in separate facilities;

I. provide specially designed vocational education, as needed;

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J. provide nonacademic and extracurricular services and activities in such a manner as is necessary to afford exceptional students an equal opportunity for participation in those services and activities;

K. provide the opportunity for eligible exceptional students to earn the required credits for graduation;

L. provide special education and related services to meet the needs of private school children with disabilities in the jurisdiction of the agency;

M. make available a continuum of alternative placements to meet the needs of students with exceptionalities for special education and related services. The continuum must include instruction in regular classes, special classes, special schools, the home, hospitals and institutions, and make provisions for supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with regular class placement;

N. conduct hearing aid monitoring in accordance with established procedures to assure that hearing aids worn by students in schools are functioning properly;

O. provide eligible exceptional students an instructional day and school calendar at least equivalent to that established for nonexceptional students of the same chronological age in the same setting;

P. provide classrooms to eligible school age exceptional students in close proximity to classrooms for age appropriate nonexceptional peers.

Q. provide services for eligible exceptional students in school and/or community settings that serve age appropriate nonexceptional peers;

R. provide classrooms for eligible exceptional students that are adequate, and that are comparable to the classrooms for nonexceptional students;

S. provide classrooms/facilities for eligible exceptional students with physical and/or sensory impairments that are in compliance, to the extent necessary, with the requirements of the Americans with Disabilities Act, the Rehabilitation Act of 1973, Section 504, the specifications outlined in West Virginia Code, Chapter 18, Article 10F, and the current Uniform Federal Accessibility Standards;

T. provide transportation, specially designed if necessary, for all students with exceptionalities in accordance with West Virginia Code 18-5-13 and State Board of Education policies governing transportation;

U. collect and maintain current and accurate student data for planning the delivery of free appropriate public education and report data as required;

V. collect, maintain and disclose personally identifiable student data in accordance with state and federal confidentiality requirements;

W. conduct ongoing program evaluation to assess and improve the effectiveness of services provided to eligible exceptional students;

X. monitor the compliance with the regulations of agencies, organizations, or individuals who provide contractual special education and/or related services;

Y. inform other agencies, organizations, or individuals of the state and federal requirements pertaining to the education of exceptional students; and

Z. establish policies and procedures which include a practical method for determining which children are receiving needed special education and related services and which children are not currently receiving special education and related services.

§126-16-10.0. Glossary.

10.1. Acceleration - Progressive movement along a sequential, hierarchical, academic continuum (instructional goals and objectives) at a faster rate than the norm. Acceleration includes, but is not limited to: compacted classes/schedules, testing out, advanced placement (if college credit is earned), fast-paced curriculum and high school credit for college classes.

10.2. Adaptive P.E. - regular physical education which has been modified, or adapted, so that a student with a disability can participate in the regular physical education program. Modifications may include, but are not limited to, curricular adaptations and/or modified or specialized equipment.

10.3. Adaptive Skills - those skills necessary to function adequately within a person's present environment. These skill areas are: communication, self-care, homeliving, social skills, community use, self-direction, health and safety, functional academics, leisure and work.

10.4. Adolescent Education - the educational program that addresses the intellectual, physical, social/emotional and transition needs of learners aged 14 through 21 for special education across all programs and areas of study in grades 9-12.

10.5. Adult Education - the educational program that addresses the intellectual, physical, social/emotional and occupational needs of persons 16 years old and older who presently are not enrolled in a public school.

10.6. Adversely Affects - interferes with the student's educational performance to the extent that the student is unable to achieve in the regular education program within the range of functioning of the student's nonexceptional chronological age peers.

10.7. Age-Appropriate - the term applies to peers of similar chronological ages or settings in which nonexceptional peers of similar chronological ages are served.

10.8. Annual Goal - a comprehensive statement developed from the present levels of performance that describes components crucial to the mastery of knowledge, skills, attitudes and behaviors for the individual student and indicates the direction of desired change. The annual goal describes what an exceptional student can be reasonably expected to accomplish within a twelve month period in the student's special education program.

10.9. Assistive Technology Device - any item, piece of equipment or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of students with disabilities.

10.10. Assistive Technology Service - any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. The term includes: a) the evaluation of the needs of a student with a disability, including a functional evaluation of the student in the student's customary environment; b) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by students with disabilities; c) selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing of assistive technology devices; d) coordinating and using other therapies, interventions or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs; e) training or technical assistance for a student with a disability, or if appropriate, that student's family; and f) training or technical assistance for professionals, including individuals providing education or rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

10.11. Caseload - the maximum number of students for whom a special education teacher has primary responsibility for the provision of special education consultative and/or direct instructional services.

10.12. Communication - includes the ability to comprehend and express information through symbolic behaviors (e.g., facial expression, body movement, touch, gesture). Specific examples include the ability to comprehend and/or receive a request, an emotion, a greeting, a comment, a protest, or rejection. Higher level skills of communication (e.g., writing a letter) would also relate to functional academics.

10.13. Community-Settings - community environment(s) in which the student will be expected to use/apply the skills or behaviors that are being learned.

10.14. Community Use - refers to the appropriate use of community resources. This includes traveling in the community, shopping for groceries and other items, purchasing or obtaining services from community businesses (e.g., gas stations, repair shops, doctor's offices), attending places of worship, using public transportation, and using public facilities (e.g., schools, parks, libraries, recreational centers, streets, sidewalks, theaters). Related skills include appropriate behavior in the community, indicating choices and needs, social interaction, and the application of functional academics.

10.15. Confidentiality - the protection of all personally identifiable data, information and records collected or maintained by any agency or institution under the general supervision of the West Virginia Board of Education.

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10.16. Consent - a) the "parent" has been fully informed of information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication; b) the "parent" understands and agrees in writing to the carrying out of the activity for which her or his consent is sought, and the consent describes that activity and lists the records (if any) which will be released and to whom; and c) the "parent" understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

10.17. Consultative Services - assistance provided to a student's teacher(s) or other service providers for the benefit of an eligible exceptional student. Consultative services include, but are not limited to, selecting/designing/modifying materials, instructional strategies, management plans and evaluation procedures, and monitoring/evaluating student progress on short-term instructional objectives.

10.18. Continuum of Alternative Placements - a range of settings in which eligible exceptional students receive special education and related services.

10.19. Critical Skills - the cognitive, physical, communication, and/or social/emotional abilities needed for the student to maintain current levels of performance.

10.20. Destruction - physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

10.21. Direct Services - instruction, therapy or interventions provided one-on-one or in groups to an eligible exceptional student in school, home or community settings.

10.22. Due Process - a system that guarantees each individual equal protection and treatment under the 14th Amendment of the Constitution.

10.23. Early Childhood Education - the educational program that addresses the intellectual, physical, and social/emotional needs of learners age three through ten, across all programs and areas of study in grades PreK-4.

10.24. Economically Disadvantaged - is defined by one or more of the following criteria: family income is at or below the national poverty level; participant, or parents/guardians of the participant are unemployed; participant, or parent of the participant, is recipient of public assistance; or participant is institutionalized or under state guardianship.

10.25. Education Records - those records which are directly related to a student and are collected, maintained or disclosed by an educational agency or institution or by a party acting for the agency or institution.

10.26. Educational Performance - a student's functioning (or performance) relative to age/grade performance in programs of study, basic communication skills, social interaction and emotional development within the school and/or community environments.

10.27. Eligible Exceptional Students - those individuals who, in accordance with the definitions, eligibility criteria, procedures and safeguards contained in this document, have been determined to be: a) autistic, behavior disordered, blind and partially sighted, speech/language disordered, deaf-blind, deaf and hard of hearing, gifted, exceptional gifted (grades 9-12) mentally impaired, orthopedically impaired, other health impaired, preschool special needs, specific learning disabled, traumatically brain injured, and b) in need of special education.

10.28. Eligible Students with Disabilities - those individuals who, in accordance with the definitions, eligibility criteria, procedures and safeguards contained within this document have been determined to be: a) autistic, behavior disordered, blind and partially sighted, speech/language disordered, deaf-blind, deaf and hard of hearing, mentally impaired, orthopedically impaired, other health impaired, preschool special needs, specific learning disabled, traumatically brain injured, and b) in need of special education.

10.29. Evaluation - procedures used in accordance with the protection in evaluation requirements of the Individuals with Disabilities Education Act (IDEA) to determine whether a student is exceptional and the nature and extent of the special education and related services that the student needs. The term means procedures used selectively with an individual student and does not include basic tests administered to or procedures used with all students in a school, grade, or class.

10.30. Executive Skills - those functions which enable a person to plan, sequence and self-monitor multi-step activities and engage in organized, purposeful behavior.

10.31. Extended School Year Services - special education and related services needed to maintain identified critical skills as described on the current IEP and which are provided in excess of the regular school year for a student with disabilities.

10.32. Four Year Plan - a written plan developed prior to the end of the student's eighth grade year, that describes the student's projected adolescent education program. The Four Year Plan for an exceptional student must include the type of diploma the student may receive, the list of courses (including honors/advanced education) per grade level, anticipated credits to be earned, educational goals and objectives that will enable the student to access appropriate adult services or employment, and must be developed by the IEP Committee.

10.33. Free Appropriate Public Education - 1) special education and related services which a) are provided at public expense, under public supervision and direction, and without charge to the parent, b) meet the provision of these regulations, and c) are provided in conformity with an Individualized Education Program; and 2) the opportunity for eligible exceptional students to participate in all educational programs of study, services and extracurricular activities.

10.34. Functional Academics - functional academics refer to cognitive abilities and skills related to learning at school. Writing, reading, basic practical math concepts, basic science as it relates to the awareness of the physical environment and one's health and sexuality, geography, and social studies are included. The focus is not on grade-level academic achievement but on the acquisition of academic skills that are functional in terms of independent living.

10.35. General Intellectual Functioning - acquired learning and learning potential as measured by a systematic evaluation with one or more of the individually administered general intelligence tests or procedures.

10.36. Health and Safety - maintaining one's own well being; appropriate diet; illness identification, treatment, and prevention; basic first aid; sexuality; physical fitness; basic safety (e.g., following rules and laws, using seat belts, crossing streets, interacting with strangers; seeking assistance), regular physical and dental check-ups, and daily habits. Related skills include protecting oneself from criminal behavior, indicating choices and needs, interacting socially, and applying functional academics.

10.37. Home Living - daily functioning within a home; housekeeping, clothing care, property maintenance, food preparation, planning and budgeting for shopping, home safety, and daily scheduling. Related skills include orientation, behavior in the home and neighborhood, communication of choices and needs, social interaction, and application of functional academics in the home.

10.38. Independent Educational Evaluation - an evaluation conducted by a qualified evaluator who is not employed by the public agency responsible for the education of the student in question, and who is selected by the party seeking the independent evaluation.

10.39. Individualized Education Program (IEP) - a written plan developed by educators, parents and related service personnel which serves as the central educational document for the exceptional student's education.

10.40. Least Restrictive Environment - the educational placement which provides the services/conditions necessary to meet the unique learning and behavioral needs of the student, while providing the student with integration to the maximum extent possible with nonexceptional students.

10.41. Leisure - a variety of leisure and recreational interests that reflect personal preferences and choices. Public activities should reflect age and cultural norms. Skills include choosing and initiating activities, using and enjoying home and community leisure and recreational activities along and with others, playing socially with others, taking turns, choosing not to participate in leisure activities, participating longer, and expanding one's awareness and repertoire of interests and skills. Related skills include behavior in the leisure and recreation setting, indicating choices and needs, social interaction, application of functional academics and mobility.

10.42. Middle Childhood Education - the educational program that addresses the intellectual, physical, and social/emotional needs of learners aged 10 through 14 across all programs in areas of study in grades 5-8.

10.43. Multidisciplinary Evaluation - comprehensive procedures used to determine whether a student is exceptional and the nature and extent of the special education and related services that the student needs. The term means procedures that are conducted by a team of individuals representing a variety of disciplines. These procedures are used selectively with an individual student and do not include basic tests administered to or procedures used with all students in a school, grade or class.

10.44. Multidisciplinary Evaluation Team - a group of qualified personnel representing a variety of disciplines which determines the areas to be evaluated and conducts the multidisciplinary evaluation.

10.45. Nonacademic Services - nonacademic and extracurricular services and activities are those provided by the local educational agency in addition to the required and elective programs of study. The term includes counseling, athletics, transportation, health services, recreational activities, special interest clubs or groups sponsored by the public agency, referrals to agencies which provide assistance to disabled persons, and employment of students, including both employment by the public agency and assistance in making outside employment available.

10.46. Nonaversive Behavioral Strategies - strategies that are employed to change or maintain behavior without the application of a noxious or painful stimulus or the use of a strategy that results in severe physical/ emotional stress/discomfort or the prolonged deprivation of movement or basic biological needs.

10.47. Normal Rate or Level of Development - the average rate or level of developmental functioning as exhibited by students of the same chronological age. Rates or levels of development are indicated by age-equivalency measures such as developmental age, mental age, developmental quotient, intelligence quotient, standard scores and percentile and are dependent upon the type of evaluation instrument used.

10.48. Objective Criteria - standards established to determine whether a student is learning or has achieved a skill and if instruction is effective.

10.49. Out-of-State Placement - the placement of a student with disabilities in a school/facility located outside of the state for special education and related services.

10.50. Parent - a parent, a guardian, a person acting as a parent of a child (e.g., grandparent, stepparent with whom a child lives, persons who are legally responsible for a child's welfare) or a surrogate parent who has been appointed in accordance with state and federal requirements. The term does not include the state, if a child is a ward of the state.

10.51. Parental Consent - see Consent.

10.52. Parent Training - activities to improve the parents' understanding of child development, the specific educational needs of their exceptional child, procedural safeguards and surrogate responsibilities. The term includes the training of parents in specific skills relating to the management or education of the child while at home.

10.53. Physical Education - the development of: a) physical and motor fitness; b) fundamental motor skills and patterns; and c) skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports). The term includes special physical education, adapted physical education, movement education, and motor development.

10.54. Placement - the setting in which the eligible exceptional student receives special education and related services. These settings are: Regular Education: Full-time, Regular Education: Part-time, Special Education: Separate Class, Special Education: Special School, Special Education: Out-of-School Environment and Special Education: Residential Facility.

10.55. Present Levels of Educational Performance - describe the effect of the student's exceptionality on the student's performance in any area of education that is affected, including 1) academic areas (reading, math or communication) and 2) nonacademic areas (daily life activities or mobility) and are written in objective measurable terms, to the extent possible, using data from the evaluation.

10.56. Private/Parochial School - an educational facility operated by a nonpublic agency or organization.

10.57. Procedure - any written course of action set forth to implement federal, state, and local policy which includes: a) a description of the actions to be undertaken; b) the criteria or standards to be used when decisions are required; c) the person(s) responsible for such actions, and d) the timelines for completion. Written procedures shall describe actions in terms which are both measurable and operational.

10.58. Procedural Safeguards - the due process protections afforded in the implementation of the West Virginia special education process.

10.59. Program of Study - a K-12 curricular sequence which constitutes the subject matter to be offered in the public schools of West Virginia, e.g., reading, mathematics, social studies, industrial arts, business education.

10.60. Public Agency - state educational agency, regional educational agency, local educational agency, and any other political subdivisions of the state which are responsible for providing education to exceptional students.

10.61. Qualified Personnel - a person who has met state educational agency approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services.

10.62. Regression/Recoupment - the loss of acquired skills and the inability to relearn those skills in a specified amount of time.

10.63. Regression Formula - a commonly used statistical procedure that provides an achievement range for a specific intelligence quotient. This method adjusts for the phenomenon of regression toward the mean, a statistical tendency for scores that are especially high or low to move toward the mean when measured a second time.

10.64. Regular Education Program - an educational program designed to meet the needs of all students in preschool, early childhood, middle childhood, adolescent, or adult education. Instruction in a regular education program includes community based, general and/or vocational education.

10.65. Rehabilitation Counseling Services - services provided by a qualified rehabilitation counseling professional, in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to students with disabilities by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended.

10.66. Related Services - transportation and such developmental, corrective and other supportive services as are required to assist an eligible exceptional student to benefit from special education. The term includes, but is not limited to, assistive technology, audiology, speech and language pathology, psychological services, physical and occupational therapy, clean intermittent catheterization (CIC), recreation, including therapeutic recreation, counseling services, including rehabilitation counseling, social work services, school health services, early identification and evaluation of disabling conditions in students, medical services for diagnostic or evaluative purposes only, and parent training.

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10.67. School Team - a team within a school whose major functions are to provide necessary assistance to any students within the regular classroom, and to identify and refer students for evaluation, when necessary.

10.68. School Health Services - services provided by licensed school nurses and other health care providers to identify health problems that interfere with learning and to promote a level of health which permits maximum utilization of educational opportunities.

10.69. Self-Care - skills involving eating, dressing, grooming, toileting, and hygiene.

10.70. Self-Direction - making choices. Self-direction includes learning and following a schedule; initiating appropriate activities consistent with one's personal interests; completing necessary or required tasks; seeking assistance when needed; resolving problems in familiar and new situations; and demonstrating appropriate assertiveness and self-advocacy.

10.71. Short Term Instructional Objectives - measurable, intermediate steps between a student's present levels of educational performance and the annual goals. Objectives are based on a logical breakdown of the major components of the annual goals.

10.72. Significantly Subaverage Intelligence - is an IQ standard score of approximately 70 to 75 on scales with a mean of 100 and standard deviation of 15 based on assessment that includes one or more individually administered general intelligence tests developed for the purpose of assessing intellectual functioning.

10.73. Social Skills - social skills refer to appropriate and inappropriate social behavior. Appropriate social behavior includes behaviors such as making friends; showing appreciation; smiling; taking turns; cooperating with others; demonstrating honesty; trustworthiness; and appropriate play; showing concern for others; displaying empathy; and being fair. Inappropriate behavior includes behaviors such as tantrums, jealousy, fighting others, overstaying a welcome, being overly demanding, constantly needing reassurance; and being nonassertive.

10.74. Social Work Services - services that include: a) preparing a social or developmental history on a student with a disability; b) group and individual counseling with the student and family; c) working with those problems in a student's living situation (home, school, and community) that affect the student's adjustment in school; and d) mobilizing school and community resources to enable the student to receive maximum benefit from the student's educational program.

10.75. Special Education - specially designed instruction, at no cost to parents, to meet the educational needs of an eligible exceptional student, including classroom instruction, out-of-school instruction, instruction in a special school or residential setting and instruction in other

settings, including the workplace and training center. Special education also includes assistive technology devices and services, physical education, vocational education, or other curricular offerings when modifications are necessary to meet the individual needs of exceptional students.

10.76. Special Transportation - modifications made in regular school transportation to assure accessibility of special education and other related services for exceptional students. Special transportation includes special equipment (such as special or adaptive buses, lifts, and ramps), and special care (such as need for health and safety maintenance, assistance of aide, medication in transit and/or positioning), if required to provide school transportation for a student with a disability.

10.77. Specially Designed Instruction - a) that part of the regular education curriculum, that must be modified to the extent that it cannot be provided in the regular education classroom without supplementary aids and/or services; b) that part of the regular education curriculum that must be delivered through altered or different strategies or specialized materials to the extent that it cannot be provided in the regular education class even with supplementary aids or services; and/or c) a specialized curriculum that is significantly different than the regular education curriculum.

10.78. Standard Deviation - a statistic used to express the distance on the average of scores from the mean of the distribution. The standard deviation shows how variable a series or group of scores or numbers are.

10.79. Standard Error of Measurement - a measure indicating how closely an individual's obtained score compares with her/his true score. It provides a range within which the true score lies.

10.80. Supplementary Aids - any material/curricular resource or assistance, beyond what is normally afforded nondisabled students, provided to support an exceptional student's placement. Supplementary aids may include, but are not limited to, large print books, assistive technology devices, auditory trainers, curriculum adaptations and classroom modifications.

10.81. Supplementary Services - any human resource or assistance, beyond what is normally afforded nondisabled students, provided to support an exceptional student's placement, such as direct instruction, peer tutoring, interpreting, and notetaking.

10.82. Supported Employment - paid work in the regular community work environment where persons without disabilities are employed. Individuals with disabilities are included in the work setting and receive initial training and on-going support services in the natural community work environment.

10.83. Suspension - removal of a student from school as a disciplinary action for misconduct.

10.84. Sweep Screening - the utilization of screening tests, instruments or procedures with designated groups of students to locate individuals who manifest, or are likely to manifest, attributes or behaviors which require special education.

10.85. Transition Services - a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post-school activities, including, but not limited to, post-secondary education, vocational training, integrated employment including supported employment, continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based on the individual student's needs, taking into account the student's preferences and interests, and must include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

10.86. Work - holding a part- or full time job (supported or nonsupported) or participating in a voluntary activity in the community. Related skills include specific job competencies, appropriate social behavior, appropriate work skills (e.g., completion of tasks, awareness of schedules, ability to seek assistance, take criticism), money management, the application of other functional academic skills, and skills related to going to and from work, preparing for work, managing oneself at work, and interacting appropriately with co-workers.

OTHER RESOURCES

**SELECTED FEDERAL STATUTES AFFECTING THE EDUCATION AND
CIVIL RIGHTS OF CHILDREN AND YOUTH WITH DISABILITIES**

P.L. 93-112, The Rehabilitation Act of 1973

This law addresses discrimination against persons with disabilities. Section 504 of this act provides individuals with disabilities with basic civil rights and protection against discrimination in federal programs. CONTACT: Office for Civil Rights, Region III, Philadelphia, PA.

P.L. 94-142, The Education for All Handicapped Children Act of 1975 (EHA)

This law mandates a free appropriate public education for all children with disabilities, education in the least restrictive environment, Individualized Education Programs, and ensures due process rights. It is the core of federal funding for special education. CONTACT: WVDE, Office of Special Education.

P.L. 98-380, Family Educational Rights and Privacy Act of 1974 (FERPA)

This law gives parents of students under the age of 18, and students age 18 and over, the right to examine records kept in the student's personal file, the right to have records explained and interpreted by school officials, as well as specifies the destruction and/or amendment of records process. CONTACT: WVDE, Office of Special Education.

P.L. 98-524, The Carl D. Perkins Vocational Education Act of 1984

This law authorized funds to support vocational education programs to include youths with disabilities. The law stated that individuals who are members of special populations must be provided with equal access to recruitment, enrollment, and placement activities in vocational education. CONTACT: WVDE, Division of Technical and Adult Education Services.

P.L. 99-486, Fair Labor Standards Act (FLSA)

This act, as amended in 1986, sets minimum wage, overtime pay, equal pay, recordkeeping, and child labor standards for employees who are covered by the Act and are not exempt from specific provisions. Provisions of the FLSA set forth requirements pertaining to supported employment and other on-the-job training opportunities for students with disabilities. CONTACT: West Virginia Department of Labor.

P.L. 100-407, The Technology-Related Assistance for Individuals with Disabilities Act of 1988

The primary purpose of this law is to assist states in developing comprehensive, consumer-responsive programs of technology-related assistance and to extend the availability of technology to individuals with disabilities and their families. Assistive technology device is broadly defined in the law to give the states flexibility in the programs to be developed. Assistive technology services under this law include eight (8) activities related to developing consumer-responsive services with federal funds. CONTACT: University Affiliated Center for Developmental Disabilities at West Virginia University.

P.L. 101-336, The Americans with Disabilities Act of 1990 (ADA)

This law, based on the concepts of the Rehabilitation Act of 1973, guarantees equal opportunity for individuals with disabilities in employment, public accommodation, transportation, State and local government services, and telecommunications. The ADA is the most significant federal law assuring the full civil rights of all individuals with disabilities. CONTACT: West Virginia Division of Rehabilitation.

P.L. 101-392, The Carl D. Perkins Vocational and Applied Technology Education Act of 1990

This law amended P.L. 98-524 for the purpose of making the United States more competitive in the world economy. This law is closely interwoven with the Education of the Handicapped Act (P.L. 94-142) toward guaranteeing full vocational education opportunity for youth with disabilities. CONTACT: WVDE, Division of Technical and Adult Education Services.

P.L. 101-476, The Education of the Handicapped Act Amendments of 1990 (EHA)

This law changed the name of EHA to the Individuals with Disabilities Education Act (IDEA). This law reauthorized and expanded the discretionary programs, mandated transition services and assistive technology services to be included in a child's or youth's IEP, and added autism and traumatic brain injury to the list of categories of children and youth eligible for special education and related services. CONTACT: WVDE, Office of Special Education.

P. L. 102-367, Job Training Partnership Act of 1982 (JTPA)

The JTPA replaced the Comprehensive Employment and Training Act (CETA). The goal of the JTPA is to train and place individuals who are economically disadvantaged in the labor market. The Job Training Reform Amendments were signed into law in September 1992. The amendments provide youth and adults with disabilities expanded opportunities to participate in a variety of training and employment programs. CONTACT: West Virginia Division of Employment Security.

P. L. 103-227, The Goals 2000: Educate America Act

This act seeks is to "improve learning and teaching by providing a framework for education reform...." based upon the eight National Education Goals. The school restructuring efforts required by this law focus on high standards and expectations for all students, including students with disabilities, with an emphasis on measurable and high levels of educational achievement. CONTACT: WVDE, Office of State Superintendent of Schools.

P. L. 103-239, School-to-Work Opportunities Act

The newest federal employment initiative was signed into law in 1994. The School-to-Work Opportunities Act promotes a system containing three core elements known as School-Based Learning, Work-Based Learning, and Connecting Activities. The purpose of this act is to strengthen transition services for all youth, including those with disabilities. CONTACT: WVDE, Division of Technical and Adult Education Services.

SELECTED STATE STATUTES ADDRESSING THE EDUCATION OF CHILDREN AND YOUTH WITH DISABILITIES

Education of Exceptional Children, West Virginia Code, Chapter 18, Article 20

This statute sets forth the provisions for the establishment and maintenance of special education programs by the county school districts for all exceptional (disabled and gifted) children between the ages of three and 21 years of age. This statute includes recent provisions pertaining to regular education teacher entitlements in the IEP development and implementation process. CONTACT: WVDE, Office of Special Education.

Compulsory Preenrollment Hearing, Vision and Speech and Language Testing: Developmental Screening for Children Under Compulsory School Age, West Virginia Code, 18-5-17

This statute requires that specific screening tests be conducted for all children entering public school in West Virginia for the first time prior to their enrollments and for interagency cooperation in the conduct of the screening of children under compulsory school age. CONTACT: WVDE, Office of Special Education.

Public School Faculty Senates Established; Election of Officers; Powers and Duties, West Virginia Code, 18-5A-5

Provisions of this statute require the faculty senate at each school to develop a strategic plan, in accordance with specific requirements and timelines, for the appropriate integration of exceptional needs students into regular classrooms. CONTACT: WVDE, Office of Special Education.

Assaults by Pupils Upon Teachers or Other School Personnel; Temporary Suspension, Hearing Procedure, Notice and Formal Hearing; Extended Suspension; Expulsion; Exception, West Virginia Code, 18A-5-1a.

This statute incorporates the provisions of the Safe Schools Bill (H.B.2073) of 1995, including requirements regarding the suspension and expulsion of students with disabilities. CONTACT: WVDE, Office of Special Education.

**SELECTED STATE BOARD OF EDUCATION POLICIES AFFECTING THE
EDUCATION OF CHILDREN AND YOUTH WITH DISABILITIES**

POLICY 2100: Educational Goals of West Virginia

This policy defines a thorough and efficient system of education, identifies capacities to be developed in students and provides governing principles for high quality educational improvements. CONTACT: WVDE, Office of State Superintendent of Schools.

POLICY 2320: Performance Based Accreditation System

This policy provides the framework to enhance quality education, primarily through improvements based upon educational standards. Using the accreditation process described in this policy, local educational agencies will determine its compliance with these high quality standards. CONTACT: WVDE, Office of Accreditation.

POLICY 2442.7: School Nurses and Specialized Health Procedures

This policy establishes standards for certified school nurses to assess children's health needs and to decide who is best skilled to respond to them. CONTACT: WVDE, Office of Healthy Schools.

POLICY 2436.11: Non-discriminatory Participation in Extracurricular Activities

This legislative rule requires public school programs to include minority and ethnic group students as active participants in all extra-curricular activities. CONTACT: WVDE, Office of Student Services and Assessment.

POLICY 2444.01: Graduation Requirements for West Virginia Public Schools

This legislative rule establishes the requirements that students must meet before exiting from West Virginia high schools. CONTACT: WVDE, Office of Instructional Services or Office of Professional Development and Recognition.

POLICY 2444.2: Certificate of Proficiency and Warranty

This policy implements West Virginia Code 18-2-6 and issues to employers and post-secondary educational institutions a guarantee of the student's proficiency level. CONTACT: WVDE, Office of Professional Development and Recognition, Office of Student Support Services or Office of Special Education.

POLICY 2510: Assuring the Quality of Education: Regulations for General, Vocational and Special Education Programs

This policy establishes regulations for general, vocational and special education programs that ensure quality teaching and learning in the public schools and to assure that equal educational opportunities are provided to all public school students. CONTACT: WVDE, Office of Professional Development and Recognition, Office of Student Support Services or Office of Special Education.

POLICY 4336: West Virginia School Transportation Regulations

This policy establishes qualifications and responsibilities of school bus drivers, operations and maintenance of school buses, and recommended practices. Policy 4336 includes special transportation regulations that apply to the transporting of students with disabilities. CONTACT: WVDE, Office of School Transportation and Facilities.

POLICY 4350: Procedures for the Collection, Maintenance and Disclosure of Student Data

This policy sets forth the conditions governing the protection of privacy of parents and students as it relates to the collection, maintenance, and disclosure of education records by agencies and institutions under the general supervision of the West Virginia Board of Education as required by P.L. 93-380 and P.L. 101-476. CONTACT: WVDE, Office of Special Education.

POLICY 4371: Student Rights and Responsibilities: A Handbook for Students in the Public Schools of WV

This policy establishes a guide for students concerning their rights and responsibilities and the rights and responsibilities of the school. CONTACT: WVDE, Division of Instructional and Student Services.

POLICY 5202: Minimum Requirements for the Licensure of Educational Personnel and Advanced Salary Classifications

This policy specifies the minimum requirements that must be met to license an individual to work in the public schools. CONTACT: WVDE, Office of Professional Development.

POLICY 7211: Appeals Procedure for Citizens

This policy provides a way for citizens to work with county boards of education and administrative officials in seeking solutions to problems when there appears to be a failure to provide elements of a high quality education that resources permit the school district to provide or for violation of any other legal duty. CONTACT: WVDE, Office of Legal Services.

ADDITIONAL DOCUMENTS AFFECTING THE EDUCATION OF CHILDREN AND YOUTH WITH DISABILITIES

HANDBOOK ON PLANNING SCHOOL FACILITIES

This handbook provides guidelines which address the details of evaluating and renovating existing public education facilities and the construction of new school facilities. CONTACT: WVDE, Office of School Transportation and Facilities.

HARRIS V. MAROCKIE

This court settlement agreement specifies that special education classrooms may not be situated outside the principal education facility and may not be segregated by virtue of not being located contiguous to, or in close proximity with, age-appropriate nondisabled children. CONTACT: WVDE, Office of Special Education.

WEST VIRGINIA STATE PLAN UNDER PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

This document contains a description of the state's policies, procedures, proposed activities and projected use of funds for the education of students with disabilities. The state plan is prepared for a three-year period. CONTACT: WVDE, Office of Special Education.

WEST VIRGINIA'S MONITORING PROCEDURES FOR THE EDUCATION OF EXCEPTIONAL STUDENTS

This document establishes compliance standards and sets forth a process for collecting data, correcting deficiencies and enforcing legal obligations concerning all state and federal special education requirements. This document describes the six (6) components of the comprehensive monitoring system used to verify the established compliance standards. CONTACT: WVDE, Office of Special Education.

PROCEDURES FOR THE INVESTIGATION AND RESOLUTION OF COMPLAINTS

These procedures set forth the process used by the OSEPA to investigate and resolve a complaint by an individual or organization relevant to the special education process. CONTACT: WVDE, Office of Special Education.

HAND IN HAND

This document is designed to provide parents with the information and resources to become full participating members of their child's special education team. It provides a description of the special education process and the roles of parents and schools districts during each step of the process. CONTACT: WVDE, Office of Special Education.

DEVELOPING QUALITY INDIVIDUALIZED EDUCATION PROGRAMS

This resource guide articulates the requirements and best practices for developing IEPs for exceptional students. All required components of the IEP are addressed. CONTACT: WVDE, Office of Special Education.

THE COMPLAINT PROCESS FOR SPECIAL EDUCATION

This brochure explains to parents what constitutes a formal complaint and how to file a complaint. Explanations are also provided regarding the procedures and timelines for investigating and resolving a formal complaint. CONTACT: WVDE, Office of Special Education.

COMMENTS AND SUGGESTIONS LOG
POLICY 2419: REGULATIONS FOR THE EDUCATION OF EXCEPTIONAL STUDENTS

ACTION
N=No Response
NA= Not Accepted
A=Accepted

TYPE
-=-Negative
+=Positive
o=Neutral

GENERAL COMMENTS

June 13, 1995	Brenda Wilson Glenville State College Glenville, WV 26351-1292	In general clearer, less cluttered easier to read.	+//A
June 15, 1995	Robert Miller Mineral County Board of Education One Baker Place Keyser, WV 26726	Attempting to follow the streamlined federal regulations should enable staff to spend more time with the instruction process and less time on procedural nit-picking.	+//A
June 22, 1995	Lisa Walker Cottageville Elementary School Street Cottageville, WV 25239	1) Include Timeline - Referral - Evaluation - IEP Development and Notification? 2) My main concern is <u>5.0 D</u> - Way off base!	1) O/N 2) -//A
June 27, 1995	Karen Hall Montroe Co. Schools P.O. Box 330 Union, WV 24983	(1) Like set-up. Many changes excellent. (2) Main concern over caseloads - like contact hour plan, however.	(1) +//A (2) -//A
June 27, 1995	Janet S. Gagnon, Ed.S. School Psychologist Jackson Co. Schools 1714 Rolling Hills Circle Charleston, WV 25314	(1) Streamlining generally seemed to work well. (2) I have concern as indicated below that standards of professional practice may slip without specific guidelines in some instances and that needed services may be denied some moderately impaired students. Especially I would like EC membership more clearly spelled out. This is the weakest part of your effort.	(1) +//A (2) -//NA These issues will be addressed through the LIA's policies and procedures.
July 6, 1995	Ed Alfred, Principal Jefferson Center 1403 Plum Street Parkersburg, WV 26101	Remove gifted from under Special Education. This would allow counties to deal with this area under site-based management.	O//NA Requirement of State Code.

July 7, 1995	Doug Smith Lincoln County Board of Education P.O. Box 269 West Hamlin, WV 25571	Overall better document, easy to read and eliminates redundancies. Revisions appear to move us closer to federal regulations. Something that needed to be done and will be helpful to LSEA's.	+/A
July 10, 1995	Kathy Finsley Ohio County Schools 2203 National Road Wheeling, WV 26003	I enthusiastically support any and all attempts to revise Policy 2419 to be in alignment with the IDEA implementing regulations. Overall, the proposed regulations are much more user friendly!	+/A
July 17, 1995	Yvonne Santin, Assistant Principal Jefferson Elementary Center 1103 Plum Street Parkersburg, WV 26101	This proposed revision of Policy 2419 was not disseminated to people who work directly with exceptional students. This means teachers, not administrators.	-/N Comment on process, not the policy.
July 17, 1995	Cynthia Alkire St. Marys High School 1002 Second Street St. Marys, WV 26170	From a teacher's point of view, it seems to have a "simpler" language.	+/A
July 17, 1995	Sandra Sargent Cabell County Schools 620 20th Street Huntington, WV 25702	I comment the staff at the SDE for making the changes needed to initiate quality services to students in the 90's. Thanks for all the late nights and hard work!	+/A
July 17, 1995	Nancy Gordon Jefferson County Schools T.A. Lowery Elementary School 55 Shenandoah Jct. Rd. Shenandoah Jct., WV 25442	I hope the State Dept. will specify local task forces to develop policies and procedures at the county level. Leaving so much room for county pol. & pro. is great for counties who will take initiative to go above and beyond minimal guidelines but for other counties with poor leadership - where will we be?	O/N
July 19, 1995	Connie Jones 603 1/2 Moyer Way Fairmont, WV 26554	This proposed draft was difficult to follow. I had to cross reference sections and refer back and forth. It is too general under many sections and gives County boards of education too much control without insuring appropriate learning environments, especially for M.I. students.	-/N

July 19, 1995	<p>Marilyn M. Murdock 129 Stamford Park Drive Huntington, WV 25705</p>	<p>1) The primary focus of the comments by the WVAGT is to adjust the definition of gifted students to reflect national trends recognizing and developing exceptional talent in children of diverse ethnic and cultural backgrounds. Over-reliance upon a score from a single standardized test score is not in keeping with best practice for eligibility determinations for students with disabilities nor with exceptional talent (see National Report on Excellence OERI, October, 1993).</p> <p>In addition recent research studies indicate that patterns of the scores of gifted and of potentially gifted students on the WISC-III are significantly different and apparently markedly depressed when compared to patterns of gifted students' scores on the WISC-R (Fishkin, Barlow, & Kampsnyder, 1994; Fishkin, Kampsnyder, Bryant & Pack, 1993; Savior, Bain, & Hildman, 1994).</p> <p>2) The WVAGT members recommend including a brief statement of HEP content to speak to the needs of gifted students. Members are concerned about total removal of language regarding programs of study from the policy document. See recommendations for section 4.</p> <p>3) Inclusion with regular education students at all times has been documented as a more restrictive environment for gifted students than ability grouping that is flexible and appropriate for the high ability child's academic strengths and emotional/social needs (Rogers,...). Therefore, the WVAGT recommends adjusting the language of section 4.D.2.b. to satisfy the language of IDEA for students with disabilities while recognizing the LRE adjustment for students with exceptionalities who are not disabled.</p> <p>4. The WVAGT recommends keeping the caseload for teachers of gifted at 30 because they must plan and monitor the same amount of individualization, consultation, meetings, and completion of forms as teachers of other exceptionalities. In addition, these teachers often have multiple school assignments that require travel and reduce availability to students.</p>	1) O/N
July 19, 1995	<p>Anne Fishkin, President - Elect WV Graduate College 100 Angus E. Peyton Drive South Charleston, WV 25303-1600</p>	<p>2) The WVAGT members recommend including a brief statement of HEP content to speak to the needs of gifted students. Members are concerned about total removal of language regarding programs of study from the policy document. See recommendations for section 4.</p> <p>3) Inclusion with regular education students at all times has been documented as a more restrictive environment for gifted students than ability grouping that is flexible and appropriate for the high ability child's academic strengths and emotional/social needs (Rogers,...). Therefore, the WVAGT recommends adjusting the language of section 4.D.2.b. to satisfy the language of IDEA for students with disabilities while recognizing the LRE adjustment for students with exceptionalities who are not disabled.</p> <p>4. The WVAGT recommends keeping the caseload for teachers of gifted at 30 because they must plan and monitor the same amount of individualization, consultation, meetings, and completion of forms as teachers of other exceptionalities. In addition, these teachers often have multiple school assignments that require travel and reduce availability to students.</p>	2) O/N
July 20, 1995	<p>Edwina Pendarvis 6177 Birkewood Drive Huntington, WV 25705</p>	<p>3) Inclusion with regular education students at all times has been documented as a more restrictive environment for gifted students than ability grouping that is flexible and appropriate for the high ability child's academic strengths and emotional/social needs (Rogers,...). Therefore, the WVAGT recommends adjusting the language of section 4.D.2.b. to satisfy the language of IDEA for students with disabilities while recognizing the LRE adjustment for students with exceptionalities who are not disabled.</p> <p>4. The WVAGT recommends keeping the caseload for teachers of gifted at 30 because they must plan and monitor the same amount of individualization, consultation, meetings, and completion of forms as teachers of other exceptionalities. In addition, these teachers often have multiple school assignments that require travel and reduce availability to students.</p>	3) O/N
		<p>4) -/A</p>	4) -/A

July 19, 1995	Robert G. Miller Special Education Director Mineral County Schools One Baker Place Keyser, WV 26726	<p>1) Overall the new format promises greater readability and flexibility for meeting individual student needs on a local basis. Over-regulations has caused significant and expensive problems for local school boards while inhibiting creative program resources in line with the intent of federal legislation and regulations. It will further allow local procedures to respond to ever-changing court decisions in a more timely and efficient manner.</p> <p>2) The placement of old "Assurances" in one new section, Procedural Safeguards, improves the readability and "ease of finding" of these important statements.</p> <p>3) Why does each section start with a Policy Statement? The items in the Statement are all included in further detail below the Statement. The sentence, "Specific methods for providing...." could be placed in Section 8.0, Accountability, under C.4, as a part of item a.</p>	1) +/A 2) +/A 3) O/NA Format developed by stakeholder group.
July 19, 1995	WV Learning Disabilities Association P.O. Box 602 Ansted, WV 25812	<p>1) Legal foundation should have included Reeth decision and the Harris Amendment.</p> <p>2) How will Policy 2001 tie in with Policy 2419?</p> <p>3) The purpose and intent of the IEP is good.</p> <p>4) The Best Practices document that contains explanation for programs of study is this binding or suggested? We need to see this document to comment. What is the legal foundation for Best Practices?</p>	1) -/NA Legal references change. Requirements of Harris v. Marockie are included in Policy 2419, and those of Master Plan are in other SBE policies. 2) O/N 3) +/A 4) O/N
July 19, 1995	Hazel Toler 822 Temple Street Hinton, WV 25921	Some provisions should be made in the regulations to require that teachers be provided time for paperwork, meetings, and the extra planning that is required to effectively serve special education students.	O/N
July 19, 1995	Dr. Jeanette W. Lee WV State College 1518 Jackson Street Charleston, WV 25311	The integrity of the system is seriously jeopardized when detailed procedures are eliminated in favor of more school based decision allowances. Monitoring will be much more difficult when standards aren't uniform.	-/NA Specifics will be addressed in LEA policies and procedures.
July 19, 1995	A. J. Parker IEP Specialist Boone County Schools 69 Avenue B Madison, WV 25130	<p>1) ADD needs to be addressed somewhere in the regulations.</p> <p>2) Eligibility for related services not addressed - Who determines? Eligibility or IEP Committee?</p>	1) -/NA Language of Federal Regulations. 2) O/N

July 19, 1995	Raymond A. Dunleavy Ed.D. 1612 Greystone Place Charleston, WV 25314	These proposed revisions to Policy 2419 require some modification to more adequately reflect the content and intentions of PL 94-142, IDEA, and 34 CFR. Of particular concern are the proposed regulations for PAC composition, IEP content and the LRF; decision making process with respect to the appropriate placement and reevaluation of special education students to and in a regular classroom setting (REM).	-N Comment not specific enough for response; however proposed revisions are consistent with the Federal Regulations.
July 19, 1995	Margaret Pace Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740	Like the arrangement of Policy and closer alignment to federal language.	I/A
July 20, 1995	Kevin Boggs, WVEA President 1558 Quarrier Street Charleston, WV 25311	1) The undertone of this policy is a push toward full inclusion. By doing away with the specific caseloads for self-contained classrooms and not making provision for the self-contained teachers in the contact hours section it sends the message that those types of classrooms will not exist or that the teacher will receive additional students to work with in order to achieve a full contact hour caseload. 2) There also appears to be movement away from specific certifications/licensure since the caseload section does not mention specific exceptionalities.	1) -/A See responses in section 5.0 of this log. 2) O/N
July 20, 1995	Pamela Kay Kohner Wirt County Primary Center P.O. Box 220 Elizabeth, WV 26143	Because regs are more general, a lot of room for interpretation is left open. This could be interesting.	O/N
July 20, 1995	Charles M. Shephard 206 W. Ridge Street Bluefield, WV 24701	We feel that the policy governing the IEP should stay as it is for special education kids. This way the school will know how to help these kids and will have to go by their IEP.	O/N
July 20, 1995	Mr. and Mrs. Roy Gene Cash P.O. Box 602 Ansted, WV 25812	1) Legal foundation should have included Recht decision and the Harris statement. 2) How will Policy 2001 tie in with Policy 2419? 3) The purpose and intent of the IEP is a good section. 4) The Best Practice Document that contains information for programs of study is this binding or suggested? We need to see this document to comment. What is the legal foundation for Best Practices?	1) -/NA Legal references change. Requirements of Harris v. Marockie are included in Policy 2419, and those of Master Plan are in other SBI policies. 2) O/N 3) +/A 4) O/N

<p>July 20, 1995</p> <p>Sally L. Leech Primary B.D. Teacher Jefferson Elementary Center 43 Oakwood Estates Parkersburg, WV 26101</p>		<p>I felt the proposed revisions to Policy 2419 were generally very poor.</p>	<p>-/NA Too vague for response.</p>
<p>July 20, 1995</p> <p>Frank Kirkland, Planner WV Developmental Disabilities Planning Council 110 Stockton Street Charleston, WV 25312</p>		<p>1) The background statement does not refer to the "Master Plan" as mandated in the Recht Decision. 2) The "Basis Practices" document to which the program of study and IEP components is being moved is not finished and not available for review. It is unclear whether that document will be required to be followed by local agencies or only provide suggestions. This document is also to contain the nonaversive behavioral procedures that was developed by the task force mandated by the Harris Decision. 3) The term "nonaversive behavioral strategies" is not defined and needs to be in the glossary. 4) A close comparison in the background or authority to 34 CFR 300 & 301 should be made so that the full intent of Congress is not misunderstood. 5) The policy has moved too many regulations for areas such as confidentiality and transportation to other state policies. This will make it extremely difficult and cumbersome for parents to keep track of to assure that their child's rights are not violated. 6) The policy gives too much control to local agencies without specific guidelines to follow. 7) The Authority section under the Legal Foundations should include all appropriate court cases such as Harris and Recht, OSBP regulation interpretations, Corrective Action Plans that the state is under, and any other legal obligation that the department has. 8) The purpose and Intent of the IEP is a good section. It is useful for guiding state enforcement and monitoring. 9) A section should be added that the IEP committee should be small to promote active parental involvement. Language to this effect is in CFR 300 & 301.</p>	<p>1) -/N Comment refers to Executive Summary 2) O/N 3) -/A Definition added. 4) -/NA Stakeholder group addressed this issue. 5) -/NA Stakeholder group addressed this issue in Additional Resources section. 6) -/NA Specifics will be addressed in LEA policies and procedures. 7) -/N Applicable requirements are included; specific legal references change and are not included. 8) +/A 9) -/NA Language consistent with Federal Regulations. Issue will be addressed in training.</p>

July 20, 1995	Billie Friedland WVU Dept. Of Special Education 507 E. Allen Hall P.O. Box 6122 Morgantown, WV 26506	1) Wherever written "IEP" should be expressed as "IEP/ITP," to reflect that the process addresses Individualized Transition Planning for all students with disabilities over 14 years of age, who are receiving special education services. 2) Review the use of "Person First with Dignity" language throughout Policy 2419.	1) -/NA Consistent with Federal Regulations. 2) O/A
July 20, 1995	Nora Corra 3320 Board Street Parkersburg, WV 26104	I feel that the changes are major enough for public hearing.	-/N Comment on process, not the policy.
July 20, 1995	Barbara Campbell Upsalur County Schools P.O. Box 580 Bucklannon, WV 26201	The overall layout is streamlined and much easier to use. Excellent job. Bringing 2419 closer to IDEA wording of regulations will make a much more efficient system. The index is good.	+/A
July 20, 1995	Susan McGlothlin 209 1/2 W. Westview Street Narrows, VA 24124	I am writing regarding proposed changes to Policy 2419 and how they will affect my classroom and students. My name is Susan McGlothlin and I teach special education in a multi-categorical classroom. I teach the Learning Disabled, Behavior Disordered, and the Mentally Impaired. I have taught Special Education for six years and I feel that it is necessary to comment on the changes to Policy 2419. I will specifically address sections 3.0 and 5.0.	O/N
July 20, 1995	Margaret M. McGarrity 833 Spring Rd. Charleston, WV 25314	1) Close comparisons to 34 CFR should be made so that the full intent of Congress is not misunderstood. 2) Legal Foundation is unclear and incomplete. Reference should be made to the Master Plan, Harris settlement, Goals 2000/2001, ADD/ADHD policies, 18 IDLER. 3) In delegating child find to counties, verbage isn't strong enough for reassuring standards for outcomes. 4) Policy statements are good but no definition of nonaversive. 5) Current Policy 2419 details a number of standards called process regulations which the proposed Policy 2419 deletes altogether. These standards promulgated the only criteria on those matters, which needs to be retained as a safeguard against the failure of a county school system to either develop or adequately detail their own standards, as for example the need for standards for operating an extended school year program.	1) -/NA Stakeholder group addressed this issue. 2) -/NA Legal references change; applicable requirements are included. 3) -/N Not a revision. 4) -/A Definition added. 5) -/NA These regulations were not deleted; just reworded. Specifics will be addressed in LEA policies and procedures.

July 21, 1995	Dr. Frieda M. Owen Wood County Schools 1210 Thirteenth Street Parkersburg, WV 26101	A well-designed document, both definitive and open ended.	+/A
July 21, 1995	Tony Lantar - BEI Committee Wood Co. Schools	This is a major change in the policy and should be put out for public comment.	-/N Addresses process, not policy.
July 21, 1995	WV Advisory Council 100 Angus E. Peyton Drive So. Charleston, WV 25303	1) The Council supports the new form and structure of the Regulations. Based on the understanding that this revision was intended to move the policy from a prescriptive to a more regulatory document, the flow and sequence is an improvement on the current policy. It will help people to realize that all children are students in the system and appropriately reduce the emphasis on special education policy requirements and services. 2) Since the proposed revision removes and provides reference to many requirements that are covered by existing general education policies, the Council would request that a packet of all necessary accompanying policies be placed in community libraries so that interested persons can review and learn about them. This might be a legitimate piece of the office's search and serve efforts. 3) The Council applauds the revised document's obvious attempt to raise the value and importance of local policy and procedure. 4) Please plan to provide training specifically to the revised document and make sure that the monitoring process and questions are consistent with the new flexibility in how counties meet standards. Every effort should be made to make data collection consistent with revised definitions and to possibly reduce the difference between October and December child-count reports.	1) +/A 2) O/N 3) +/A 4) O/N
July 21, 1995	Nan Murray 9 Greenview Drive Fairmont, WV 26554	1) You have failed to include Kindergarten children when referring to gifted children. They should be included since Kindergarten will be full-time and included in all areas of the curriculum. 2) Caseload of 50 is extremely high - should be 30.	1) -/NA State Code established gifted education grades 1-8. 2) -/NA Current caseloads will be maintained.
July 21, 1995	Ann Gentry 6440 A Startlight Sissonville, WV 25320	1) Like references to nonaversive behavior support plans. These are fairly unknown and without the nonaversive State best practice (as was done in the task force in Harris decision) will be a worthless inclusion. 2) No reference to ADD/ADHD who can be included under other health impaired in Section 504.	1) O/N 2) O/NA Consistent with Federal Regulations.

<p>July 21, 1995</p>	<p>Charles B. Kalbaugh Superintendent of Schools Mineral County Schools One Baker Place Keyser, WV 26726</p>	<p>Regarding the proposed revisions to Policy 2419, I would submit the following comments for your consideration: Overall, the intent is excellent. Streamlining regulations gives counties the ability to meet individual special education needs at the local level in the quickest and most appropriate manner possible. The use of federal language whenever possible should help clarify the intent of the legislation without redundancy or (additional) confusion. In addition, separating best practices from actual requirements should allow all of us to use current research to implement regulations without running afoul of the actual written regulation.</p>	<p>+/A</p>
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- 1) Close comparison to 34 CFR should be made so that the full intent of Congress is not misunderstood.
- 2) Legal Foundation is unclear and incomplete; reference should be made to the Master Plan (the 2419 Revision Committee has consistently referred to this) and the Recht Decision, Harris settlement, Goals 2000/2001, ADD/ADHD Policies, and 18 HDLER 116.
- 3) In delegating child find to counties, verbiage isn't strong enough for measuring standards for outcomes.
- 4) The Purpose and Intent of the HEP is very good and helpful as a "checklist" to counties. It is useful in guiding the state's enforcement of counties.
- 5) A statement should be added to the Purpose and Intent of the IEP which recommends that IEP committees should be encouraged to stay small in number to allow more effective parent participation. This language can be found in 34 CFR, 300 and 301.
- 6) Too many regulations, such as transportation and confidentiality, have been omitted or moved to the "best practice" section or listed under Policies. This will make it difficult and confusing for parents and other professionals. A "users-friendly" document should be less confusing, not more. Consumers will have difficulty in assuring their rights, and the rights of their children receiving services, are not violated.
- 7) The "Best Practices" document has not been completed nor any part shared at public hearings on the revisions. Moving the program of study, IEP components, and addressing nonaversive behavioral procedures through the "best practices", the question then becomes how binding are the best practices?
- 8) The term "nonaversive" is not defined.
- 9) Although IDEA does not require public hearings on Policy 2419 at this time too many significant changes in these revisions should warrant something more formal than sending in comments. They have been major revisions and families are concerned about it being too late to do anything.
- 10) Asking for comments in July does not give the public a full opportunity to provide feedback. Parents and families often are the last to get information and deadlines. Expecting responses during holidays and summer vacations puts many at a disadvantage. This might also support the opinion that a more formal process, such as public hearings, might be needed for these revisions.
- 11) Form to use for comments does not allow enough space for many comments.

- 1) -/NA Language consistent with Federal Regulations.
- 2) -/NA Legal references change; applicable requirements are included.
- 3) -/N Not a revision.
- 4) +/A
- 5) -/NA Language consistent with Federal Regulations. Issue will be addressed in training.
- 6) -/NA Stakeholder group addressed this issue in Additional Resources section.
- 7) O/N
- 8) -/A Definition added.
- 9) -/N Addresses process, not policy.
- 10) -/NA Addresses process, not policy.
- 11) -/NA Addresses process, not policy.

July 21, 1995

WV Klingberg Center for Child Development
WVU Department of Pediatrics
P.O. Box 9214
Morgantown, WV 26505

1) After reviewing the policy, we found a need for clearer definition of wording used in the writing of Policy 2419. For example, under SCOPF the sentence reading as follows, "...child find mandates is to require an aggressive search by the state and local education agencies for..." We feel the word aggressive needs to be more clearly defined along with other words and phrases found throughout the policy. For example, page 25 reads "...services shall be implemented as soon as possible must be clearly defined in terms of how many school days. On page 29 it reads "...the continued presence of a student on school premises poses a serious threat to the student...". The words serious threat should be defined in a way that describes more specific behaviors. These are just a few of the examples of language that need to be more clearly defined in order to make the document easier for parents and professionals to understand and implement.

2) Other important concerns we share include wording under PROPOSED CHANGES, "...and a provision to base caseloads on teacher contact hours with students." Will this not affect the quality of the special education student's program in a negative way? Instead of basing caseloads on the number of students as before, why are we now basing it on teacher contact hours? Also listed under PROPOSED CHANGES is "...language has returned to that of the federal regulations whenever possible and appropriate (e.g. parental consent for change of placement is eliminated)...". Does this mean that a child with special needs can have a change in placement without their parent's consent? This is ridiculous!

3) We found the language under PURPOSE AND INTENT OF THE IEP that states "...the IEP meeting serves as a communication vehicle between parents and school personnel and enables them, as equal participants, to jointly decide what the student's needs are..." to be excellent. This was a wonderful statement and shows that the best possible services can be provided if parents and professionals work together. 4) If that is indeed the intent of the IEP, why should we then say that "...parental consent for change of placement..." is eliminated!

5) Removal of WV Board of Education's objective to establish standards pertaining to the education of all eligible students

6) Removal of the Program of Study, specific required curriculum components in the student's IEP to address each exceptionality.

7) In general, the vague language of the proposed changes only increases the likelihood of litigation, funneling precious resources away from direct services.

1) -/NA Consistent with Federal Regulations and language of State Code. Specifics will be addressed in LFA policies and procedures.

2) -/NA Does not address a revision in policy - refers to executive summary.

3) +/A

4) -/NA Language consistent with Federal Regulations.

5) -/A Statement retained in section 8.0, Accountability.

6) -/NA Information is contained in Best Practices document.

7) -/NA Language consistent with Federal Regulations.

July 21, 1995	Virginia Landrum Randolph County Schools 40 Eleventh Street Elkins, WV 26241	<p>1) Much improved! Good format, well-stated, good organization.</p> <p>2) An index would be helpful to all stakeholders.</p> <p>3) Capitalization and heavy type of the information highlighted in the returned copy would be extremely helpful. These are key words or phrases that, without careful attention, lead to most frequent misinterpretation or ignoring of key factors that result in noncompliance.</p>	<p>1) +/-A</p> <p>2) O/N</p> <p>3) O/NA Will be addressed in implementation training.</p>
July 21, 1995	Diane Kradel 503 N. Tennessee Avenue Martinsburg, WV 25401	<p>If you wish to receive responses the revisions should be received before 7/19/95 if they are due on 7/21/95.</p>	-N Addresses process, not policy.

July 21, 1995

Janet Gould
HIC 66 Box 19
Romney, WV 26757

1. The primary focus of my comments is to adjust the definition of gifted (see section 3.0) to reflect national trends recognizing and developing exceptional talent in children, especially of those from diverse ethnic and cultural backgrounds. Eligibility criteria needs to avoid over-reliance upon a score from a single standardized test as this is not in keeping with best practice for eligibility determination for students with disabilities nor with exceptional talent. National Excellence: A Case for Developing America's Talent, OERI, October, 1993, states as one of its recommendations, "Broaden the definition of gifted. States and districts need to rethink their definitions and assessment strategies to serve a wider range of talented students. In the past 20 years, new research has challenged the view that intelligence is fixed and can be measured by one test. Today, researchers know that intelligence takes many forms and therefore requires that many criteria be used to measure it. This understanding has led educators to question traditional definitions of intelligence and current assessment practices and procedures. Educators must identify outstanding talent by observing students in settings that enable them to display their abilities, rather than relying solely on test scores." (pp. 2-3)

2. I also recommend including a brief statement of IEP content to speak to the needs of gifted students. I am concerned about the proposed removal of programs of study from the main policy document. (See Section 4.0)

3. Inclusion with regular education students at all times has been documented as a more restrictive environment for gifted students than ability grouping that is flexible and appropriate for their academic strengths and emotional/social needs. I recommend adjusting section 4.D.2.b to satisfy language of IDEA for students with disabilities while recognizing the LRE for gifted students. Once again, one of the findings of the OERI in their report on National Excellence: "Classroom teachers do little to accommodate the different learning needs of gifted children. In a large national survey, most teachers said they give the same assignments to both gifted and average students almost all the time, and few said they use many "higher level" teaching strategies in their classrooms. In a follow-up study involving classroom visits, researchers found that 84 percent of assignments for gifted students were the same as those made to the whole class in the five subjects surveyed. The most individualization took place in mathematics, but even there only 11 percent of activities for gifted students contained advanced content and instruction." (p. 20)

1) O/N

2) O/N

3) O/N

COMMENTS AND SUGGESTIONS LOG
POLICY 2419: REGULATIONS FOR THE EDUCATION OF EXCEPTIONAL STUDENTS

COMMENTS FOR SECTION 1.0

	ACTION	TYPE
	N=No Response NA= Not Accepted A=Accepted	-=Negative +=Positive o=Neutral
June 22, 1995	Kathy S. Sibbott Nicholas Co. Bd. Of Ed. 400 Old Main Drive Summersville, WV 26651	O/N
June 27, 1995	Janet S. Gagnon, Ed.S. School Psychologist Jackson Co. Schools 1714 Rolling Hills Circle Charleston, WV 25314	O/N
June 28, 1995	Elaine S. Max 1551 Autumn Road Charleston, WV 25314	O/N
July 7, 1995	Doug Smith Lincoln County Board of Education P.O. Box 269 West Hamlin, WV 25571	+A
July 10, 1995	Kathy Finsley Ohio County Schools 2203 National Road Wheeling, WV 26003	+A
July 17, 1995	Nancy Gordon Jefferson County Schools T.A. Lowery Elementary School 55 Shenandoah Jct. Rd. Shenandoah Jct., WV 25442	+A

July 19, 1995	Robert G. Miller Mineral County Schools One Baker Place Keyser, WV 26726	<p>1) This section meets federal requirements while allowing considerable local board discretion in the development of the child find activities.</p> <p>2) Section B. Referrals, appears to be redundant in light of the policy statement which includes these groups as part of local procedures. Could Section B. be eliminated?</p> <p>3) Section C. Is an excellent refinement of the old SBAT requirements. Schools and faculty senates must be given the freedom to develop these procedures in accordance with their own needs, integrated classroom plans and best practices from other states, case-study or child development teams, etc.</p>	<p>1) +/A</p> <p>2) -/NA Format developed by Stakeholder group.</p> <p>3) +/A</p>
July 19, 1995	A. J. Parker IEP Specialist Boone County Schools 69 Avenue B Madison, WV 25130	O.K.	+/A
July 19, 1995	Dr. Jeanette W. Lee 1518 Jackson Street Charleston, WV 25311	The purpose and composition of "School Teams" needs to be clarified (The 6-18-92 copy, p. 16 is superior). Recommended addition: Rotate membership on the School Based Assistance Teams to help all teachers feel accountable and having some vested interest in outcomes of target children. The current brief wording will hurt the county efforts to strengthen the role of SBATS which have the potential of remedying certain cases before they even go to the formal referral process.	-/NA Content recommended by stakeholder group. Specifics will be addressed in LEA policies and procedures.
July 19, 1995	WV Learning Disabilities Association P.O. Box 602 Ansted, WV 25812	C. School Teams: Should be referred to as SBAT - familiar term. Realizing SBAT is not federal law - still some linkage needs to be made and mentioned if a student is to be considered under Section 504.	-/NA Content recommended by stakeholder group.
July 20, 1995	Frank Kirkland, Planner WV Developmental Disabilities Planning Council 110 Stockton Street Charleston, WV 25312	The changes reduce the requirements which LEA's follow to identify and refer students who may need special education. It leaves much of the responsibility up to the LEA without giving them specific guidelines or goals to follow.	-/NA Language consistent with Federal Regulations. Specifics will be addressed in LEA policies and procedures.
July 20, 1995	Mr. and Mrs. Ray Gene Cash P.O. Box 602 Ansted, WV 25812	C. School Teams: Should be referred to as SBAT - familiar term. Realizing SBAT is not federal law but still some linkage needs to be made and mentioned if a student is to be considered under Section 504.	-/NA Content recommended by stakeholder group.

July 21, 1995	WV Advisory Council 100 Angus E. Peyton Drive So. Charleston, WV 25303	1) The Council is pleased with the proposed revisions and the effort to identify and connect the function of SBAT with existing expectations of school teams. 2) Recommend the insertion of the word "describe" between "and" and "is" in C.2.	1) +/- 2) O/A Clarifies statement.
July 21, 1995	WVA, WVPPI, COP/A, and DDPC	No goals, or requirements that counties set goals. Changes reduce the requirements for LEA's to follow to identify and refer students who may need special education. These changes give LEA's additional responsibilities without giving them guidelines or goals to follow.	-NA Specifics will be addressed in LEA policies and procedures.
July 21, 1995	Virginia Landrum Randolph County Schools 40 Eleventh Street Elkins, WV 26241	1.0.C - <u>Minimum</u> representation on teams needs to be stated.	-NA Content recommended by stakeholder group. Specifics will be addressed in LEA policies and procedures.

COMMENTS AND SUGGESTIONS LOG
 POLICY 2419: REGULATIONS FOR THE EDUCATION OF EXCEPTIONAL STUDENTS

ACTION
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 A= Accepted

TYPE
 -= Negative
 += Positive
 0= Neutral

COMMENTS FOR SECTION 2.0

June 22, 1995 Kathy S. Sbbett Nicholas Co. Bd. of Ed. (Speech) 400 Old Main Drive Summersville, WV 26651		1) Number 3 b. Why exclude observations on communication disordered and/or gifted referrals? An uninvolved 3rd party observation may be helpful here. 2) Number 5. Does this include gifted referrals also?	1) O/NA Proposed regulations do not exclude observations in this case. 2) O/N
June 19, 1995 Jack C. Stewart WV Assistive Technology System (WV/ATS) University Affiliated Center for Developmental Disabilities (UACDD) 955 Hartman Run Road Morgantown, WV 26505		Timelines for Evaluation and Re-evaluation; Eligibility and IEP Process. The proposed revisions do not explicitly define the timelines for the public agency to evaluate and determine eligibility. The revisions state at 2.0 A.3 that an initial evaluation and the convening of the Eligibility Committee shall be completed within 80 days of receipt of parental consent. The revisions also state at 4.0 A that an IEP will be developed within 30 days of determination of eligibility. It is not clear to me if the public agency is to evaluate and determine eligibility within the 80 day period. To clarify this proposed revision, I would suggest 2.0 A.3 be changed to the following: Each public agency shall complete the initial multidisciplinary education evaluation, convene an Eligibility Committee and determine eligibility as specified in 3.0 within 80 calendar days of receipt of the written parental consent for evaluation.	-/A Added language to clarify the intent of the requirement.
June 27, 1995 Karen Hall Monroe Co. Schools P.O. box 330 Union, WV 24983		Like the changes.	+/-A

June 27, 1995	Janet S. Gagnon, Ed.S. School Psychologist Jackson Co. Schools 1714 Rolling Hills Circle Charleston, WV 25314	1) A.3 - Good - simplified timeline; 2) B.2 Is this necessary for severely disabled students and/or students who have very little or no contact with regular ed. teachers? 3) B.4 - Yes keep the MD in OIII. Overall, sounds like the MDET can often/usually be 2 people, a regular ed. teacher and either a school psychologist or a special educator. Is this how you mean it? 4) C.2.b - in addition to the triennial schedule? 5) C.5 - nicely put. 6) C.3 - I take it "regular classroom" means the classroom the student regularly attends; if there are specific requirements (e.g. BD) as to when it is appropriate to observe in one other setting, please specify clearly. The change (C.3) says a classroom observation is required for <u>all</u> evaluations, right? 7) I have found that specifying the content of evaluation reports (old regs 1.2, 4, 6) has been helpful, especially with how special ed. teachers doing evaluations; also it helped us develop a form for classroom teacher reports. Teachers need specified guidelines (doesn't hurt psychologists either!) In this case I think legally requiring a certain standard of practice is better than leaving it up to the professionals or the evaluators.	1) +/A 2) O/N 3) +/A 4) O/N 5) +/A 6) O/N 7) -/NA Specifics will be addressed in LEA policies and procedures.
June 28, 1995	Elaine S. Max 1551 Autumn Road Charleston, WV 25314	With each change in the Regulations, the time line for completing the process gets shorter. This just increases the numbers of non-compliances and does nothing to increase the number of students who get (re)evaluated.	-/NA Timelines same as in current policy.
July 7, 1995	Doug Smith Lincoln County Board of Education P.O. box 269 West Hamlin, WV 25571	1) Very positive step in specifying one timeline for determining eligibility as opposed to two. This will result in less compliance problems for counties and still protect rights of parents. 2) I would recommend that we add an additional 20 days that were eliminated from regulations on a previous revision. 3) I also support changes in re-evaluation of sensory impaired students.	1) +/A 2) -/NA Content developed by stakeholder group. 3) +/A
July 12, 1995	Debbie B. Page Monroe County Schools P.O. Box 330 Union, WV 24983	3.b Says that MDET shall determine if an observation shall be conducted. I feel that all first-time evaluations should have an observation. After that it could be left to the committee or SLP to decide.	-/NA Content developed by stakeholder group.
July 17, 1995	Sandra Sargent Cabell County Schools 620 20th Street Huntington, WV 25702	1) C.2 - in all areas related to the exceptionality... since we are getting away from categories, would a better way to say this be "in areas requiring specially designed instruction" or "as deemed appropriate by the MDET". 2) C.4 - Do we mean "assistive technology"? Not same as alternative.	1) -/NA May exclude potential evaluations in problem areas as required by Federal Regulations. 2) O/N

July 17, 1995	Nancy Gordon Jefferson County Schools T.A. Lowery School 55 Shenandoah Jet. Rd. Shenandoah Jet., WV 25442	1) It would be helpful to designate "student" as one who has been referred through appropriate channels. 2) Re-evaluation - is that instead of triennials and as specified by appropriate initial evaluator?	1) O/N 2) O/N
July 19, 1995	Raymond A. Dunleavy, Ed.D 1612 Greystone Place Charleston, WV 25314	2.0 B (3) This proposed regulation is in conflict with 2.0 B (2.d) and 34 CFR 300.540 (3.b). Please delete. Certified school psychologists, for example, have undergone a unique formal and informal training program which qualified them to perform their specified duties adequately in the school environment. Other training programs as mentioned, do not adequately qualify an individual for these specified duties.	-NA Consistent with Federal Regulations.
July 19, 1995	Marilyn M. Murdock 129 Stamford Park Drive Huntington, WV 25705	1) C. Evaluation components, 2.b. We note that triennial reevaluations will no longer be required to determine achievement performance for gifted students. In that gifted students will be reevaluated in 8th grade for their 4-Year Plan, and students who show a decline in their achievement patterns are usually referred for a reevaluation to detect possible problems, the WVAGT concurs that routine triennial retesting is not necessary for most gifted students. 2) C.3.b. When the student is suspected of being solely communication disordered or gifted, the MDLT shall determine if observations are to be conducted.	1) +/-NA Language revised to reflect intent and requirements of triennial reevaluations. 2) O/N
July 19, 1995	Connie Jones 603 1/2 Moyer Way Fairmont, WV 26554	1) I feel the statement, "if conditions warrant" is much too vague. I feel parental consent should be needed if the student is to be retested before the 3 year time-frame to prevent students from being shifted into pre-existing programs to accommodate the "head count" instead of being based on their individual needs. 2) Under Section B, 2.d, I feel that the psychologist conducting the tests should be able to adapt to the individual student's needs, if not, a more qualified person should be used.	1) -NA Consistent with Federal Regulations. 2) O/N

July 19, 1995	Dr. Jeannette W. Lee WV State College 1518 Jackson Street Charleston, WV 25311	1) Pg. 5 (C.2.) Change the term "assessed" to "evaluated". Federal law does not require that assessment measures given at reevaluation are identical or equivalent to those administered at the times of initial evaluation. It does say that the evaluation team should address the same areas as were assessed initially. Sec. 300.534 (b); Sec. 300.532 (d). By using the term "evaluate," Multidisciplinary assessment teams may have more flexibility for selecting instruments or simply writing reports addressing areas previously assessed. (May use, in the future, curriculum - based assessment measures, classroom observations, clinical judgement, etc. for certain cases where time-costly standardized tests may not be warranted). 2) C. 2 "For reevaluations, the student shall be evaluated in all areas related to the exceptionality....."	1) -/A "Term "evaluated" consistent with federal language. 2) O/N
July 19, 1995	Sylvia Shipp Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740	1)C.2b. even if the student was re-evaluated in grade 8? 2)A.3 80 days - is this new or a typo?	1) O/N 2) O/N
July 19, 1995	WV Learning Disabilities Association	1) A.3 - 80 days are they calendar or working days - this needs to be specific and it is not. 2) C.3 - Good description as stated. 3) C.4 - Drop from this section his or her potential. 4) C.5 - Will this language make this a requirement or will this be only considered input?	1) -/A "Days" will be defined. 2) +/A 3) -/A Requirement rewritten for clarity of intent. 4) O/N
July 19, 1995	Robert G. Miller Special Education Director Mineral County Schools One Baker Place Keyser, WV 26726	1) A. 3, nicely clarifies the timeline. 2) The items in B.5 may more appropriately fit in Section 7.0 E. (as assurances). 3) Does item C.2 assume that an exceptionality continues to exist? It seems to imply that it does and the reevaluation is only to "determine if the exceptionality adversely..." Should it read, "if the exceptionality continues to exist adversely....." 4) Is item C.4, a federal requirement or a best practice? (and therefore should not be in this document). 5) In item C.5, isn't the law more specific about the parent report components? 6) Can we move the Speech/Language Impairments to its correct alphabetical position (since its not CD anymore)?	1) +/A 2) -/NA B.5 will be reformatted for clarity. 3) O/N 4) O/N 5) O/N 6) O/A This sub-section was moved to be consistent with section format.

July 19, 1995	A. J. Parker IEP Specialist Boone County Schools 69 Avenue B Madison, WV 25130	1) A-3 Good that timelines no longer broken up (80 days). 2) C-3 Simplified from current regs. - all students must be observed.	1) +/A 2) +/A
July 19, 1995	Julie Carter Mercer County schools 1403 Honaker Avenue Princeton, WV 24740	Test all gifted's in 8th grade? Time to complete evaluation extended to 80 days?	O/N
July 19, 1995	Pat Hanks Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740	p. 5 line 26 - if triennial not due, do they have to be evaluated?	O/N
July 19, 1995	Patricia Hoge Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740	1) p.5 C.1.b - in 8th grade or within 3 years? 2) P.6.3b "why isn't observation of communication skills in natural setting appropriate here?"	1) O/N 2) O/N
July 20, 1995	Edwina Pendarvis 6177 Birkwood Drive Huntington, WV 25705	1) C. Evaluation components, 2.b.: We note that triennial reevaluations will no longer be required to determine achievement performance for gifted students. In that gifted students will be reevaluated in 8th grade for their 4-year plan, and students who show a decline in their achievement patterns are usually referred for a reevaluation to detect possible problems, the WVAGT concurs that routine triennial retesting is not necessary for most gifted students. 2) C.3.b When the student is suspected being solely communication disordered or gifted, the MDET shall determine if observations are to be conducted.	1) +/NA Language revised to reflect intent & requirements of triennial evaluations. 2) O/N

July 20, 1995	Frank Kirkland, Planner WV Developmental Disabilities Planning Council 110 Stockton Street Charleston, WV 25312	<p>1) A.1 - The 80 day timeline for LEA's to complete the initial evaluation and convene the Eligibility Committee needs to specify "calendar days". 80 working days is not acceptable.</p> <p>2) A.2 - The multidisciplinary reevaluation component which allows either a teacher or parent to request a reevaluation is a good addition.</p> <p>3) C.1 - A developmental history needs to be a required part of the evaluation rather than information that is only to be documented and made available to the Eligibility Committee. Evaluators need to have such information in order to complete an evaluation and make recommendations.</p> <p>4) C.3 - Requiring that all students rather than only specific students be observed in a setting other than their current classroom as a part of the evaluation is an improvement.</p> <p>5) C.4 - the word "potential" needs to be deleted from the component that requires nonspeaking students to be evaluated for potential for alternative means of communication. All children, even children with the most significant disabilities, have the potential to benefit from an alternative means of communication.</p> <p>6) There are no requirements for what the evaluation report must contain. Recommendations for specific areas for possible goals and objectives need to be a required part of the evaluation report.</p>	<p>1) -/A "Days" will be defined.</p> <p>2) +/A</p> <p>3) -/NA Not omitted - under C.5.</p> <p>4) +/A</p> <p>5) -/A Requirement rewritten for clarity of intent.</p> <p>6) -/NA Specifics will be addressed in LEA policies and procedures.</p>
July 20, 1995	Pamela Kay Kohner Wirt County Primary Center P.O. Box 220 Elizabeth, WV 26143	<p>1) B.4 Requires physician's statement for sensory impairment. Should include audiological report for Deaf & Hard of Hearing. Later refers to this as part of reevaluation in C.2.a.</p> <p>2) C.1 - Evaluated. Could this include a screening only for hearing, vision, motor, communication, rather than complete evaluation when no problems are indicated or suspected?</p>	<p>1) -/NA Implementation issue.</p> <p>2) O/N</p>
July 20, 1995	Barbara Campbell Upshur County Schools P.O. Box 580 Buckhannon, WV 26201	<p>One timeline for completion of evaluation process is realistic and will allow counties to allocate resources more efficiently.</p>	<p>+/A</p>

July 20, 1995	Billie Friedland WVU Dept. Of Special Education 507 E. Allen Hall, P.O. Box 6122 Morgantown, WV 26506	1) The term, "interdisciplinary" rather than, "multidisciplinary," infers that people are teaming in support of individual students with disabilities, and is more in keeping with the conceptual framework of inclusionary education (IDDEA) at the Federal level. 2) C.3.b. Change, "being solely communication disordered..." to "having only communication disorders..." so as not to label the person along with the disability. Note: Because people have areas of specific disabilities, it does not necessarily follow that they are disabled people.	1) -/N Language consistent with Federal Regulations. 2) -/A Language revised to maintain "first person with dignity" consistency.
July 20, 1995	Mr. and Mrs. Roy Gene Cash P.O. Box 602 Ansted, WV 25812	1) A.3 - 80 days are they calendar or working days - this needs to be specific and it is not. 2) C.3 - Good description as stated. 3) C.4 - Drop from this section his or her potential. 4) C.5 - Will this language make this a requirement or just considered input?	1) -/A "Days" will be defined. 2) +/A 3) -/A Requirement rewritten for clarity of intent. 4) O/N
July 20, 1995	Kim Long Rt. 2, Box 157 B Ravenswood, WV 26164	1) B.2.d) Does this mean a school psychologist would be needed for a gifted triennial? 2) C.2.b) Does this mean during the 8th grade year? This would take an extreme amount of time to perform if testing were required for all 8th grade students. It may also be a waste of time since some of them would have been tested in 7th grade for a triennial review. (This may seem petty but a specialist already loses planning and class time to conduct testing and meetings. This could also pull the student out of class for more unnecessary testing).	1) O/N 2) O/N
July 20, 1995	Margaret McGarrity 833 Spring Rd. Charleston, WV 25314	1) 80 Calendar or working days? If 80 working days, that's too long. 2) C.4 - drop his or her potential, nonspeaking students need some form of communication. We should not narrow ourselves to evaluate potential. 3) C.5 - Should not be stated as a requirement. Some counties will send forms to families and consider that as their only input.	1) -/A "Days" will be defined 2) -/A Requirement rewritten for clarity of intent. 3) -/NA Not a revision from current policy.
July 21, 1995	WV Advisory Council 100 Angus E. Peyton Drive So. Charleston, WV 25303	1) Support general de-emphasizing of eligibility and focusing attention on the individual child's instructional needs. 2) You may want to consider clarifying language regarding membership of MDJET when dealing with Communication Disorder and Preschool. 3) Offer support for continued emphasis on observation as a part of the MDJET process and continued requirement for parent written report although not required by federal law.	1) +/A 2) -/A Clarification statement will be added. Will be addressed in implementation training. 3) +/A

July 21, 1995	Ann Gentry 6440 A Starlite Sissonville, WV 25320	80 days - change to 80 calendar days as per rest of document. 80 weekdays is too long.	-/A "Days" will be defined.
July 21, 1995	WVA, WVPTI, COP/A, and DDPCC	<p>1) A.1 - 80 calendar or working days? If 80 working days, that is far too long.</p> <p>2) C.3 - Good descriptive statement.</p> <p>3) C.4 - Drop "his or her potential". Nonspeaking students need some form of communication. We shouldn't narrow ourselves to evaluate potential.</p> <p>4) C.5 - This is good, but it shouldn't be stated as a requirement. Some counties may send "forms" to families and consider that as their only input.</p> <p>5) There are no requirements for what the evaluation report must contain. Recommendations for specific areas for possible goals and objectives need to be a required part of the evaluation report.</p>	<p>1) -/A "Days" will be defined</p> <p>2) +/-A</p> <p>3) -/A Requirement rewritten for clarity of intent.</p> <p>4) -/NA Current policy; not a revision.</p> <p>5) -/NA Specifics will be addressed in LEA policies and procedures.</p>
July 21, 1995	WG Klingberg Center for Child Development WVU Department of Pediatrics P.O. Box 9214 Morgantown, WV 26505	<p>1) Under General Responsibilities, number 3, "...convene an Eligibility Committee within 80 days of receipt of the written parental consent for evaluation." Why was this changed from 60 days to 80 days? Is this 60 days to do the evaluation and 20 days for the written report lumped together? 2) Also, under MDET, part d, "...at least one person qualified to conduct individual diagnostic examinations of students, such as a certified school psychologist or speech-language pathologist..." A speech pathologist is not qualified to conduct such an examination.</p> <p>C. Evaluation Components 2.b. I notice that triennial reevaluations will no longer be required for gifted students. In that gifted students will be reevaluated in 8th grade for their 4-year plan, and students who show a decline in their achievement are to be referred for a complete reevaluation to detect possible problems, I agree that routine triennial retesting is not necessary for most gifted students.</p>	<p>1) O/N</p> <p>2) -/NA Consistent with Federal Regulations and definition of "qualified".</p> <p>+/NA Language revised to reflect intent and requirements of triennial reevaluations.</p>
July 21, 1995	Janet Gould HC 66 Box 19 Romney, WV 26757	<p>1) 2.0 Statement should have at least a short phrase that includes access by private school student. As is the interpretation can easily be made that those students can be excluded. 2) Some statement needs to be made that excludes students being evaluated if the suspected disability does not affect educational performance.</p> <p>3) 2.0.C - Does vision include ophthalmological for basic acuity or does that fit under physical in 2.0?</p> <p>4) 2.0.C.a - Should this include "or at least once every 3 years"?</p>	<p>1) -/NA Current policy; not a revision.</p> <p>2) -/NA Inconsistent with Federal process requirements.</p> <p>3) O/N</p> <p>4) +/-A Requirement rewritten for clarity of intent.</p>
July 21, 1995	Virginia Landrum Randolph County Schools 40 Eleventh Street Elkins, WV 26241		

<p>July 21, 1995</p>	<p>Sandi Saunders Special Education Supervisor Cabell County Schools 620 Twentieth Street P.O. Box 445 Huntington, WV 25709</p>	<p>1) I am writing to endorse the new proposed WVAGT guidelines for eligibility for the Gifted Program. Our association has spent several years carefully considering the changes that need to be made to better serve the students of West Virginia. We would be delighted to see that the State Department accepts our recommendations.</p> <p>2) With the revision of the WISC III, we are finding that fewer and fewer students have qualified for program assistance. I am sure that you will see that the number of children served in Cabell County has decreased over the past few years, as well as the number served in gifted for the state. We have not been able to maintain our 4%.</p> <p>The new guidelines that we have proposed insure that every student in need of a differentiated curriculum in the area of gifted, will be able to receive the service. Often times, that is not the case now. We have many meetings where the teachers want to place students and students are able to perform in the classroom, however, they may not make the IQ cut-off score. This one test should not be the only determining factor that causes children to fall out of the range for consideration as per our recommendations.</p>	<p>1) O/N 2) O/N</p>
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COMMENTS FOR SECTION 3.0

June 15, 1995	June Kimberlin, SL.P #10 Twin Maples Brookhaven Road Morgantown, WV 26505-8443	I think that a language quotient of 75 or less is not going to adequately identify the language disordered population. Please set the language quotient at 85. If a language quotient of 75 is adopted, many students who need help will no longer qualify for any special education or related program. Also, not only individual or small groups will be affected by lowering the SLQ to 75. Many speech language pathologists, including myself, now work in the regular classroom with the teacher to present a language lesson. We are allowed to do so if we have a student with a language IEP in the classroom. We are then able to teach not only the language disordered student but possibly help other students with academic deficiencies who don't meet eligibility criteria for a special education program. If the language quotient falls to 75, we are going to have less opportunity to work in the classroom since we will not have as many students who are eligible for language therapy.	-/NA A language quotient of 77 reflects clinically significant scores falling at or below -1.5 to -2.0 standard deviations from the mean. A language quotient of 77 will strengthen the eligibility criteria and benefit truly language delayed students.
June 16, 1995	Barbara Trimboli Randolph Co. Schools 1428 Cole Avenue Elkins, WV 26241	I believe that the newly proposed language quotient of 75 or below for placement is too restrictive. Many language disabled children will not receive services. It appears that this would eliminate the SL/D population for services who, frequently, have communication gaps that can be remediated.	-/NA A language quotient of 77 reflects clinically significant scores falling at or below -1.5 to -2.0 standard deviations from the mean. A language quotient of 77 will strengthen the eligibility criteria and benefit truly language delayed students.
June 22, 1995	Lisa Walker Cottageville Elementary School Street Cottageville, WV 25239	Please include in Other Health Impairments (OHI) a clearer eligibility description for ADD/ADHD.	O/NA - Language of Federal Regulations.
June 27, 1995	Karen Hall Monroe Co. Schools P.O. Box 330 Union, WV 24983	1) Mentally Impaired - will SMI or PMI certification no longer be required? 2) LD criteria does not include the statement about "adversely affecting the student's educational performance", while this statement is on page 7.2.a.2, the other areas include the statement. 3) Also, are we no longer looking for deficits in "basic psychological processes"?	1) O/N 2) O/NA Proposed definition is based upon definition of National Joint Commission on LD. 3) O/N

<p>June 27, 1995</p>	<p>Janet S. Gagnon, Ed.S. School Psychologist Jackson Co. Schools 1714 Rolling Hills Circle Charleston, WV 25314</p>	<p>1) Policy statement seems clear - good. 2) A.1 - Wait a minute here! This is much too loose. Eligibility is the most important decision in the process. If the old regs need some adjustment, let's address the specific problem. But let's make double sure that this committee has the right people on it in every county and school. Otherwise, we will have inconsistent, arbitrary decisions made for the benefit of people other than handicapped children - a wiping out the benefits of well-done evaluations. 3) (MI) - old way better overall - problems here are (1) It's not clear how to determine where in the 70 - 75 I.Q. range eligibility lies, or what should be considered to determine that point. E.g. is it 75 = 3 for certain kids? Or is the 75 really 70 = 5 for certain tests? This fuzziness will cause controversies which will be resolved based on policies, parent pressure, caseload concerns and regular ed. teacher discontent rather than children's needs. Also, how can we efficiently measure all these adaptive skills? Are we left with only one viable choice of instruments (e.g. ABS - whatever the new one is called). Also, what is "functional academics" for a 12 year old with an I.Q. of 75? Regular academics should be measured every time with such children (but then fig academics with a limited 5 year old). Please give us more specific and realistic guidelines that will ensure an acceptable level of pencils for helping children get what they need. 4) 12.b.1 - Let's bring this back to 1.65 - 1.0 excludes too many children who really have SLD. I think 12.6.2(2) should be 1.65 SEM also. 5) 12 (general) good - left out "basic learning process" 12.c.(2) - well expressed.</p>	<p>1) +/A 2) -/NA Language of Federal Regulations.</p> <p>3) -/NA New definition of mental impairments is being nationally accepted because of its focus on individual student needs, rather than IQ scores and labels. During the 1995-96 school year, many of these implementation issues will be addressed.</p>
<p>June 28, 1995</p>	<p>Elaine S. Max 1551 Autumn Road Charleston, WV 25314</p>	<p>1) Page 7: B2 - does not require a parent to actually be invited to the meeting - BUT, Page 33: D1 "provide...and afford the parents the opportunity to participate in the meeting..." 2) Page 15: 10. Where does ADHD go?</p>	<p>1) -/NA - Not a change; relocated in Section 7.0. 2) O/N</p>
<p>July 7, 1995</p>	<p>Doug Smith Lincoln County Board of Education P.O. Box 269 West Hamlin, WV 25571</p>	<p>1) Composition of eligibility team very positive in that requires membership to be knowledgeable of the student instead of prescribing titles of members. 2) Proposed definition and eligibility criteria for Mentally Impaired will result in more students being eligible for Special Education.</p>	<p>1) +/A 2) O/N</p>
<p>July 10, 1995</p>	<p>Kathy Finsley Ohio County Schools 2203 National Road Wheeling, WV 26003</p>	<p>1) I support moving the eligibility criteria to this section as it allows for practical reference by the eligibility committee. 2) 4. Speech/Language... B. 1) Language - strengthening the criteria for eligibility will positively impact the caseloads of SLP's and program delivery to truly language delayed students.</p>	<p>1) +/A 2) +/A</p>

July 17, 1995	Yvonne Santin, Assistant Principal Jefferson Elementary Center 1103 Plum Street Parkersburg, WV 26101	Page 15, item 10: Other Health Impaired The definition and documentation of other health impaired are too broad. Too much is left to interpretation.	-/NA Definition consistent with Federal Regulations.
July 17, 1995	Sandra Sargent Cabell County Schools 620 20th Street Huntington, WV 25702	1) B.1 - The committee is really considering reports - see attached. 2) C.2.a.1 - Sensor - sensory? 3) C.7.c - Exceptional gifted - isn't it about time we did away with this category? Aren't students supposed to require specially designed instruction? 4) C.10.a - Possibly add "such as but not limited to..."	1) O/N 2) -/A 3) O/N 4) -/NA Grammatical preference.
July 17, 1995	Nancy Gordon Jefferson County Schools T.A. Lowery Elementary School 55 Shenandoah Jet. Rd. Shenandoah Jct., WV 25442	1) What about eligibility for a preschool child who is only being made eligible for speech therapy? Who would the third person be in addition to parent and SL/P? Would the principal suffice? 2) Autism - I'm concerned that students with the dx Pervasive Developmental Disorder may be excluded from services under this category. Please look at the Fourth Ed. Of the Diagnostic & Statistical Manual from the A.M. Psychiatric Assoc. Many autistic-like students receive a PDD diagnosis and need this sort of programming but our local psychologists at school won't make the student eligible for services if the outside agency says PDD rather than autistic. 3) <u>Speech-Language</u> - I like the standard score dropped to 75 for language eligibility. 4) <u>SLD</u> - Is there an overlap with Speech-Language to have oral-expression listed here?	1) O/N 2) -/N Not consistent with federal definition. 3) +/NA A language quotient of 77 reflects clinically significant scores falling at or below -1.5 to -2.0 standard deviations from the mean. A language quotient of 77 will strengthen the eligibility criteria and benefit truly language delayed students. 4) O/N
July 19, 1995	Lynn M. Olsen Speech Language Pathologist Berkeley County Schools RR 1, Box 5E Hedgesville, WV 25427	4. Speech and Language Impairments - B.1.b "a language quotient of 75 or less..." That is a significant drop from 85! I agree that 85 is too high for some kids; they function ok in class and society with scores 80-85. However, most of my kids with scores below 80 do have difficulty in class as a society. I think the LQ should be dropped to 80 not 75; it's too low.	-/NA A language quotient of 77 reflects clinically significant scores falling at or below -1.5 to -2.0 standard deviations from the mean. A language quotient of 77 will strengthen the eligibility criteria and benefit truly language delayed students.
July 19, 1995	Patricia Hoge Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740	1) p.7 2. a. (4) add "further work needed" 2) p.9 Socially maladjusted - define in glossary 3) p.11 c.1. Unclear 4) p.13 B - delete confidence intervals -- too hard to explain. 2.a - b define further d.1. - delete - too confusing 5) p.10 a. add ADD	1) -/NA Conflicts with Federal Regulations. 2) -/A Definition added to glossary. 3) -/NA Current policy; not a revision. 4) -/NA Current policy; not a revision. 5) -/NA Consistent with language of Federal Regulations.

July 19, 1995	Margaret Pace Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740	Why confidence interval needed?	O/N
July 19, 1995	Judy Living Jackson County Schools 509 W. Main Street Ripley, WV 25271	<ol style="list-style-type: none"> 1) EC should include school psychologist. 2) Eligibility for mentally impaired--The word approximately needs to be removed. The range from 70-75 is too large. 3) Would like to eligibility criteria for ADD addressed in the policy. 	<ol style="list-style-type: none"> 1) -/NA Specifics will be addressed in LIEA policies and procedures. 2) -/A Language of National AAMR definition. Will be addressed in training. 3) -/NA ADD is not recognized as a category in the Federal Regulations.
July 19, 1995	Norene Young 510 Greenville Road Forest Hill, WV 24935	<p>I support changing the IQ category for mentally impaired students from 69 and below to 75 and below. Many students I have tested scored in the low 70's making them ineligible for special services but incapable of surviving in a classroom without modifications. This change will offer services to children who need them.</p>	+/A

July 19, 1995	Marilyn M. Murdock 129 Stamford Park Drive Huntington, WV 25705	1) a. Gifted students are those who have exceptional intellectual or academic abilities that are evidence of outstanding capability, and who require specially designed instruction and/or services beyond those normally provided by the regular school program. 2) b. For gifted students, grades 1 through 8. Data to provide documentation that a candidate satisfies both parts 1 and 2 must be submitted to the Eligibility Committee for consideration. If the data do not meet requirements for part 1, intellectual functioning, the team shall consider part 2 as qualifying evidence for gifted services: 1. Intellectual Ability a) General intellectual ability, 2.0 or more standard deviations above the mean on a full scale comprehensive test of intellectual ability, with consideration of 1.0 standard error of measurement at the 68% confidence interval, or b) Intellectual functioning 2.0 or more standard deviations above the mean with consideration of 1.0 standard error of measurement at the 68% confidence interval on a verbal or nonverbal scale of a comprehensive test of intellectual ability, if the student is disabled, a member of an underrepresented minority group, or economically disadvantaged, or if the student's primary language is other than English, or 2. Academic Ability a) At least one area (a composite score in mathematics or reading) as measured by an individual diagnostic test of achievement or an individual standardized achievement test at 2.0 or more standard deviations above the mean with consideration of 1.0 standard error of measurement at the 68% confidence interval, indicating that the student requires specially designed instruction and b) At least one area of classroom performance in a core content area such as science, math, social studies, reading, or language where extreme sophistication (when compared to grade level peers) is demonstrated via student work samples (oral or written) group achievement scores and/or criterion-based assessment, etc. Quality of performance indicating that the student requires specially designed instruction will be determined during the multidisciplinary evaluation.	1) -/NA The impact of determining eligibility based upon academic ability alone and as proposed here would have to be studied/determined before considering such a change. 2) -/NA Impact on state funding undetermined.
July 20, 1995	Edwina Pendarvis 6177 Birkwood Drive Huntington, WV 25705		
July 19, 1995	WV Learning Disabilities Association P.O. Box 602 Ansted, WV 25812	1) (B 2-d) The end of the statement should include for possible 504 eligibility. 2) (12 a) The federal definition listed in IDEA 300.7 - 10 provides a much clearer definition of specific learning disabilities. 3) Deletion of program of study not recommended.	1) -/NA Currently addressed in LEAs policies and procedures. 2) -/NA The proposed definition is based upon a definition of the National Joint Commission on LD. 3) -/NA Will be addressed in Best Practices document.

July 19, 1995	Judi Carter Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740	Remove gifted from special education.	O/NA Currently required by State Code.
July 19, 1995	Sylvia Shipp Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740	<p>1) p. 14 b.2. Further define "substantially below".</p> <p>2) p. 12 6.a.1. Definition needs to be clear.</p> <p>3) C.7 Not again - does not need to be in special ed.</p>	<p>1) -/NA Varies between students and tests/procedures used. Will be addressed in training during 1995-96 school year.</p> <p>2) O/A Requirement rewritten for clarity.</p> <p>3) O/NA Currently required by State Code.</p>
July 19, 1995	Connie Jones 603 1/2 Moyer Way Fairmont, WV 26554	<p>1) Much too general. My daughter is in a separate M.I. classroom 86% of the time. Without size limits (with or without aides) I fear there will be over crowding and inappropriate mixtures of M.I. students causing an environment students cannot learn in.</p> <p>2) I also noticed that the statement "academic, self-care, affective, communication, sensorimotor needs of these students must be similar (old 2419 pg. 69)" is gone. I think it needs to be more specific, at least in the separate and combination M.I. classes so similar students are grouped together.</p>	<p>1) -/NA New definition focuses on individual student functional needs and supports. Caseload issue addressed in Section 5.0 of this log.</p> <p>2) -/NA Statement as applies to all special education students is addressed in 5.0.C.2 of proposed revisions. Details will be addressed through training and implementation.</p>
July 19, 1995	Robert G. Miller Special Education Director Mineral County Schools One Baker Place Keyser, WV 26726	<p>1) Under Behavior Disorders, a.4), do the feds include "or an emotional problem manifested by withdrawal"?</p> <p>2) Under Speech/Language Disorders, specify the need for a language quotient below 1.5 s.d. will help improve services for students with more severe impairments by eliminating some of the minor (age related?) cases. Why not have the same type of standard for an articulation disorder?</p>	<p>1) O/A Changed to federal language.</p> <p>2) +/A A language quotient of 77 reflects clinically significant scores falling at or below -1.5 to -2.0 standard deviations from the mean. A language quotient of 77 will strengthen the eligibility criteria and benefit truly language delayed students.</p>
July 19, 1995	Hazel Toler 822 Temple Street Hinton, WV 25951	Changing the criteria for this group of students to exclude those with IQ up to 75 was a good idea. This will allow some students currently ineligible to receive the help they need.	+/N
July 19, 1995	A. J. Parker IEP Specialist Boone County Schools 69 Avenue B Madison, WV 25130	<p>1) 8-b-1 Intellectual functioning level "approximately 70-75 or below". Can't we be more specific than the national guidelines and simply say 75 or below?</p> <p>2) 12-b-2a the regression formula is technically flawed, in my opinion. We need to update the software or get rid of it.</p>	<p>1) -/NA Language of National AAMR definition. Will be addressed in training.</p> <p>2) -/NA Regression formula is most technically adequate method available for determining a severe discrepancy.</p>

July 19, 1995	<p>Pat Hanks Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740</p>	Remove from special ed.	O/N Currently required by State Code.
July 19, 1995	<p>Raymond A. Dunleavy Ed.D 1612 Greystone Place Charleston, WV 25314</p>	<p>1) 3.0 A.1 All the members of the EC are not required to perform all the qualifications mentioned. See 34 CFR 300.344 b (2). Please reword this proposed regulation per 34 CFR 300.344 b (2). 2) 3.0 7.b [1.a and 1.b] The 1.0 standard error of measurement is by definition at the 68% confidence level or interval. There is no need to repeat this. Please delete "at the 68% confidence interval" from the proposed regulation.</p>	<p>1) -/NA Cited Federal Regulation applies to IEP Committee not Eligibility Committee. 2) -/A Phrase is relevant to test score interpretation only; will be deleted from eligibility criteria.</p>
July 20, 1995	<p>Kevin Boygs, WVEA President 1558 Quarrier Street Charleston, WV 25311</p>	C.8 Mentally impaired is not used as a category in federal regulations. If this is an intent of the revision, it is inconsistent.	O/N WV has used the term "mental impairments" for approximately 10 years.
July 20, 1995	<p>Joan M. Wilson Teacher of the Visually Impaired Office of Exceptional Students Kanawha County Schools 200 Elizabeth Street Charleston, WV 25311</p>	<p>1) C.3.a. Reword "Blindness or Partial Sight is an impairment in vision..." OR Reword "Blindness and Partial Sight are impairments in vision..." 2) C.3.b.3 add "... (e.g.: glaucoma, ...retinitis pigmentosa) as such..." 3) C.3.b. Thanks for dropping the Binocular Vision criteria! 4) C.3 Should we address registration of Legal Blind (20/200 or worse in the better eye with best correction) Students with the Instructional Resource Center for Quota Report purposes?</p>	<p>1) O/A Reworded for clarity. 2) O/A Added for emphasis. 3) +/A 4) O/N</p>
July 20 1995	<p>Pamela Kay Kohler Wirt County Primary Center P.O. Box 220 Elizabeth, WV 26143</p>	<p>1) 4.1.b. - (Speech/Language) I.Q. of 75 increase duplicated/unduplicated ration in the caseload. Most students with LQ of 75 also qualify for special ed services in I.D., M.I., or preschool. 2) 4.C.2. - How will students who have English as a Second language be served? In many instances there are few (1-2) in a school who could benefit from speech services instead of an ESL program. 3) 6.a. - (Deaf and Hard of Hearing) Should an adverse affect on developmental/educational performance be documented prior to receiving services? If this cannot be documented, does student not qualify? What about interpreters? 4) 7.2. a/b - (gifted) academic achievement/classroom performance statements are unclear as to what would require specially designed instruction: high or lowered achievement? 5) 8.a - (mentally impaired) Adaptive behavior parameters should be effective. 6) b. By lumping all levels of MI together, how will programming be affected/offered? Severity should affect contact hours.</p>	<p>1) O/N 2) O/N 3) O/N 4) O/N 5) +/A 6) O/N</p>

July 20, 1995	Mr. and Mrs. Roy Gene Cash P.O. box 602 Ansted, WV 25812	<p>1) B.2. d - The end of the statement should include for possible 504 eligibility.</p> <p>2) 12. A. - the federal definition listed in IDEA 300.7-10 provides a much clearer definition of specific hearing disabilities.</p> <p>3) Deletion of program of study not recommended.</p>	<p>1) -/NA Currently addressed in LEA policies and procedures.</p> <p>2) -/NA The proposed definition is based upon a definition by the National Joint Commission on I.D.</p> <p>3) -/NA Will be addressed in Best Practices document.</p>
July 20, 1995	Susan McGlothlin 209 1/2 W. Westview Street Narrows, VA 24124	<p>In Section 3.0, specifically 8.b., the IQ for mentally impaired eligibility is stated to be approximately 70 to 75. I feel that this is a needed change and I support this change. Many students test in this range and are ineligible for services. This change would offer services to those students who really need the support.</p>	+/A
July 20, 1995	Nora Corra 3320 Board Street Parkersburg, WV 26104	<p>The language eligibility requirements for SLP's are reduced so that less students will qualify for the program. We already are not meeting the needs of all the students with a language quotient of 85. It appears that mild and severe MM students will be in the same class since there is no differentiation in the different categories.</p>	<p>-/NA A language quotient of 77 reflects clinically significant scores falling at or below -1.5 to -2.0 standard deviations from the mean. A language quotient of 77 will strengthen the eligibility criteria and benefit truly language delayed students.</p>
July 20, 1995	Billie Friedland WVU Dept. of Special Education 507 E. Allen Hall, P.O. Box 6122 Morgantown, WV 26506	<p>In definition of BD, change "feelings" to "expression of feelings under normal circumstances" as no one can observe feelings except via expression. We need to be careful about labeling the person rather than observable behavior expressed by the person.</p>	<p>-/NA Not consistent with Federal Regulations.</p>

July 20, 1995	Frank Kirkland, Planner WV Developmental Disabilities Council 110 Stockton Street Charleston, WV 25312	<p>1) The Program of Study that contained required components of IEPs for each exceptionality needs to be left in the regulations. Without having the uncompleted "Best Practices" document that they will be moved to, it is impossible to require LEA's to follow them. It is unclear that there will be any requirements to follow a Program of Study since the unfinished "Best Practices" document may or may not be policy.</p> <p>2) B.2.d. - "for possible 504 eligibility" needs to be added to the statement.</p> <p>3) C.1.a. - The statement that the term autism does not apply if their educational performance is primarily affected because they have a behavior disorder needs to be removed. This will inappropriately group students with autism and behavior disorders.</p> <p>4) C.4.b. - Changing the language quotient of 75 or less will decrease the number of eligible students. It may be coincidental that this is the level that Medicaid will cover. All eligible students are entitled to a Free and Appropriate Public Education, not only those students who are Medicaid eligible.</p> <p>5) C.12. B. 1. & 2. - Reducing the standard error of measurement will decrease the number of students who qualify for services and leave many students at risk.</p> <p>6) C. 12. B. 3. e. - "This statement needs to be removed. It is not in IDEA or any federal regulations. It will be difficult to prove and is judgmental from a professional standpoint. Eligibility should be based on objective evaluation data, not subjective judgement.</p>	1) O/N
July 20, 1995	Teresa Kumrol Rt. 1, Box 21 Millwood, WV 25262	<p>Language eligibility: The proposed 75 LQ on 1.5.5.d is too low for children in a gray area that no other exceptionality serves. BD L.Q. sounds better. Why not leave it at 85. These children struggle in the classroom.</p>	-NA A language quotient of 77 reflects clinically significant scores falling at or below -1.5 to -2.0 standard deviations from the mean. A language quotient of 77 will strengthen the eligibility criteria and benefit truly language delayed students.
July 20, 1995	Lisa Ray/ Jane Achee Monongalia County Schools 13 South High Street Morgantown, WV 26505	<p>1) 4b) Please define "a significant discrepancy".</p> <p>2) c) What does this mean? "Eligibility of preschool children shall be based on determination of normal rate of developmental functioning level for communication".</p> <p>2) 11 Change name from preschool disabled to preschool special needs.</p>	<p>1) O/NA A formula for determining a significant discrepancy is determined based upon the test(s) selected because correlations between language and intelligence tests vary.</p> <p>2) O/N This statement was rewritten for clarity.</p> <p>3) O/A Terminology is consistent with current programming practices.</p>

July 20, 1995	Barbara Campbell Upsalur County Schools P. O. Box 580 Buckhannon, WV 26201	<p>1) Membership of eligibility committee as stated in these revisions will allow counties to use personnel more effectively. Reduction of E.C. responsibilities makes the system more manageable and directed toward the desired outcome.</p> <p>2) For organization sake should all exceptionalities be referred to in same tense - i.e. specific learning disabled, speech/language impaired? See glossary #26.</p>	<p>1) +/A 2) O/A</p>
July 20, 1995	Kim Long Rt. 2, Box 157 B Ravenswood, WV 26164	<p>1) A.1 - No specific members (titles). This is too vague. It makes no mention of an administrator.</p> <p>2) 2.a.2 - this wording is not new, but I'm not sure if this accurately describes gifted.</p> <p>3) 7.C.3 - Does the definition include free/reduced lunch? Does this count as public assistance?</p> <p>4) 7.d.2 - Is this information from 8th grade only?</p>	<p>1) -/NA Specifies will be addressed in LEA policies and procedures.</p> <p>2) -/NA Current policy; not a revision.</p> <p>3) O/N</p> <p>4) O/N</p>
July 20, 1995	Margaret McGarity 833 Spring Rd. Charleston, WV 25314	<p>1) The current Policy 2419 does not take exception to behavioral disorders due to autism whereas the proposed Policy 2419 does - incorrectly - take such exception. Autistic children's behavior problems stem from neurological rather than psychiatric disorders or environmental problems. With the proposed change to the autism section, some school systems would be likely to combine placements for their autistic and BD students. This would be a detriment to the autistic students, who would be treated out of the context of the other traits for their disability. Program of study should be put back.</p> <p>2) B.2.d - add to the statement "for possible 504 eligibility".</p> <p>3) C.4.b. - What is the basis for lower standards? Larger #'s billed to Medicaid?</p> <p>4) C.12.2.a - even though it comes into compliance with IDEA, it tightens up the #'s of students who may be eligible.</p> <p>5) C.12.b.3.e. - Re-strike; this is difficult to prove; it is judgmental from professional standpoint; eligibility should be based on evaluation data, not judgment..</p>	<p>1) -/NA Not consistent with Federal Regulations. The programs of study content will be addressed in the Best Practices document.</p> <p>2) -/NA Currently in LEA policies and procedures.</p> <p>3) O/N</p> <p>4) O/N</p> <p>5) -/NA Component of definition created by National Joint Commission on LD.</p>
July 21, 1995	WV Advisory Council 100 Angus E. Peyton Drive So. Charleston, WV 25303	<p>Recognize and support the effort to focus attention on the eligibility decision-making process instead of IQ scores.</p>	<p>+/A</p>
July 21, 1995	Ann Gentry 6440 A Startite Sissonville, WV 25320	<p>1) B. Eliminate cultural/social background.</p> <p>2) 7. Autism/ BD almost seen synonymous since almost autistic students have behavioral problems and have problems with peer relationships</p>	<p>1) -/NA Phrase is in Federal Regulations.</p> <p>2) O/N</p>

July 21, 1995	WVA WVPIT, COP/A, and DDPC	<p>1) The program of Study containing required components of the IEP for each exceptionality needs to be added back to the regulations. Without having the uncompleted "Best Practices" document that they will be moved to it is impossible to require LEA's to follow them. It is unclear that there will be any requirements to follow a Program of Study since the unfinished "Best Practices" document may or may not be policy.</p> <p>2) B.2.d - "For possible 504 eligibility" needs added to the statement.</p> <p>3) C.1.a - The statement that the term autism does not apply if their educational performance is primarily affected because they have a behavior disorder needs to be removed. This will inappropriately group students with autism and behavior disorder.</p> <p>4) C.4.b - Changing the language quotient to 75 or less will decrease the number of students eligible. It may be coincidental that this is the level that Medicaid will cover. School systems are responsible to serve all eligible students.</p> <p>5) C.12.b.1. & 2. - Even though this comes into compliance with IDEA, it tightens up the numbers of students who may be eligible or at risk.</p> <p>6) C.12.b.3.e. - Strike. This is difficult to prove and is judgmental from the processional standpoint. Eligibility should be based on evaluation data, not judgment.</p>	1) O/N
July 21, 1995	<p>WG Klingberg Center for Child Development WVU Department of Pediatrics P.O. Box 9214 Morgantown, WV 26505</p>	<p>1) On page 7, Eligibility Meetings. The statement "...additional individuals with specific expertise in the area(s) of concern may be included in the EC meeting at the discretion of the public agency." We find this to be a significant problem. Why is this only at the discretion of the public agency and not the parents as well? Define who these additional individuals may be.</p> <p>2) Under page 9, Behavior Disorders. #3 might be better stated as, "...exerts behaviors that are not the result of..." Instead of saying "...inappropriate types of behavior or feelings under normal circumstances..."</p> <p>3) Listed on page 15, Other Health Impaired. This section does not include <u>Attention Deficit disorder, Attention Deficit Hyperactivity Disorder or Seizure Disorders.</u></p> <p>4) Under b. Of this same section, add: 3) recommended by behavioral specialist or licensed physician for service delivery.</p> <p>5) Under page 15, Preschool Disabled. There seems to be no equality of service delivery. "...75% of the normal rate of development in two or more of the following areas..." should be 25% of the normal rate of development. What happens to a child who scores 70% in only one area?</p>	<p>1) -/NA Parent involvement not required in EC. "Who" will be specified in LEA policies and procedures.</p> <p>2) -/NA Not consistent with Federal Regulations.</p> <p>3) -/NA Not consistent with Federal Regulations.</p> <p>4) -/NA Not consistent with Federal Regulations.</p> <p>5) O/N Implementation/training issue.</p>

July 21, 1995	Diane Kradel 503 N. Tennessee Avenue Martinsburg, WV 25401	ADD should be listed under O.H.I. a federal memorandum (9/6/91) which I received stated that West Virginia should comply with the federal memorandum.	-NA Content consistent with Federal Memorandum.
July 21, 1995	Janet Gould HC 66 Box 19 Romney, WV 26757	<p>C. Definitions and Eligibility Criteria - 7. Gifted (pp. 18-20)</p> <p>1a. <u>Gifted students are those who have exceptional intellectual or academic abilities that are evidence of outstanding capability, and who require specially designed instruction and/or services beyond those normally provided by the regular school program.</u></p> <p>2)b. For gifted students, grades 1 through 8: <u>Data to provide documentation that a candidate satisfies both parts 1 and 2 must be submitted to the Eligibility Committee for consideration. If the Data do not meet requirements for part 1, intellectual functioning, the team shall consider part 2 as qualifying evidence for gifted services:</u></p> <ol style="list-style-type: none"> 1. Intellectual Ability <ol style="list-style-type: none"> a. General intellectual ability, 2.0 or more standard deviations about the mean on a full scale comprehensive test of intellectual ability, with consideration of 1.0 standard error of measurement at the 68% confidence interval, <u>or</u> b. Intellectual functioning 2.0 or more standard deviations above the mean with consideration of 1.0 standard error of measurement at the 68% confidence interval on a verbal or nonverbal scale of a comprehensive test of intellectual ability, if the student is disabled, a member of an underrepresented minority group or economically disadvantaged, or if the student's primary language is other than English, <u>or</u> 2. Academic Ability <ol style="list-style-type: none"> a. At least one area (a composite score in mathematics or reading) of academic achievement as measured by an individual diagnostic test of achievement or an individual standardized achievement test at 2.0 or more standard deviations above the mean with consideration of 1.0 standard error of measurement at the 68% confidence interval, indicating that the student requires specially designed instruction and b. At least one area of classroom performance in a core content area such as science, math, social studies, reading, or language where extreme sophistication (when compared to grade level peers) is demonstrated via student work samples (oral or written), group achievement scores, and/or criterion-based assessment, etc. <u>Quality of performance indicating that the student requires specially designed instruction will be determined during the multidisciplinary evaluation.</u> 	<p>1) -NA The impact of determining eligibility based upon academic ability alone and as recommended here would have to be studied/determined before considering such a change in the definition.</p> <p>2) -NA Impact on state funding undetermined.</p>

July 21, 1995	Virginia Landrum Randolph County Schools 40 Eleventh Street Elkins, WV 26241	<p>1) 3.0.C.1 - include emotional and behavioral. (That gives state-level support, personality and/or psychiatric evaluations for students being suspected of being emotionally disturbed).</p> <p>2) 3.0.C.6 - Suggestion of minimum level of hearing loss needs to be given; does this have to be medically documented - or does an audiological evaluation suffice?</p> <p>3) 3.0.C.7.b - should include "or significant difference exists between the two scores that may suggest a disability in comparison (e.g., verbal 135; performance 100). Should include #3. Outstanding academic performance or evidence of giftedness in a specific area (e.g. art, music, creative writing, etc.) Should state "at least two of the following:</p>	<p>1) O/NA Inconsistent with Federal Regulations.</p> <p>2) O/NA The level may vary; also eligibility is based on more than this one criterion.</p> <p>3) -/NA The impact of determining eligibility on the basis of this recommendation would have to be studied/determined before such a change could be considered.</p>
July 21, 1995	Sandi Saunders Special Education Supervisor Cabell County Schools 620 Twentieth Street P.O. Box 445 Huntington, WV 25709	<p>1) I am writing to endorse the new proposed WVACT guidelines for eligibility for the Gifted Program. Our association has spent several years carefully considering the changes that need to be made to better serve the students of West Virginia. We would be delighted to see that the State Department accepts our recommendations.</p> <p>2) With the revision of the WISC III, we are finding that fewer and fewer students have qualified for program assistance. I am sure that you will see that the number of children served in Cabell County has decreased over the past few years, as well as the number served in gifted for the state. We have not been able to maintain our 4%.</p> <p>The new guidelines that we have proposed insure that every student in need of a differentiated curriculum in the area of gifted, will be able to receive the service. Often times, that is not the case now. We have many meetings where the teachers want to place students and students are able to perform in the classroom, however, they may not make the IQ cut-off score. This one test should not be the only determining factor that causes children to fall out of the range for consideration as per our recommendations.</p> <p>Thank you for reviewing the gifted eligibility criteria. We hope that you will be making these needed changes.</p>	<p>1) O/N</p> <p>2) O/N</p> <p>3) -/A</p>

COMMENTS AND SUGGESTIONS LOG
POLICY 2419: REGULATIONS FOR THE EDUCATION OF EXCEPTIONAL STUDENTS

ACTION
N= No Response
NA= Not Accepted
A= Accepted

TYPE
- = Negative
+ = Positive
0 = Neutral

COMMENTS FOR SECTION 4.0

June 15, 1995	Robert Miller Mineral County Board of Education One Baker Place Keyser, WV 26726	On page 22, Placement options should exactly duplicate the federal reporting categories. The fed's least restrictive category allows for up to 21% pull-out; the proposed WV LRE is 0% pull-out. For clarity, lets use the fed's stuff. Enclosed is a copy of their 8 placement options.	O/A Definitions rewritten to be consistent with federal language.
June 16, 1995	Ed Alfred Principal Jefferson Center 1103 Plum Street Parkersburg, WV 26101	1) Pg. 19 B. 1. e. This has a relationship to Pg. 33, 7.0. D 2 b. 2) Pg 21, 2 Change "include" to "consider"	1) O/N 2) O/A Clarifies statement.
June 22, 1995	Kathy S. Sibbett Nicholas Co. Bd. of Ed. (Speech) 400 Old Main Drive Summersville, WV 26651	Page 22 D. 3. "Regular education" section could (hopefully) be worded more clearly. For those in "regular education" and not used to dealing with percentages and classifications, this section appears to be very confusing and may need to be reworded and clarified.	-/A Definitions rewritten to be consistency with federal language.
June 22, 1995	Lisa Walker Cottageville Elementary School Street Cottageville, WV 25239	I like 4.0 c - d - if we can ensure funding to provide these students who would function best in the regular classroom with an aide or part-time 1 to 1 service.	+/N

June 27, 1995	Janet S. Gagnon, Ed.S. School Psychologist Jackson Co. Schools 1714 Rolling Hills Circle Charleston, WV 25314	1) B.1.b. the referring teacher may not be necessary in secondary school. 2) B.2.b. should you specify someone who has at least met the student! 3) B.4 what does this mean? "the public agency shall include" - typo?	1) O/N 2) -/NA Requirement is stated in language of Federal Regulations. 3) O/N
June 28, 1995	Elaine S. Max 1551 Autumn Road Charleston, WV 25314	Page 22: 3b - REPT - does not make sense. The way it is stated, the student never leaves the regular classroom - just stops getting sp. ed. services after < 60% is reached. (Is it supposed to be "receives instruction in special classes, etc., for less than 60% of the instructional day?")	-/A Definition rewritten for clarity.
July 7, 1995	Doug Smith Lincoln County Board of Education P.O. Box 269 West Hamlin, WV 25571	Placement option of regular education full-time should be defined consistent with federal definition. This would result in a much clearer picture of LRE in State of WV.	O/A Definitions rewritten to be consistency with Federal Regulations.
July 10, 1995	Kathy Finnsley Ohio County Schools 2203 National Road Wheeling, WV 26003	1) B. a. The changes here will allow counties more flexibility as to who can chair the IEP meeting (e.g., Special Ed. Chairpersons) where persons other than the principal are qualified to do so. 2) I would recommend that the IEP Committee requirements for CD only students be likewise aligned to the federal requirements.	1) -/A 2) O/NA Implementation issue.
July 12, 1995	Debbie B. Page Monroe County Schools P.O. Box 330 Union, WV 24983	I feel that the word nature in area 5 of this section needs to be changed. This does not clearly tell me what you are trying to state.	-/NA The word "nature" in this context is the term used by the U.S. DOE

<p>July 19, 1995</p>	<p>Marilyn M. Murdock 129 Stamford Park Drive Huntington, WV 25705</p>	<p>1) C. IEP Content 1. The IEP for each student shall include: b. a statement of the annual goals including short-term objectives which show a direct relationship, remediation and/or enhancement, of the present levels of educational performance; 2) Add to p. 21 g. The programmatic focus for gifted children shall be on a challenge level appropriate for that individual child, content complexity, content enrichment, integration into appropriate instructional settings, task commitment, and metacognitive skills. 3) D. IEP Committee Responsibilities 2. The IEP Committee shall assure that: b. the removal from the regular educational environment occurs only when the nature or severity of the exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; or for gifted children, content pacing, and peer group interaction with the use of curriculum and grouping modifications within the regular class cannot be achieved sufficiently. 4) 4. The IEP Committee shall assure that the educational placement of each exceptional student: a. is made in consideration of any potential harmful effect on the student's academic, social and/or emotional development or on the quality or level of services that the student needs.</p>	<p>1) O/NA Language of Federal Regulations 2) O/NA Programmatic concerns will be addressed in Best Practices document. 3) O/A Further clarifies how LRE requirements apply to gifted students. 4) O/NA Language consistent with Federal Regulations. Intent of statement will be addressed in training.</p>
<p>July 19, 1995</p>	<p>Patricia Hoge Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740</p>	<p>1) p.22 C. Does this include reg. ed. part-time? 2) p.24 D. Insert "previous" before academic year. 3) p.26 Early/middle childhood caseloads too high : speech/gifted 60.</p>	<p>1) O/N 2) O/NA - Redundant. 3) -/A</p>

July 19, 1995	<p>Robert G. Miller Special Education Director Mineral County Schools One Baker Place Keyser, WV 26726</p>	<p>1) The change under B.1 a, to allow the agency representative to be the provider of services in both is in accordance with federal regulations but should make for more efficient use of principals' time. Administrator should have the option of chairing a meeting and staying through the proceedings or allowing a trusted teacher to explain the proposed program to a parent. This greater flexibility will allow for more meaningful principal participation in meetings that have great import to both the student and the system. 2) In 4.0.B.3.b, changing from the vocational director to a person knowledgeable about vocational options allows schools to use guidance counselors or vocational staff without necessitating a change in the person's job description or formally making the person a "designee".</p>	<p>1) /A 2) +/A</p>
July 19, 1995	<p>A. J. Parker IEP Specialist Boone County Schools 69 Avenue B Madison, WV 25130</p>	<p>1) The broadening of who can serve as chairperson on the IEP Committee allows for more flexibility in staffing and is consistent with the federal regs. 2) The definitions of reg. ed. part-time and sp. ed. separate class need to both be worded in terms of either reg. ed. % or sp. ed. % and one is written as a reg. ed. %.</p>	<p>1) +/A 2) -/A Definitions rewritten for clarity.</p>

<p>July 19, 1995</p>	<p>Raymond A. Dunleavy Ed.D. 1612 Greystone Place Charleston, WV 25314</p>	<p>1) 4.0 B.1.2.a. Rework; a member of the MIDEF could be a classroom teacher or a special education teacher, for example. Neither would qualify for the IEP Placement Committee per 34 CRF 300.344 (b.2). Also the selected individual should be a member of the IEP reevaluation team. This individual would most likely be a certified school psychologist. Also Sec. 300.540 (3.b) for an SLD evaluation which pertains to this issue. 2) 4.0 C. (1.a) The proposed regulation, as mandated, further reinforces the concept as to the actual need of a school psychologist on the PAC Placement and Reevaluation teams. This individual is qualified by his or her formal and informal training to understand specific meaningful assessment techniques for establishment and evaluation of instructional goals. 3) 4.0 D.2 (a & b) The LRE concept requires further definition in the proposed regulations. Counties do not fully understand how to properly implement this regulation. It should be expanded. A good place to start is a review of the ED LAW briefing paper "Decisions in Sequence. How to Make Placements in the Least Restrictive Environment" Vol II, Issues 5-10, March - April 1993. The paper does not really speak to evaluation and "How to write the IEP" and assessment and identification of strengths and weaknesses and meaningful instructional goals and evaluation of same, etc., etc. Therefore is must be supplemented by 34 CRF and other info. Most county PAC's don't even understand what the team "To the maximum extent appropriate" implies. They are also driven by "Home School Initiatives" and the hopes of reducing special education costs because state special education monies are not tracked. 4) Further, the disruptive student concept for adequate or proper placement should be explained, i.e., it should be stressed that where a handicapped child is so disruptive in a regular classroom that the education of other students is significantly impaired, the needs of the handicapped child cannot be met in that environment, therefore, regular placement would not be appropriate to his or her needs. See 34 CRF 300.552.</p>	<p>1) -/NA Language is consistent with Federal Regulations. 2) O/NA Consistent with language of Federal Regulations. 3) O/NA Implementation, monitoring and training issue. 4) O/NA Implementation, monitoring and training issue.</p>
<p>July 19, 1995</p>	<p>Margaret Pace Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740</p>	<p>Clarity caseloads.</p>	<p>-/A</p>

July 19, 1995	Pat Hanks Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740	1) Caseloads need to be more specific and understandable. 2) Contact hours makes it hard to figure out-have caseloads increased with formula? Is this formula for all exceptionalities? 3) The age should be 14 as it appears IDEA will reflect this in its reauthorization. The age of 14 could help prevent dropouts. C-4) Again age should be 14.	1) +/A 2) O/N
July 19, 1995	WV Learning Disabilities Association P.O. Box 602 Ansted, WV 25812	1) Very well done. Easy to follow and understand. 2) 4.0 B2 - good, allows better use of personnel. 3) 4.0 B3 - Broader definition of persons from vocational program is good. 4) 4.0 D.3 - a/b/c/d/e/f. The names or designations of placement options may be difficult for some to delineate since the second part of title (i.e. full time, part time, etc.) seem to blend in with the text.	O/A Lowering of age to 14 is consistent with when Four Year Plan is required, and with proposed reauthorization of IDEA. 1) +/A 2) +/A 3) +/A 4) O/A Format adjusted for clarity.
July 20, 1995	Barbara Campbell Upshur County Schools P.O. Box 580 Buckhannon, WV 26201	1) C. IEP Content 1. The IEP for each student shall include: b. a statement of the annual goals, including short-term objectives which show a direct relationship, remediation and/or enhancement, of the present levels of educational performance; 2) Add to p. 21. g. The programmatic focus for gifted children shall be on a challenge level appropriate for that individual child, content complexity, content enrichment, integration into appropriate instructional settings, task commitment, and metacognitive skills. D. IEP Committee Responsibilities 3) 2. The IEP Committee shall assure that: b. the removal from the regular educational environment occurs only when the nature or severity of the exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; or for gifted children, challenging content, pacing, and peer group interaction with the use of curriculum and grouping modifications within the regular class cannot be achieved sufficiently. 4) 4. The IEP Committee shall assure that the educational placement of each exceptional student: a. Is made in consideration of any potential harmful effect on the student's academic, social and/or emotional development or on the quality or level of services that the student needs.	1) O/N/A Language of Federal Regulations 2) O/N/A Programmatic concerns will be addressed in Best Practices document. 3) O/A Further clarifies how LRE requirements apply to gifted students. 4) O/N/A Language consistent with Federal Regulations. Intent of statement will be addressed in training.
July 20, 1995	Edwina Pendarvis 6177 Birkwood Drive Huntington, WV 25705		

July 20, 1995	<p>Pamela Kay Kohner Wirt County Primary Center P.O. Box 220 Elizabeth, WV 26143</p>	<p>1) D. 5 a/b - The regression formula does not account for students who are developing sequentially at the delayed rate, especially younger children. An interruption in programming "communication, physical therapy" may not affect regression as learned skills may be maintained. However, acquisition of new skills which the student is ready to learn may be delayed. This delay will increase the gap between expected achievement and current performance.</p> <p>2) d. Does a special ESY IEP Committee need to convene?</p>	<p>1) O/N</p> <p>2) O/N</p>
July 20, 1995	<p>Mr. and Mrs. Roy Gene Cash P.O. Box 602 Ansted, WV 25812</p>	<p>3) The age should be 14 as it appears in IDEA will reflect this in its reauthorization. The age of 14 could help prevent dropouts.</p> <p>C.4 - Again age should be 14.</p>	<p>O/A Lowering of age to 14 is consistent with when Four Year Plan is required, and with proposed reauthorization of IDEA.</p>

July 20, 1995

Frank Kirkland, Planner
WV Developmental Disabilities
Planning Council
110 Stockton Street
Charleston, WV 25312

1)A - Add "within fifteen calendar days of parents' request".
2)B.1.3. - delete "or agency". This may be in violation of a student and parent's confidentiality unless parental consent is obtained for other people attending the IEP meeting at the agency's request who are not a part of the LEA.
3)B.3. - Change to beginning no later than age 14. It appears that this will be changed in the reauthorization of IDEA. It would also allow more time for students to prepare for transition into adult life.
4)C.1.a. - Present levels of need to be written in objective, measurable terms and educational performance needs to be expanded to include behavioral, social, emotional, language and adaptive behavior.
5)C.1.a & b - Change "a statement" to statements.
6)C.1.b. - Add "written in objective, measurable terms".
7)C. IEPs should be consistent with IDEA and WVDOE IEP Training Manual.
8)C.4. - Change age 16 to age 14.
9)C.5. - Add to the end of the statement "the right to communicate in the home and community and access to services and devices in the home and community that facilitate communication."
10)C. Add section that the IEP must document the need for providing any specialized equipment, health concerns, and if the student will participate in any state and county testing.
11)D.2. - Add section "Parents shall be informed of all placement options prior to the determination of placement". This is a requirement of IDEA and not in proposed policy.
12)Add that transportation shall be the same length of time as non-disabled students of the same chronological age.
13)D.5.d - Add that a continuum of placement options will be available for Extended School Year.

1) O/NA Specifies addressed in LEA policies and procedures.
2) -/NA Language of Federal Regulations.
3) +/A Lowering of age to 14 is consistent with Four Year Plan, and proposed reauthorization of IDEA.
4) O/NA Specificity addressed in IEP resource manual and definition of educational performance in glossary.
5) -/NA Language of Federal Regulations.
6) O/NA Implementation/training issue.
7) O/N
8) +/A Lowering of age to 14 is consistent with Four Year Plan and proposed reauthorization of IDEA.
9) O/NA & A Requirement rewritten for clarity, but not as recommended.
10) O/NA IEP content consistent with language of Federal Regulations.
11) O/NA Is not a federal requirement.
12) O/NA Transportation requirements are addressed in other SBE policies.
13) -/NA Consistent with WVDE policy approved by U.S. DOE.

July 20, 1995

Margaret McGarity
833 Spring Rd.
Charleston, WV 25314

1) Reference Section 3D regarding court orders - Section 4.0 of the proposed policy needs to be supplemented with either a new subsection "p" or else to amend subsection "1" concerning the process hearings to deal with appeals from the process hearings and court orders, for the proposed Policy 2419, a school system may seek a court order for action against a student (Section 3) but nowhere are there provisions for court actions filed by parents against the school system. Additionally, there are no provisions for enforcement of court orders or sanctions against a school system for failure to comply with a parent's court order.

2) 4.A - Add within 15 calendar days at parents' request.

3) 4 C 4 could lower age to 14.

4) 4.C.1.a Educational performance need expanded to include behavioral, social, emotional, language, and adaptive behavior.

5) 4.C.1.b. - Add "written in objective, measurable terms."

6) D.5.d.3. - delete "do not" - ESY services for students with disabilities have to be comparable to program provided during academic year! Fifth back of standard criteria for all educational agency's (5b) emulating regular school year program will insure that student maintain skills taught in regular school year. Add "If student is eligible for ESY the IEP team should develop a transition plan from regular school year to ESY including student specific training needed, student specific materials and equipment, and student specific teaching instructions (as if the ESY teacher were a substitute for regular school year teacher) along with written objectives - otherwise it is a baby sitting service.

7) 4.B.e. - strike agency (possible violation of confidentiality).

8) 4.3 - WV could lower age to 14. It appears 14 will soon be mandated and we would not have to come back for a revision. Lowering to 14 will help our state's drop-out rate. At 16, it's too late for many of our students.

9) 4.C.1.a. & b. - Change "a statement" to "statements."

10) 4.C.1.a. - Present levels need to be written in objective, measurable terms.

11) C. - Should be consistent with IDEA and WVDOE's IEP Training Manual.

12) C.4. - As referenced earlier, age 14 could be considered.

13) C.5. - add to the end of this statement "the right to communicate within the home and community."

14) 4.D.2.d. - add "Inform parents of all placement options prior to determination of placement." This is a requirement of IDEA and not proposed policy.

1) O/NA These issues are governed by WVDE procedures approved by the U.S. DOE.

2) O/NA Specifics addressed in LEA policies & procedures.

3) O/A Lowering of age to 14 is consistent with Four Year Plan and proposed reauthorization of IDEA.

4) O/NA Addressed in definition in Glossary.

5) O/NA Specifics addressed in IEP resource manual and training.

6) O/NA Language consistent with WVDE policy approved by U.S. DOE.

7) -/NA Language of Federal Regulations.

8) O/A Lowering of age to 14 is consistent with Four Year Plan and proposed reauthorization of IDEA

9) -/NA Language of Federal Regulations

10) O/NA Implementation training issue.

11) O/N

12) O/A Lowering of age to 14 is consistent with Four Year Plan and proposed reauthorization of IDEA.

13) O/NA Statement revised, but not as recommended.

14) -/NA Not a federal requirement.

July 20, 1995	Margaret McGarity (Continued) 833 Spring Rd. Charleston, WV 25314	15)4.D.2.e. - add that transportation shall be the same length of time as non-disabled students of the same chronological age. 16)4.D.5.d - add 4) add a continuum of placement options will be available for ESSY. 17)4.D.6. - Address providing specialized equipment, health concerns, and state/county testing.	15) O/NA Transportation requirements are addressed in other SBE policies 16) -/NA Consistent with WVDE policy approved by U.S. DOE. 17) O/NA IEP requirements are consistent with Federal Regulations.
July 20, 1995	Kim Long Rt. 2, Box 157 B Ravenswood, WV 26164	1)B.1.a - This statement makes no requirement that an administrator be on the IEP Committee. This would put the specialist in a position he/she shouldn't be in. In my opinion, this is a <u>Big</u> mistake. 2)B.1.b - It simply is not realistic that all reg. ed. teachers attend every meeting. What if their class will not be affected by the child's disability and the IEP? This sounds great, but there is no time for this. (Although I do believe regular education should definitely be a part).	1) -/NA Consistent with Federal Regulations. 2) -/NA Statement does not require all teachers to attend every meeting.
July 21, 1995	Dr. Frieda M. Owen Wood County Schools 1210 Thirteenth Street Parkersburg, WV 26101	Item C. 2 states that "The IEP for a gifted student shall also include acceleration..." This should read "consideration of acceleration" or "acceleration, when appropriate." Acceleration is not appropriate for all gifted students.	-/NA Consistent with language of State Code.
July 21, 1995	WV Advisory Council 100 Angus E. Peyton Drive So. Charleston, WV 25303	1) Support change to allow persons other than principals to chair meetings. This is consistent with reality and encourages willing participants instead of reluctant or nonexistent chairs. 2) Support emphasis on "direct relationship to the present levels of educational performance," although not required by federal law. 3) Make certain that our definitions of regular education full-time and part-time are consistent with Federal definitions. 4) May need to look at how pre-school children receiving home and center-based services can be accurately reported.	1) +/A 2) +/A 3) O/A Definitions revised to be consistent with federal language. 4) O/A Will be component of caseload study.
July 21, 1995	Ann Gentry 6440 A Starline Sissonville, WV 25320	1) Add -IEP to be convened within 15 calendar days of parental request. 2) B.2. - Goals and objectives measurable for severe students (BD/ID) at risk of dropping out, 16 may be too late. 3) 4. Add continuum of placement options per typical school year comparable for ESSY 4. Caseloads are too high for autism, BD and other severe disabilities.	1) O/NA Specifics addressed in LEA policies and procedures. 2) +/A Lowering of age to 14 is consistent with Four Year Plan and proposed reauthorization of IDEA. 3) -/NA Consistent with WVDE policy approved by U.S. DOE. 4) -/A

July 21, 1995

WVA, WVPTL, COPA, and DDPC

1)A - Add within 15 calendar days at parents' request.
2)B.e - Strike "agency". This may be a possible violation of the student's confidentiality.
3)B.3 - WV could lower the age to 14. It appears age 14 will be changed in IDEA, and we would not have to come back for a revision. Lowering to age 14 will also help with the drop-out rate and would also allow for more time to plan for transition into adult life.
4)C - This section should be consistent with IDEA and WVDOE's IEP training Manual.
5)C.1.a. & b. - Change "a statement" to "statements."
6)C.1.a - Educational performance needs expanded by adding "behavioral, social, emotional, language, and adaptive behavior."
7)C.1.b - Add "written in objective, measurable terms."
8)C.4 - As referenced earlier, age 14 should be considered.
9)C.5 - Add to the end of the statement "the right to communicate and the right to services and devices within the home and the community".
10)D.2 - Add statement that "inform parents of all placement options prior to determination of placement". This is a requirement of IDEA and not proposed policy.
11)D.2 - Add "transportation shall be the same length of time as non-disabled students of the same chronological age."
12)D.5.d - Add "a continuum of placement options will be available for ESY."
13)D. - Add statements addressing providing specialized equipment, health concerns, and state/county testing.

1) O/NA Specified in LEA policies and procedures.
2) -/NA Language of Federal Regulations.
3) +/-A Lowering of age to 14 is consistent with Four Year Plan and proposed reauthorization of IDEA.
4) O/N
5) -/NA Language of Federal Regulations.
6) O/NA Specifies addressed in definition of educational performance in glossary.
7) O/NA Specifically addressed in IEP manual and training.
8) +/-A Lowering of age to 14 is consistent with Four Year Plan and proposed reauthorization of IDEA.
9) O/NA & A Requirement rewritten for clarity but not as recommended.
10) -/NA Not a federal requirement.
11) O/NA Transportation requirements addressed in other SBI policies.
12) -/NA Language consistent with WVDIE policy approved by U.S. DOE.
13) O/NA IEP requirements are consistent with Federal Regulations.

<p>July 21, 1995</p>	<p>WG Klingberg Center for Child Development WVU Department of Pediatrics P.O. Box 9214 Morgantown, WV 26505</p>	<p>1) Under page 20, Adolescent Transition <u>Who</u> decides what is appropriate when referring to the statement, "...beginning no later than age 16 (or younger, if determined appropriate)?"</p> <p>2) Under page 21, #4 In the statement "...or younger, if determined appropriate..." <u>who</u> determines if it is appropriate?</p> <p>3) Page 21, #5, from <u>whom</u> do you get this statement and <u>what</u> exactly is the statement?</p> <p>4) Page 22, 2-a, our concern with this statement is that this may not be appropriate for <u>all</u> children. Are we really looking at the individual child's needs?</p> <p>5) b: "...satisfactory with supplementary aids and services..." What is referred to here?</p> <p>6) Page 23, 4-c, that services be provided in the student's home school is an excellent point BUT what happens when there are no appropriate services within the home school?</p> <p>7) 4.d: "...is as close as possible to the student's home..." This will more than likely leave the door open to getting the child placed elsewhere if the home school does not have appropriate services!</p> <p>8) 4-g: define "staff" under 4) availability or staff. Does this mean an aide?</p> <p>9) AND add to this section as 7) educational funding or lack thereof.</p> <p>10) Page 24, 5.b: Define time periods for regression and define criteria for extended school year programming.</p> <p>11) 5.d: <u>Who</u> will provide services? "...FSY services for a student with disabilities do not have to be comparable to the program previously provided during the academic year." Providers must have appropriate training!</p>	<p>1) O/N</p> <p>2) O/N</p> <p>3) O/N</p> <p>4) -/NA Language of Federal Regulations.</p> <p>5) O/N</p> <p>6) O/N</p> <p>7) -/NA Language of Federal Regulations.</p> <p>8) O/NA Implementation/training issue.</p> <p>9) O/NA Language of Federal Regulations.</p> <p>10) O/NA Specifics addressed in LEA policies and procedures.</p> <p>11) O/N</p>
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<p>July 21, 1995</p>	<p>Janet Gould HC 66 Box 19 Romney, WV 26757</p>	<p>1) C. IEP Content 1. The IEP for each student shall include: b. A statement of the annual goals, including short-term objectives which shows a direct relationship, remediation and/or enhancement of, to the present levels of educational performance; 2) Add to p. 21 e. <u>The programmatic focus for gifted children shall emphasize a challenge level appropriate for that individual child, content complexity, content enrichment, integration into appropriate instructional settings, task commitment, and metacognitive skills.</u> 3) D. IEP Committee Responsibilities 2. The IEP Committee shall assure that: b. The removal from the regular educational environment occurs only when the nature of severity of the exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; <u>or for gifted children, challenging content, pacing, and peer group interaction with the use of curriculum and grouping modifications within the regular class cannot be achieved sufficiently.</u> 4) 4. The IEP Committee shall assure that the educational placement of each exceptional student: e. Is made in consideration of any potential harmful effect on the student's academic, social and/or emotional development or on the quality of level of services that the student needs.</p>	<p>1) O/NA Language of Federal Regulations 2) O/NA Programmatic concerns will be addressed in Best Practices document. 3) O/A Further clarifies how LRE requirements apply to gifted students. 4) O/NA Language consistent with Federal Regulations. Intent of statement will be addressed in training.</p>
<p>July 21, 1995</p>	<p>Virginia Landrum Randolph County Schools 40 Eleventh Street Elkins, WV 26241</p>	<p>4.D.4.a - In regard to IEPs being reviewed annually, some flexibility needs to be in place in regard to annual reviews held in the spring that will not take effect until September. For example, if the annual review is held in April of one year, and for whatever reason, cannot reasonably be held until May of the following year, and does not take effect until September, it should not qualify as noncompliance.</p>	<p>-/NA Implementation issue; can be addressed in LEA policies and procedures.</p>

COMMENTS AND SUGGESTIONS LOG
POLICY 2419: REGULATIONS FOR THE EDUCATION OF EXCEPTIONAL STUDENTS

ACTION
N= No Response
NA= Not Accepted
A= Accepted

TYPE
- = Negative
+ = Positive
o = Neutral

COMMENT FOR SECTION 5.0

June 5, 1995	Ted Dixon 213 Shumate Street Oak Hill, WV 25901	The contact hours do not take into consideration the various levels (subjects) a teacher has. A clearer and similar approach needs to be taken. Too much paper work and procedures to follow in order to teach a child with a problem. I've taught Special Ed for 24 years and have never seen such a process that hinders me from actually teaching. Additional compensation for Special Ed teachers who have too many students. (It's only fair)	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
June 13, 1995	Stella Gregory Braxton Co. Middle School 100 Carter Braxton Drive Sutton, WV 26601	Section D. Why call it "Special" Education if Special Ed teachers are overrun with students who desperately need individualized attention, to the point that little special attention can be given. We are not robots or 7-11 Stores. It is not realistic to expect the teachers to meet all the special needs of these students under such conditions as those proposed in the revisions (Section D).	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
June 13, 1995	Patisha Donaldson 1287 Broad Street Summersville, WV 26651	Caseload proposals would not be compatible with our philosophy of special designed instruction possible because of lower caseloads. These maximum limits should not exceed 12.	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
June 13, 1995	Brenda Wilson Glenville State College Glenville, WV 26351-1292	Maximum contact hours in the caseload are too high for effective individualization. I recommend 300 hrs./wk. for ECE, 330 hrs./wk. for MCE and 360 hrs./wk. for AE.	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
June 16, 1995	Ed Alfred Principal Jefferson Center 1103 Plum Street Parkersburg, WV 26101	Pg. 26 D. Caseloads - Not well defined, especially as to exceptionality. For example, this opens the door for a caseload of 30 for a B.D. teacher. This also appears to me that this revision does away with aides in some cases. Not a good idea.	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.

<p>June 21, 1995</p>	<p>Twyla Melton P.O. Box 142 Fraziers Bottom, WV 25082</p>	<p>Caseloads: the contact hours for Resource Room are extremely high in number. I recently provided services for forty resource students with exceptionalities of SLID, MI, BD, OHI (ADD & ADHD) and some also with CD, VI, and for OT services in grades K-5. <u>Thirty</u> one of these students received direct services in reading, spelling, language and math (all four subject areas or various combinations of the four) and <u>nine</u> students received consultative services. These services were provided to all forty students by one teacher and <u>no</u> aide. The above caseload totaled 236 hours 15 minutes a week. This caseload and contact hours hindered student learning due to too many students receiving services from one teacher. I also feel that thirty resource students for various subjects and grade levels is also too high in number to properly meet student needs. With the caseload I had this past year, I became so busy with paper work, planning, and lesson plans, that I spent many, many hours a week, much more than the other teachers in my building or that I have ever been in contact with during my teaching career, after school, plus the amount of work I took home, but yet still did not feel I was able to meet student needs successfully. Another issue that needs monitoring at this time is Special Education teachers and caseload money. Regular Ed. teachers are paid extra when overloaded, but Special Ed. teachers do not. Instead, they are given special permits to allow them to be overloaded. This I too feel is very unfair to students and teachers in special education.</p>	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
<p>June 22, 1995</p>	<p>Lisa Walker Cottageville Elementary School Street Cottageville, WV 25239</p>	<p>D.1 NOT 368 hr/wk (regular ed at elem is 315 min/day - 330 min/day. D.2 How on earth could certain exceptionalities expect to have one teacher with 30 students (i.e. preschool handicapped 3, 4 & 5 year olds with one teacher and 15 students or an autistic classroom or behavior disorder?) We will lose all of our qualified teachers with this kind of change. We will experience lawsuits due to the inability to provide a safe environment and/or implement the IEP.</p>	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
<p>June 27, 1995</p>	<p>Karen Hall Monroe Co. Schools P.O. Box 330 Union, WV 24983</p>	<p>Caseloads should be much less for ECE and preschool should be separated out and even less. I like the idea of content hours, gives teachers more flexibility to serve students. But number of hours much too high for ECE and too high for MCE. Like aide provisions.</p>	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>

June 27, 1995	Janet S. Gagnon, Ed.S. School Psychologist Jackson Co. Schools 1714 Rolling Hills Circle Charleston, WV 25314	D.1 I can't project very well how this formula will work, but I am concerned that it will be used to excuse inadequate services to SL/D and BD students, especially when a few students have IEPs that specify <u>lots</u> of service. It will, maybe, be even harder to justify adequate staffing for the children who need service, but only moderate amounts of it.	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
June 28, 1995	Elaine S. Max 1551 Autumn Road Charleston, WV 25314	1)Page 25: A.1. If further evaluation is necessary, but the IEP components for which information is available are written (4.0. D.1.), how long can the remainder of the IEP wait? If further info is necessary, e.g., a neurological exam, it could take months to get the information. Does the child get placed in the meantime? 2)Page 26: CASELOADS - no differentiation between mild, moderate and severe; no per period limits; no limit on age span/class. 3)What about aides in the classes for the severely impaired?	1) O/N 2)-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect. 3)-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
July 7, 1995	Doug Smith Lincoln County Board of Education P.O. Box 269 West Hamlin, WV 25571	Not mandating an aide when you reach a magical number is a positive.	+/A
July 10, 1995	Kathy Finsley Ohio County Schools 2203 National Road Wheeling, WV 26003	D. Caseloads: I continue to have extreme reservations regarding the proposed method of calculating caseloads. Recommend a pilot to be done for at least a year before this is approved.	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
July 12, 1995	Debbie B. Page Monroe County Schools P.O. Box 330 Union, WV 24983	1) There is a need to give a timeline as to what a short delay is in the eyes of the West Virginia Department of Education. 2)There needs to be a limited number of children per group that the speech language pathologist can see per session.	1) -/NA Specifics will be addressed in LFEA policies and procedures 2) -/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
July 12, 1995	Terry Dixon Monroe County Schools P.O. Box 330 Union, WV 24983	Contact hours: 1. Dealing with numbers instead of need 2. Quantity instead of quality 3. Doubling caseload - what happens to an individualized education?	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.

<p>July 12, 1995</p>	<p>Daniel S. Sago RR 6 Box 335 Fairmont, WV 26554</p>	<p>Section 5.0, as a teacher of the Gifted with a Master's Degree in the field, it disturbs me to think of trying to provide a quality program for 50 students. It can't be done! I would seriously consider returning to regular education if the Gifted caseload is increased. The paperwork I do now for 40 students is mind blowing. The quality of instruction with 50 students would be compromised to the point that I would feel it would be a waste of time for the student and myself.</p>	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
<p>July 17, 1995</p>	<p>Geraldine Howard/Stephanie Hunt Braxton County Middle School Carter Braxton Drive Sutton, WV 26601</p>	<p>D. of Section 5.0 "Administration of Services" Too vague - does not break down severity of mental/ physical impairments. If teachers have that size caseload, individual help will be very limited if not impossible; therefore, students will find it very difficult to achieve maximum levels of abilities as designated in the goals and objectives on Individualized Education Plans. For example, if as an adult educator I have 3 students in wheelchairs that cannot feed themselves, I would still be feeding breakfast when it would be time for lunch. What could I do with the other 13 students in the meantime as feeding is definitely one on one. Also, how can you change individual's diapers alone or lift them out of wheelchairs or help one individual change because he/she has soiled clothes and still help the other 15 students?</p>	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>

July 17, 1995	Martha B. Wine Braxton County Schools Policy 2419 Revision Committee Member P.O. Box 37 Burnsville, WV 26335	<p>D. Caseloads- I collected 7 caseload samples at the Middle and Adolescent Levels. The Caseload proposal would double all of these. This proposal would be devastating to our ability as special needs teachers to provide specially designed instruction to our students. These "maximum limits" could, based on a 5 hour instructional day, permit teachers to be assigned:</p> <table border="0" data-bbox="1156 989 1404 1489"> <tr> <td>Level</td> <td>5x5</td> <td>Students per hr.</td> </tr> <tr> <td>ECE</td> <td>368÷25 =</td> <td>14.72</td> </tr> <tr> <td>MCE</td> <td>385÷25 =</td> <td>15.40</td> </tr> <tr> <td>AE</td> <td>403÷25 =</td> <td>16.12</td> </tr> </table> <p>How could a teacher possibly implement individualized instruction with these numbers? Also as written, contact hours do not specify the intensity of services needed by special needs students. Example, mildly learning disabled students' specially designed instruction could be successfully delivered within a regular class with consultation. A severe behaviorally disordered or mentally impaired student may need one on one instruction. The generic "contact hours" does not distinguish between the two. Part of the "vision" of our Revision Committee originally was that these changes should be student quality program focused. I do not believe the "caseload" section as presented follows this "vision" statement. Please reconsider this section.</p>	Level	5x5	Students per hr.	ECE	368÷25 =	14.72	MCE	385÷25 =	15.40	AE	403÷25 =	16.12	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
Level	5x5	Students per hr.													
ECE	368÷25 =	14.72													
MCE	385÷25 =	15.40													
AE	403÷25 =	16.12													
July 17, 1995	Yvonne Santin, Assistant Principal Jefferson Elementary Center 1103 Plum Street Parkersburg, WV 26101	<p>Page 26, item D. Maximum limits for caseloads are not well defined. Caseloads are much too high and should not be the same for each exceptionality. This type of thinking leads one to believe that there is no difference between the exceptionalities. The quality of services to students would be adversely affected.</p>	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.												
July 17, 1995	Cynthia Alkire St. Marys High School 1002 Second Street St. Marys, WV 26170	<p>The caseload "contact hours" is much too high - even with the revised version. How does one protect a teacher from the "over 30 caseload"? In many centers, only 30 names are submitted on reports, but teachers are often asked to serve more students. Many counties do not have funds for additional staff.</p>	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.												
July 17, 1995	Sandra Sargent Cabell County Schools 620 20th Street Huntington, WV 25702	<p>5.E.1.2.3 "approved status" is too vague and could allow placement by students in fly-by-night schools. It needs to state "approved status through the Department of Education in the state where it is located".</p>	-/NA Implementation issue. State DOE is not always the "approving" agency.												

July 17, 1995	<p>Nancy Gordon Jefferson County Schools T. A. Lowery Elementary School 55 Shenandoah Jct. Rd. Shenandoah Jct., WV 25442</p>	<p>D-2 p. 26 - Does this mean SLPs are exempt from contact hours if their maximum is still 50? It reads as such to me. I want to go to a weighting system for SLPs. For those of us who have a majority of moderate to severe cases - we cannot provide adequate services to 50.</p>	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
July 19, 1995	<p>Judy Living Jackson County Schools 509 W. Main Street Ripley, WV 25271</p>	<ol style="list-style-type: none"> 1. Caseloads and aides need to be determined by exceptionality, types of services provided; consultative, pull out or separate class, and the amount of instructional time. 2. The exceptionality of mentally impaired needs to be divided into mild, moderate and severe to determine caseloads and aides. 3. As stated in the draft caseloads and the number of students served before an aide is required is too large, needs to remain as it is currently. 	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
July 19, 1995	<p>Dr. Jeanette W. Lee WV State College 1518 Jackson Street Charleston, WV 25311</p>	<p>1)P. 25 C.1 As this statement is currently printed, it presents Kanawha County as out of compliance with federal law Sec. 300.17 and Sec. 300.51(b) (1): Schools must insure that a continuum of alternative placements is made available to meet the needs of children with disabilities. Special education instruction can be provided in a number of settings such as: instruction in regular classrooms, special classrooms, special schools, home instruction, instruction in hospitals and institutions, and instruction in other settings (Sec. 300.17 of IDEA).</p> <p>2)Teacher Caseloads [Please consider this!] there needs to be more delineation related to type of child. All teachers of special populations can have up to 30 students?? This proposal does not consider the children with more needs.</p>	<p>1) O/N 2) -/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
July 19, 1995	<p>A.J. Parker IEP Specialist Boone County Schools 69 Avenue B Madison, WV 25130</p>	<p>Contact hours are too high. Our high school teachers could have an average of 17 students per period.</p>	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
July 19, 1995	<p>Marilyn M. Murrdock 129 Stamford Park Drive Huntington, WV 25705</p>	<p>D. Caseloads 2. A teacher can be assigned a caseload of not more than 30 students. Speech/language pathologists and teachers of the gifted shall be assigned no more than 40 students.</p>	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>

July 19, 1995	Connie Jones 603 1/2 Moyer Way Fairmont, WV 26554	<p>1) I feel "self-help or functional" should be added to C.2 "similar social and/or academic needs" as well, because even though my daughter does not "read and write" she is using sign language and tries to talk. Potty training is also on her IEP and this is not considered "academic need" nor is walking or feeding herself, etc.</p> <p>2) Under D. Caseloads - once again it is too general. Overcrowding and a non-learning environment could result. Once again, classroom limits are not defined. The only reference I could find was to a "Master Plan/or Best Practice document" which I have no knowledge of, page 2. Again, I feel limits should be made clearer. As near as I can tell all M.I. students could be placed in one class with no student limits.</p>	<p>1) O/A Clarifies requirement.</p> <p>2) -/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
July 19, 1995	Judi Carter Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740	<p>Increase in caseloads? All exceptionalities? How do you interpret/figure the time?</p>	O/N
July 19, 1995	Hazel Toler 822 Temple Street Hinton, WV 25951	<p>1) Grouping by needs of the IEP is a good idea.</p> <p>2) Contact hours are a good idea for determining caseload however the limits set here are too high. A workable caseload for E.C.E. would be 210 to 220; 220 to 235 might be feasible for MCE caseloads. These numbers would be appropriate for learning disabled and mildly mentally impaired students. Some behavior disordered students could also be served with this caseload. More severe populations would require a smaller number of contact hours. I do not believe the same number of contact hours can be used to cover all exceptionalities unless the caseloads are set much lower than outlined in the draft copy of regulations. Age span between students should be addressed especially for LD and BD students. For students to be served effectively maximum caseload should be no more than 25 students. Limits should be set on number of students who are served in one class period. In most cases more than 8 students cannot be served effectively - never more than 10.</p>	<p>1) +/A</p> <p>2) +/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
July 19, 1995	Sylvia Shipp Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740	Question caseloads for all exceptionalities?	O/N

<p>July 19, 1995</p>	<p>WV Learning Disabilities Association P.O. Box 602 Ansted, WV 25812</p>	<p>1)A-2) Delete as soon possible and add within 15 days. 2)D. Caseloads - this seems to support inclusion but does it actually take into account - each individual child?</p>	<p>1) -/NA Language consistent with Federal Regulations. 2) -/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
<p>July 19, 1995</p>	<p>Norene Young 510 Greenville Road Forest Hill, WV 24935</p>	<p>I do not support the proposed changes regarding contact hours with students. Revisions suggest setting a limit at 38.5 contact hours per week but removing restrictions on class loads as they relate to students' ages and handicaps. These revisions contradict existing provisions in Policy 2419 requiring individual instruction and record-keeping pertaining to students' IEPs. Below, I have outlined eight reasons why contact hours should be lower than proposed. 1. Students will suffer a lack of individual instruction if placed in a classroom with no class or hour limits. Teachers adapting lessons to 15 levels with 30 students offer little more than a baby-sitting service and certainly no more help than would be offered in an unmodified class. 2. Time spent evaluating and updating a student's IEP does not count as contact time but is required by Policy 2419 and for effective teaching. 3. As SBAT manager at Peterstown Middle School, I spend one period a day on paperwork to keep records current for all special education students at the school. I often bring that work home. Again, although no contact hours are credited, this time is required to comply with Policy 2419 provisions to evaluate and serve students in a timely manner. 4. Special education teachers join regular education teachers to offer exploratory classes, which can include up to 30 special and regular education students. Last year I taught home economics to eighth graders. 5. In a small county, personnel perform many duties for which a larger county may hire or contract. Teachers perform all duties involved in student referral, screening, parent interviews, observation and testing. Without time away from students, these duties could not be completed within Policy 2419 time guidelines.</p>	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>

July 19, 1995	Norene Young (Continued)	<p>6. Special education teachers at Peterstown Middle School also provide in-school suspension monitoring for behavior disordered students. This occurs before, during, and after school and during allegedly duty-free lunch periods.</p> <p>7. Peterstown Middle School uses the team approach to plan for and discipline students. Time away from students is spent with special education colleagues and each team to assess and plan solutions for student problems.</p> <p>8. Hours before and after school are often spent calling parents to report disciplinary problems and failures and to schedule appropriate meetings.</p> <p>Therefore, while I am asking for fewer contact hours, any additional time is already dedicated to fulfilling students' needs and IEPs to comply with Policy 2419.</p> <p>I suggest that further revisions be made to the policy to limit contact hours to 210 each week. Each special education teacher should be limited to 25 students, with between eight to 10 students each period. Without appropriate limits, special education loses its reason for existence but, more importantly, students lose their reason for existence.</p>	
July 19, 1995	<p>Margaret Pace Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740</p>	<p>Clarify caseloads.</p>	-/A
July 19, 1995	<p>Pat Hanks Mercer County Schools 1403 Honaker Avenue Princeton, WV 24740</p>	<p>1) Caseloads need to be more specific and understandable. 2) Contact hours makes it hard to figure out-have caseloads increased with formula? Is this formula for all exceptionalities?</p>	1) -/A 2) O/N

July 20, 1995	Kevin Boggs, WVEA President 1558 Quarrier Street Charleston, WV 25311	<p>D. Caseloads</p> <ol style="list-style-type: none"> 1. The switch to contact hours causes much concern: A. The number of contact hours is far too great per teacher. B. There is no weighting of the contact hours. The contact hours need to be amended to take into account the severity of the disabilities and/or specific exceptionalities of the students. C. There is no mention made of those students serviced in self-contained settings. 2. The caseload limit does not take into account the various exceptionalities in self-contained settings. Some additional limits on caseloads need to be established based on the educational setting and student exceptionalities. 3. The placement of a full-time aide is based on the student's needs and the aide is there to assist that child. The placement of an aide should not be an excuse to increase the amount of teacher contact hours. 	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
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July 20, 1995

Susan McClolin
209 1/2 W. Westview Street
Narrows, VA 24124

In section 5.0, specifically section D, the caseloads for special education teachers are discussed. I do not support these changes. The contact hours are too high, the number of students assigned to a teacher are too many, and having an aide does not justify increasing contact hours. Below I have stated several reasons why I do not support the changes in section 5 of Policy 2419.

1. By setting the contact hours at the proposed maximums the class sizes could increase. This would limit the amount of individualized instruction each student would receive. The purpose of special education is to individualize to meet the needs of students.
2. The time it takes to evaluate and update student IEPs is not included as contact hours but is required by Policy 2419.
3. More contact hours would make documentation difficult. I have spent many planning periods documenting instead of planning for students' needs.
4. Keeping current records and contact with 30 students would be too difficult. With the maximum contact hours as stated, there would not be time to "keep up" with 30 students and the needs of each. Speech/Language and gifted teachers would have even a more difficult time keeping up with 50 students for the same reason.
5. Having a full-time aide does not justify increasing contact hours. This would mean additional students. An aide can only provide assistant services. They cannot do the job of the teacher. Having an aide would not provide extra help to the students, it would mean extra students for the teacher and less individualized instruction.
6. As a teacher, I have many other duties and responsibilities to students. I have testing, screening, parent interviews, observations, as well as teaching an Exploratory class. Without time away from students, these duties could not be performed.

In summary, the maximum contact hour limit is too high. Less time would be given to the individual needs of each student. Also, as a teacher with experience, 30 students would be difficult to keep track of. Just because there is an aide does not mean the needs of students are easier to meet.

I would like to suggest that the maximum contact hours be limited to 210 per week per teacher. I would also like the caseload of a teacher be limited to 20-25 students and that class size be limited to 8 or 10 students per class period. Reasonable limits are needed for special education to be successful in meeting the needs of students.

-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.

July 20, 1995

Conchita Rubio
3020 Tanbridge Drive
Martinsburg, WV 25401

The caseloads are much too high. The number of contact hours per week seems impossibly high for L.D. Resource (Regular Education: Part-time) at the Early Childhood and Middle Childhood levels. Children with learning disabilities need intensive, individualized instruction in order to develop basic skills. The high expected caseloads are very discouraging to those of us who care about L.D. students and try to provide quality programs.

Also, Special Education: Separate Class should not be combined with Regular Education: Part-time. It is impossible for one teacher to adequately meet the needs of these two groups in a combined setting. Children in a separate class need a total curriculum, often using materials different from those used in the regular class. Instruction can proceed at the students' own pace. On the other hand, children who spend most of their day in the regular class need intensive instruction in basic skills. In addition, the L.D. teacher needs to help each student keep up with the pace of the regular class. These students need much help in order to be successful.

The L.D. teacher often helps the students with assignments given in the regular class, teaches test-taking strategies and organizational skills, and often administers tests orally one-on-one. The resource teacher's lesson plans have to be flexible in order to accommodate any immediate needs that might arise in the regular class. In addition, the resource teacher needs to be aware of any problem each student might be experiencing in the regular class and suggest modifications or provide one-on-one help. The fact that the students come from all the grade levels makes the Resource teacher's job even more difficult.

All this is in addition to the duties most of us have as Screening-Referral Agents, which include participating in S.B.A.T. Meetings, being responsible for the many forms required throughout the screening/evaluation process, testing individual students (Sploson and achievement testing), doing observations of students in their classrooms, participating in Multidisciplinary Evaluation Team Meetings, and attending IEP/Eligibility meetings.

Because of all this the high caseloads and the combining of Resource and Self-contained students in the same program are enough to discourage even the most dedicated of teachers and to raise serious questions about the quality of L.D. programs in the state.

-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.

July 20, 1995	Edwina Pendrvis 6177 Birkwood Drive Huntington, WV 25705	D. Caseloads 2. A teacher can be assigned a caseload of not more than 30 students. Speech/language pathologists and teachers of the gifted shall be assigned no more than 70 students.	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
July 20, 1995	Mr. and Mrs. Roy Gene Cash P.O. Box 602 Ansted, WV 25812	1)A.2 - Delete as soon as possible and add within 15 days. 2)D. This seems to support inclusion but does it actually take into account each individual child?	1) -/NA Language consistent with Federal Regulations. 2) O/N
July 20, 1995	Pamela Kay Kohner Wirt County Primary Center P.O. Box 220 Elizabethtown, WV 26143	1)D.1. - (Caseload) RE: contact hours: I computed one average day of current speech/language caseload to 13.6 student contact hours. This was without a planning period and serving students from 8:10 a.m. to 3:10 p.m. (Half hour lunch and 15 minutes travel) multiplied by four days equals 54.6 hours/wk. An additional day per week is set aside for monitoring, screenings, evaluations, observations, and home visits - this adds another seven hours (maximum) contact hours...total 61.6. Where do the additional 300 hours/wk come from? Who keeps track of these contact hours? 2)5.D.1. - Medical reimbursement will only pay for five students per session in CD program. For 367.5 hours/wk. the program would have to serve + ten students per hour, seven hours per day, five days per week. This allows <u>no</u> flexibility for individualization of programs. 3)5.D.2. - Why and how could a special education teacher be allowed 30 students while a regular teacher has 25. Special ed. students require greater and more individualized instruction.	1) -/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect. 2) -/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect. 3) -/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
July 20, 1995	Billie Friedland WVU, Dept. of Special Education 507 E. Allen Hall, P.O. Box 61222 Morgantown, WV 26506	Caseload maximums are too high. For a Specialized Educator, 20 students is reasonably high.	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
July 20, 1995	Bruce Dillon 311 Scott Ford Road Elkins, WV 26241	D. Caseloads - 30 students for MCT? Are you trying to insure the failure of our inclusion program? Why not 60? or 300? I had twenty this year, and was unable to provide as much individual help for them as I had hoped to.	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.

July 20, 1995	Lisa Ray/Jane Achee Monongalia County Schools 13 South High Street Morgantown, WV 26505	D. Caseloads Preschool needs to be a separate entity. Given an itinerant teacher working 40 hours per week it would be impossible to provide an appropriate education, meet an HEP for 30 students at 12:27 hours per week with a caseload of 15 students, you can actually meet an HEP, however 368 contact hours per week is not feasible! Where do you allow for travel?	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
July 20, 1995	Nora Corra 3320 Broad Street Parkersburg, WV 26104	It is hard to base caseloads on contact hours especially such high ones. It is easier to see 2 students per 20 minute session several days a week than 4 students 20 minutes every day. The children will miss more class time which parents and teachers will be upset. Children who stutter or have articulation problems need to be pulled out to correct their disorder. Calling attention to these disorders in the classroom could cause other problems as children not wanting to go to CD to correct their speech.	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
July 20, 1995	Sally L. Leech Primary B.D. Teacher Jefferson Elementary Center 43 Oakwood Estates Parkersburg, WV 26101	1)D2. Caseloads: This section makes no sense. You have not taken into consideration the different configurations. I have been a B.D. teacher for 19 years and I know from experience you can not have 16-17 configurations B.D. students without an aide. (You couldn't do it with an aide!)	1) -/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
July 20, 1995	Joan M. Wilson Teacher of the Visually Impaired Office of Exceptional Students Kanawha County Schools 200 Elizabeth Street Charleston, WV 25311	2)5.0 Administration of Services C.2 Provision of Services Is this the statement that is going to allow multi-categorical classes? Multi-categorical classes sound great financially but in actuality they are going to be a disaster. B.D. students are going to take over and the others will be left out.	2) O/N
July 20, 1995	Barbara Campbell Upshur County Schools P.O. Box 580 Buckhannon, WV 26201	1)Basing groupings on similarity of needs is very appropriate. Basing caseload on contact hours is very appropriate. 2)Do contact hours include time needed to modify classroom materials to appropriate media for student's use (i.e. Braille, tape, simplified vocabulary, Large Print, etc.)? 3)D2. Add "Itinerant Low Incidence Staff (Deaf and Hard of Hearing, Blind and Partially Sighted, Traumatic Brain Injury, Orthopedically Impaired) shall be assigned no more than 20 students."	1) +/A 2) O/N 3) -/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
Good section, concise understandable, and workable.	+/A		

July 20, 1995	Frank Kirkland, Planner WV Developmental Disabilities Planning Council 110 Stockton Street Charleston, WV 25312	<p>1)A.2. - Delete "as soon as possible" substitute "within fifteen calendar days".</p> <p>2)A.3. - Delete "or when arrangements for services such as transportation must be made". Terms such as "as soon as possible", "consider", and "as needed" are often abused and delay in the provision of needed services.</p> <p>3)B.3. - Change this section to say "Service personnel shall be appropriately trained in the specific goals and objectives of the student's IEP prior to the implementation of the IEP."</p> <p>4)D. - This formula needs to be changed to allow for the specific needs of students with more significant needs to be considered. While the formula supports inclusion, it does not take students' specific needs into account. It would also increase caseloads to 12 or more students for teachers in many instances.</p>	<p>1) -/NA Language consistent with Federal Regulations.</p> <p>2) -/NA Specifics will be addressed in LEA policies and procedures.</p> <p>3) O/NA Too prescriptive; potentially could delay provision of services to a student.</p> <p>4) -/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
July 20, 1995	Sharon Barker Rt. 6, Box 207 Morgantown, WV 26505	<p>Caseload - the new proposal makes no mention of a child's needs. Many children with physical handicaps, communication disorders, personal care needs, etc. require more of the teacher's or aide's individual time (toileting, feeding, working with communications, motor skills, etc.)</p>	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
July 20, 1995	Teresa Kurnot Rt. 1 Box 21 Millwood, WV 25262	<p>Caseloads - Speech/language no more than 50. Should also state "of primary responsibility or as related service".</p>	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
July 20, 1995	Kim Long Rt. 2, Box 157 B Ravenswood, WV 26164	<p>D.2 - Why such high caseloads for speech/language and gifted? This means teaching, testing and doing meetings for 50 students! Does the committee realize the time it takes to do this? Every time a teacher is out of class for a meeting the student loses. If we are expected to hold all meetings during planning, lunch, before school, and after school, we could be financially compensated. This is becoming a problem now, and higher caseloads make it worse!</p>	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>

<p>July 20, 1995</p>	<p>Margaret McGarrity 833 Spring Rd. Charleston, WV 25314</p>	<p>1)A.2 - delete "as soon as possible" and add "within 15 calendar days". 2)A.3 - strike last part "or when arrangements for services, such as transportation must be made". Experience has proven that terms such as "as soon as possible" "consider", "as needed" are often abused and used to delay providing services. 3)B.3 - "Service personnel shall be appropriately trained in the specific goals and objectives of the student's IEP prior to the implementation of the IEP". 4)5.D - While this formula supports inclusion, it does not take students' individual needs into account, especially those with severe disabilities. This formula increases caseloads to 12 and over.</p>	<p>1)1) -/NA Language consistent with Federal Regulations. 2) -/NA Specifics will be addressed in LHA policies and procedures. 3) O/NA Too prescriptive; potentially could delay provision of services to a student. 4) -/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
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July 21, 1995

Marilyn Wolfingbarger Nichols
4704 West Washington Street
Charleston, WV 25313

I would like to submit comments about the proposed changes to Policy 2419. I strongly oppose the change of caseloads based on hours, rather than number of students. The proposed caseload amounts make no distinction between direct versus consultative services. The new proposal would also allow 12 students with autism to be placed in a single classroom without an aide. Then with an aide, the caseload is allowed to increase. Even with an aide, 12 students in one classroom would be too many to provide even adequate educational services. They could provide "babysitting" perhaps, but I question even safety issue. It could also allow 12 students in wheelchairs to be in a classroom without an aide. Even with an aide 2 adults could not physically handle 12 students that might need to leave the building because of fire, etc. The proposed changes to caseloads being stated in hours, rather than student "head count" will make it nearly impossible to determine if a school is in noncompliance. This is because some students' schedules change either through IEP changes throughout the year, semester changes of classes, transition plans, etc. I know the counties are having problems with being in noncompliance on caseloads, especially in self-contained classrooms. However if this is the State Department's way to satisfy "on paper" to the Federal Secretarial Review that schools are now in compliance with caseloads, this is the wrong way to do it. It will be hard to enforce and students will not receive a quality education because it will be physically impossible for a single instructor to work on individual IEP goals across varying ability levels with so many special needs students in a single classroom. This will cause stress and dissatisfaction among teachers, and there are safety issues. I am very concerned about these caseload changes. Please submit these comments to the Board, or anyone else involved in this process.

-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.

July 21, 1995

Dr. Frieda M. Owen
Wood County Schools
1210 Thirteenth Street
Parkersburg, WV 26101

Item D addresses caseloads for special education teachers. The concept of contact hours is confusing and will make it extremely difficult to determine staffing needs. We also disagree with the maximum caseload of 50 students for teacher of gifted. Teachers of gifted students deal with complex issues of academic enrichment and acceleration as well as students' social and emotional needs. Gifted students, especially exceptional gifted students in grade 9-12, will be adversely affected by this change. We recommend retaining the current maximum caseload of 40 students.

-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.

<p>July 21, 1995</p> <p>Diane Kradel 503 N. Tennessee Avenue Martinsburg, WV 25401</p>	<p>The LD caseload hours for Early Childhood Education are far above what is needed to ensure adequate services to our students. As resources teachers we frequently teach several different subjects at one time. It is essential that the numbers be smaller.</p>	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
<p>July 21, 1995</p> <p>WV Advisory Council 100 Angus E. Peyton Drive So. Charleston, WV 25303</p>	<p>1) Support wording of C.1 that allows flexibility and does not limit plans by location. 2) Support efforts that will emphasize using child-count data for funding purposes only and to disconnect the child-count labeling function from delivery of services. However, we encourage another year to pilot the contact hour process before instituting change. Recognize that this could increase administrative time and costs to collect data. 3) Support removal of regular education reference in E.3 focusing resources appropriately on identified exceptional students.</p>	<p>1) +/A 2) +/A 3) +/A</p>
<p>July 21, 1995</p> <p>WVA, WVPPI, COP/A, and DDPC</p>	<p>1)A.2 - Delete "as soon as possible" and add "within 15 calendar days". 2)A.3 - Strike last part "or when arrangements for services such as transportation, must be made." Terms such as "as soon as possible", "consider", "as needed", are often abused and delay in the provision of needed services. 3)B.3 - Change this to say "Service personnel shall be appropriately trained in the specific goals and objectives of the student's IEP prior to the implementation of the IEP." 4)D - Change formula. While this formula supports inclusion, it does not take the student's individual needs into account, especially those with severe disabilities. This formula increases caseloads to 12 and over.</p>	<p>1) -/NA Language consistent with Federal Regulations. 2) -/NA Specifics will be addressed in LEA policies and procedures. 3) O/NA Too prescriptive; potentially could delay provision of services to a student. 4) -/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
<p>July 21, 1995</p> <p>WG Klingborg Center for Child Development WVU Department of Pediatrics P.O. Box 9214 Morgantown, WV 26505</p>	<p>1) Under page 25, A.2: "Services shall be implemented as soon as possible." Define as soon as possible. How many school days? 2) Also on page 25, B: Add to this and make it #4: <u>Qualifications of staff</u> should be available to parents. 3) Under page 26, D: Caseloads - What happens if the contact hours are not upheld? Be more specific!</p>	<p>1) -/NA Language consistent with Federal Regulations. Specifics will be addressed in LEA policies and procedures. 2) O/NA This issue governed by other policies. 3) -/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>

July 21, 1995	Janet Gould HC 66 Box 19 Romney, WV 26757	<p>D. Caseloads</p> <p>1. A teacher can be assigned a caseload of not more than 30 students. Teachers of the gifted shall be assigned no more than 40 students. Speech/language pathologists shall be assigned no more than 50 students.</p> <p>I highly recommend maintaining the caseload for teachers of gifted at 40 for resource services for the following reasons: Teachers of gifted are most often itinerant with as many as 5 to 6 school assignments. They often spend up to 45 minutes a day in travel time between schools. This severely reduces the already limited contact hours they have with students.</p> <p>In addition to this, teachers of gifted must provide the same amount of individualization, consultation, meetings, and completion of forms as teachers of other exceptionalities, who have a caseload of only 30 students. I fear that the rationale for raising the caseload is based on the fictional notion that gifted teachers "work with the cream of the crop", that because these students are smart they are easier to teach. On the contrary, gifted students are a challenging lot to teach appropriately and the specialized needs of underachieving gifted and LD or B/D/gifted students require intense individualization.</p>	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.
July 21, 1995	Virginia Landrum Randolph County Schools 40 Eleventh Street Elkins, WV 26241	<p>5.D - This section does not take into consideration caseloads and hours per week for teachers who work in full inclusion situations. (The Second Month Report also needs some how to address this issue).</p>	-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.

<p>July 21, 1995</p>	<p>Karen Beckman Marion County Teacher Route 3, Box 285A Fairmont, WV 26554</p>	<p>My comments deal with the proposal to raise the caseload for gifted teachers to 50 students. I think that would be a detriment to gifted education. I have been teaching gifted students for 13 years. A great deal of planning and preparation must be done to educate these students in the proper manner. As the program in my county moves toward acceleration rather than total enrichment even more planning must be done to individualize their program. I currently teach at one school where I serve between 35-40 students each year. Since we have no textbook manuals to use for our program, any type of activity done in class means I have to research and find the appropriate resources to use to teach the skills the student needs. Doing 35-40 IEP papers and holding the meetings is a tremendous amount of work. I receive no release time to work on IEP's at school which means most of them are written at home I receive no compensation at all for the work I do at home which can amount to 5 hours a night for a one week period. Raising the caseload to 50 would be an injustice not only to me but for my students as well. Every year I see more of my valuable teaching time taken away for paperwork and meetings. Adding 10 more students would just make it worse. If the goal of our gifted program is to help each individual student to reach their full potential, having 50 students makes that seem like an impossible dream. Please reconsider this issue These children will more than likely be our leaders of tomorrow. Cranning more and more of them into a caseload is not the appropriate measure to take. Thank you for considering these statements.</p>	<p>-/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>
<p>July 21, 1995</p>	<p>Sandi Saunders Special Education Supervisor Cabell County Schools 620 Twentieth Street P.O. Box 445 Huntington, WV 25709</p>	<p>1) As for the proposed number increase 40 is a substantial load for the teachers to carry. When you increase the number, Special Education appears to favor only the collaborative model. I am afraid a high number decreases the incentive for counties to provide a full range of placement options that IDEA requires. In the area of gifted, we may serve students for much longer periods of time-- from one or two class periods to all day at our elementary gifted centers.</p>	<p>1) -/A Proposed caseloads will be studied to further determine impact. Current caseloads will remain in effect.</p>

COMMENTS AND SUGGESTIONS LOG
POLICY 2419: REGULATIONS FOR THE EDUCATION OF EXCEPTIONAL STUDENTS

ACTION
N = No Response
NA = Not Accepted
A = Accepted

TYPE
- = Negative
+ = Positive
0 = Neutral

COMMENT FOR SECTION 6.0

<p>June 16, 1995</p>	<p>Ed Alfred Principal Jefferson Center 1103 Plum Street Parkersburg, WV 26101</p>	<p>1) Pg. 29 B 1 Direct casual relationship should not be used as an excuse to permit students to continually disrupt the educational process so that it interferes with other students' rights to learn in an environment free from disruption. 2) Pg. 29 C 1 Change "firearm" to be consistent with HB 2093 - should read "weapons, drugs/alcohol or assault." 3) Pg 30 D add at the end "or continued presence is likely to disrupt the school setting." 4) Schools must not labor under a double standard of discipline. Currently, Special Ed discipline standards are too restrictive and too costly to bear the burden of hearings and court proceedings (by the school system). When we review the Student Rights and Responsibilities Handbook, I find it difficult to say to two students sitting side by side that this applies to you - but not the other student. 5) Also include drug paraphernalia under drug/alcohol as reasons for suspension/expulsion.</p>	<p>(1) -/NA Consistent with U.S Supreme Court and U.S. District Court language. (2) 0/NA Consistent with the language of the Jeffords amendment to the Gun-Free Schools Act. (3) 0/NA Consistent with U. S. Supreme Court and U.S. District Court language. (4) -/NA Regulations governing discipline for special education students in this policy are mandated by Federal Law, U. S. Supreme Court cases, U. S. District Court cases and West Virginia Law. (5) 0/NA Policy 2419 does not state any "reasons for suspension/expulsions". County policies and procedures would list specific details for implementation of State Policy.</p>
<p>June 27, 1995</p>	<p>Karen Hall Monroe Co. Schools P. O. Box 330 Union, WV 24983</p>	<p>Would be better if it met standards indicated in OSEP Memo from Hennann & Hehir "Questions and Answers on Disciplining Students with Disabilities", which requires no causal for short-term, also in a matter of short-term, 10 days no longer single number but determination made on a case-by-case basis.</p>	<p>0/NA Consistent with the language in State Code.</p>

June 28, 1995	Elaine S. Max 1551 Autumn Road Charleston, WV 25314	Page 29: 6.0 C.1... If a student is in possession of a firearm... Administrators say the new Safe Schools Act uses the term "weapon(s)." Which is it?	0/NA Consistent with the language of the Jeffords amendment to the Gun-Free Schools Act.
July 17, 1995	Cynthia Alkire St. Marys High School 1002 Second Street St. Marys, WV 26170	Discipline is still the No. 1 problem with special ed. Many students use this section as a shield. They know they can do a lot and still be protected from suspension. While this section has some "meat", more should be done to make special ed students follow all the same rules as other students. Only then will inclusion be more acceptable.	-/N
July 19, 1995	Robert G. Miller Special Education Director Mineral County Schools One Baker Place Keyser, WV 26726	(1) Section B, Short-term Suspension, appears to be an additional step not mandated by federal regulations. Dr. Judith Heumann's recent Washington clarification makes the point in questions #2 and #6 that no prior determination of the cause of the misconduct is required if the suspension will be for ten or less days. In keeping with the streamlining of the Proposed Policy 2419, we should eliminate Section B., Short-term Suspension, from our state regulations. Forcing principals into excessive regulatory procedures on behalf of a small minority of students with disabilities has caused a backlash to the overall special education concept. The federal regulations on suspensions and expulsions appear to provide the necessary protection for students with disabilities. (2) There appears to be a substantial conflict between the new proposed 2419 and recently passed state legislation. 18A-5-1a states that an exceptional student may be suspended in excess of ten cumulative school days only because of misconduct with a firearm. The proposed policy and Dr. Marockie's Memorandum of May 24, 1995 appear to allow suspensions beyond ten days for reasons other than possession of a firearm. State policy should not contradict state law. I understand the law may be a misinterpretation of federal requirements but until the law is changed approving a policy that advocates, illegal actions will only force local school boards into expensive court actions.	(1) 0/NA Consistent with language in State Code. (2) -/A Rewritten to comply with language in State Code.
July 19, 1995	Sylvia Shipp Mercer County Schools Princeton, WV 24740	B. 3 p.29 "in excess of ten cumulative school days within a school year"	0/NA

July 19, 1995	WV Learning Disabilities Association P.O. Box 602 Ansted, WV 25812	1) Policy Statement - The term nonaversive behavior not defined. 2) B4 - Add "the student must be reevaluated before change of placement."	1) -/A Definition added in glossary 2) -/NA Consistent with language in State Code.
July 20, 1995	Bruce Dillon 311 Scott Ford Rd. Elkins, WV 26241	Does this conflict with the Safe Schools Act? Is 3 days enough time for other agencies to become involved in finding an alternative placement?	-/A Rewritten to comply with language in State Code.
July 20, 1995	Frank Kirkland, Planner WV Developmental Disabilities Planning Council 110 Stockton Street Charleston, WV 25312 WVA, WVPPI, COP/A, and DDPC Margaret McGarrity 833 Spring Rd. Charleston, WV 25314	(1) Policy Statement - There is no definition of "nonaversive behavioral strategies" and the specifics of these guidelines, which are to be in the "Best Practices" document are not completed and unavailable for comment. It is also unclear if the document will be a requirement or only suggestions for LEAs to follow. (2) - Add section that a student must be reevaluated before a change in placement. There is very much confusion on this issue of suspension/expulsion. Most LEAs do not reevaluate before changing placement as a result of discipline. (3) - Delete this section entirely. LEAs can obtain this information in other policies and regulations, as you have done in other sections of this revision. Keeping it in will only suggest that LEAs seek court orders and jeopardize students' rights to a free and Appropriate Public Education.	(1) -/A Definition in glossary. (2) -/NA Consistent with language in State Code. (3) -/NA Consistent with Federal clarifications.
July 20, 1995	Billie Friedland WVU, Dept. of Special Education 507 E. Allen Hall, P.O. Box 6122 Morgantown, WV 26506Add: 4) Provide transitional supports to enable any student who is returning to school from suspension to reorient and make necessary adjustments to resuming educational activities as smoothly as possible.	O/NA These issues will be addressed in the Best Practices document.
July 20, 1995	Mr. and Mrs. Roy Gene Cash P.O. Box 602 Ansted, WV 25812	(1) Policy statement the term nonaversive behavior not defined. (2) B.4 - Add "the student must be reevaluated before change of placement."	(1) -/A Definition in glossary. (2) -/NA Consistent with language in State Code.
July 20, 1995	Kim Long Rt. 2, Box 157 B Ravenswood, WV 26164	C.1 - What about possession of weapons other than firearms? Others should be included in this. Whether the student's disability is related to misconduct should have nothing to do with it if people are being endangered!	O/NA Consistent with the language of the Jeffords amendment to the Gun-Free Schools Act.
July 21, 1995	WV Advisory Council 100 Angus E. Peyton Drive So. Charleston, WV 25303	It appears that there may be a conflict between this policy and state code which could increase the potential for the department's legal vulnerability. We support the policy but question whether a policy can be written that is inconsistent with state code.	-/A Rewritten to comply with State Code.

<p>July 21, 1995</p>	<p>WG Klingberg Center for Child Development WVU Department of Pediatrics P. O. Box 9214 Morgantown, WV 26505</p>	<p>(1) Under page 29, A.1: Why is the emergency suspension based on one person's opinion (the principal) vs. The SBAT team? The words "serious threat" also need to be defined here!</p> <p>(2) A.2: Again, why is it solely the principal's decision and not the SBAT team? If there IS a direct causal relationship between the behavior and the student's disability (in other words, if the child can not help the behavior) why should he be suspended?</p> <p>(3) B.1 & 2: Define school committee in this statement. One of the professionals on this committee definitely needs to be a behavior specialist!</p> <p>(4) C.1: "...an IEP Committee should determine if there is a direct causal relationship..." This should apply to both short-term and long-term suspension.</p> <p>(5) C.2: We found the statement "...special education and related services must be provided during the suspension and/or expulsion..." to be interesting. We did not realize that these services were to be provided during this time and we were pleased to learn of this.</p> <p>(6) D. Court Order - "...a school district may seek a court order at any time to remove the student with a disability..." This is a one-sided statement. Parents should have the same right!</p>	<p>(1) 0/N</p> <p>(2) -/N</p> <p>(3) 0/NA School committee is defined in the LEAs Policies and Procedures</p> <p>(4) 0/NA Federal clarification requires an IEP Committee to make this determination only for suspension over 10 days.</p> <p>(5) +/N</p> <p>(6) -/NA Consistent with federal clarification.</p>
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COMMENTS AND SUGGESTIONS LOG
 POLICY 2419: REGULATIONS FOR THE EDUCATION OF EXCEPTIONAL STUDENTS

ACTION TYPE
 N= No Response -= Negative
 NA= Not Accepted += Positive
 A= Accepted 0= Neutral

COMMENTS FOR SECTION 7.0

June 16, 1995 Ed Alfred Principal Jefferson Center 1103 Plum Street Parkersburg, WV 26101		1)Pg. 33 D 2 b. Strike "who will be in attendance". This is log restrictive. It means we would have to list every person's name more than 10 days in advance. Circumstances could occur within the ten day period that would change who would be in attendance. This is already covered adequately on pg 19, 4.0.B.1.e. 2) Pg 39, 16 a. - add to the end "unless it refers to alcohol, drugs, weapons, assault on the students' presence is likely to continue to disrupt the school environment."	1) -/NA Language of Federal Regulations. 2) -/NA Language of Federal Regulations.
June 22, 1995 Kathy S. Sibbett Nicholas Co. Bd. of Ed. 400 Old Main Drive Summersville, WV 26651		1)Page 34 D. #4, "interpreter for parents who are deaf or whose... should also include "other mode of communication" as on page 32 #4. a.) 2)F. 1. Does this independent evaluation also include speech eval. and/or related (OT/PT) service or have they been purposefully omitted? Is it independent educational evaluation or just independent evaluation?	1)/NA Language of Federal Regulations. 2)/N

June 22, 1995

Ann Worum Lambright
Attorney at Law
P.O. Box 6023
Charleston, WV 25362

1) Suggestions for revisions of proposed 7.0.1.5 (page 37)
5. The impartial hearing officer selected for a due process hearing shall be empowered to:
a. schedule and notice the hearing and pre-hearing conferences pursuant to the regulations, securing a hearing location and time reasonably convenient to the parents and student involved;
b. grant specific extension of time beyond the timelines established in this rule upon motion of either party or stipulation made by both parties;
c. subpoena witnesses and documents pursuant to this rule;
d. administer oaths and affirmations;
e. examine witnesses under oath;
f. rule on evidentiary questions;
g. conduct all proceedings in a fair and impartial manner and ensure that all hearings are conducted and completed as quickly as possible; and
h. issue a timely written decision containing findings of fact and conclusion of law.
2) Suggestion for revision of proposed 7.0.1.6 (page 37)
6. Hearing officers may issue subpoenas requiring testimony and/or the production of books, documents and physical evidence at the hearing. Service of the subpoenas issued by the hearing examiner is the responsibility of the requesting party and must be completed by certified mail or hand delivery at least ten days prior to the hearing. Any person properly served by a subpoena pursuant to this section may object and request in writing that the hearing officer quash or modify the subpoena. Upon receipt of the written objection and request, the hearing officer shall investigate and issue a written decision affirming, modifying, or quashing the subpoena. Upon receipt of the hearing officer's decision on the subpoena, the person served the subpoena may petition the United States District Court for the county in which the hearing is to be held for an order to quash the subpoena issued pursuant to this section. A hearing officer may petition said court for an order of enforcement of a properly served subpoena issued by the hearing officer. Nothing in this section shall prohibit the hearing officer from refusing to issue subpoenas which are requested for purposes of harassment, abuse of process, delay, or which are directed to persons having no direct evidence on the matter to be heard at the hearing.

1) O/NA format agreed upon by stakeholder group and is consistent with Federal Regulations.

2) O/NA Additional specifics will be addressed in WYDE procedures and considered for future revisions of Policy 2419.

June 28, 1995	Elaine S. Max 1551 Autumn Road Charleston, WV 25314	Do educational records include the school psychologist's protocols?	O/N
July 10, 1995	Katly Finley Ohio County Schools 2203 National Road Wheeling, WV 26003	1. 7. Add to this section as mediation, the process that was submitted to the OSEPA for implementation. The counties desperately need an alternative that is accessible! Development and acceptance of mediation has taken far too long in West Virginia Special Education disputes.	O/NA Mediation proposals are under consideration for future implementation and will not require any regulatory changes.
July 17, 1995	Yvonne Santin, Assistant Principal Jefferson Elementary Center 1103 Plum Street Parkersburg, WV 26101	Page 39, item 16a. No reference is made to the Safe Schools Act and/or incidents when the student is involved in a weapons violation.	-/NA Language is consistent with Federal Regulations.
July 17, 1995	Nancy Gordon Jefferson County Schools T. A. Lowery Schools 55 Shenandoah Jct. Rd. Shenandoah, WV 25442	B-2 What about dismissal from services such as physical therapy, occupational therapy, speech/language therapy?	O/N
July 19, 1995	Judy Living Jackson County Schools 509 W. Main Street Ripley, WV 25271	Parent signature required with a change of placement should remain in the policy.	-/NA Language consistent with Federal Regulations.
July 19, 1995	Connie Jones 603 1/2 Moyer Way Fairmont, WV 26554	1) believe Parental Consent is still needed for my reasons stated under Section 2. The statement "condition of any (B.2) benefit to the parent or student..." is too broad and once again gives too much control to the County Board of Education. I have had problems with inappropriate placements in the past and tests changing up and down. Most parents will not go thru the process and this is a safeguard for the parents and the students. 2) I also think parents should be provided a copy upon request of test records under A.2.c.	1) -/NA Language consistent with Federal Regulations. 2) O/NA Inconsistent with Federal Regulations. This is addressed under Access of Records, Section H.

July 19, 1995	WV Learning Disabilities Association P.O. box 602 Ainestd, WV 25812	<p>1)A-1 - Reasonable time needs to be more explicit such as within 10 days.</p> <p>2)A.1.c. Add parent right to revoke consent at anytime.</p> <p>3)D.7. Strike "upon request".</p> <p>4)H. Need to include all FERPA requirements.</p> <p>5)I.7. Should be specified a trained mediator shall lead mediation.</p> <p>6)I.16. Add C "In cases of IEP disputes last agreed upon IEP remains in effect".</p> <p>7)Add L. Reference to state complaint process needs to be added.</p>	<p>1)O/NA Specifics will be addressed in I.E.A policies and procedures.</p> <p>2)O/NA Language consistent with Federal Regulations. Consent defined in Glossary.</p> <p>3)-/A</p> <p>4)O/NA Language consistent with IDEA Regulations.</p> <p>5)O/NA Language consistent with Federal Regulations.</p> <p>6)O/NA Language consistent with Federal Regulations.</p> <p>7) O/A Added to 8.0.B.2. and Other Resources section.</p>
July 19, 1995	Robert G. Miller Special Education Director Mineral County Schools One Baker Street Keyser, WV 26726	<p>The deletion of consent for change of placement will provide the needed flexibility for additional site-based integrated classroom activities in response to last year's state legislation.</p>	+/A
July 20, 1995	Sally L. Leech Primary B.D. Teacher Jefferson Elementary Center 43 Oakwood Estates Parkersburg WV 26101	<p>1) Parental Participation 2.b. It will be almost impossible to list exactly who will be in attendance at each E.G. meeting due to many demands on staff. It would be better to list by job title who will be present.</p>	-/NA Language consistent with Federal Regulations.

<p>July 20, 1995</p>	<p>Frank Kirkland, Planner WV Developmental Disabilities Planning Council 110 Stockton Street Charleston, WV 25312</p>	<p>1)A.1 - Reasonable time should be more explicit, such as 10 calendar days. 2)A.1. - Add "parental consent is required for any change in placement". If parents only have to be notified after the fact, they will have to request an IEP meeting if they disagree and then file a due process if the IEP committee cannot come to an agreement. This will be an extraordinary waste of time and money for the counties. IDEA also states that parents can revoke consent at any time, and we believe this applies to placement. 3)B.2 - Delete this section or add change in placement as exception. See above comments. 4)B. - Add section that states "parents retain the right to revoke consent at any time". This is in IDEA's regulations, CFR 300 & 301. 5)D.7. - Delete the last words, "upon request". Many parents have not been informed of their right and do not know they have to request a copy. Parents should automatically receive a copy. 6)H. - Change to "the parents of an exceptional student shall be afforded an opportunity to inspect, review, and receive copies of all educational records in accordance with FERPA, with respect to"FERPA states that parents be given access to records within 10 days of a request, copies within 45 days or immediately if a meeting concerning their child is pending. 7)I.3. - This is too broad in granting extensions. Some timelines should be given, such as 15 to 25 days. The practice of granting extensions, especially without timelines, has been abusive. 8)I.7. - Replace the word "mediation" in the second sentence with "A trained mediator". 9)I. 16.c. - Add "During the pendency of any administrative or judicial proceedings, unless the public agency and the parents of the student agree otherwise, in cases of IEP disputes other than placement, the last agreed upon IEP remains in effect". 10)Add a reference that parents also have option of filing a complaint with the state office and outline that process.</p>	<p>1) -/NA Specifics will be addressed in LIA policies and procedures 2) -/NA Language consistent with Federal Regulations. 3) -/NA Language consistent with Federal Regulations. Consent defined in Glossary. 4) O/NA Language consistent with Federal Regulations. 5) -/A 6) -/A & NA Additional access to records requirements will be included as stated in the Federal Regulations. 7) -/A Requirement modified and specifics will be addressed in WVDE procedures. 8) -/NA Language consistent with Federal Regulations. 9) -/NA Language consistent with Federal Regulations. 10) O/A Added to 8.0.B.2. and Other Resources section.</p>
<p>July 20, 1995</p>	<p>Barbara Campbell Upshur County Schools P.O. Box 580 Buckhannon, WV 26201</p>	<p>7.0.B Good section - in line with federal requirements.</p>	<p>+/A</p>

July 20, 1995	Mr. and Mrs. Roy Gene Cash P.O. Box 602 Ansted, WV 25812	<p>1)A.1 - Reasonable time needs to be more explicit such as within 10 days.</p> <p>2)A.1.c - Add parent consent for change of placement.</p> <p>3)B.2 - Strike this statement.</p> <p>4)B.3 - Add parents right to revoke consent at anytime.</p> <p>5)D.7 - Strike "upon request".</p> <p>6)H. - Need to include all FERPA requirements.</p> <p>7)I.7 - Should be specified a trained mediator shall lead mediation.</p> <p>8)I.16 - Add C. In cases of IEP disputes last agreed upon IEP remains in effect.</p> <p>9) Add J. Reference to state complaint process needs to be added.</p>	<p>1) -/NA Specifics will be addressed in IEA policies and procedures.</p> <p>2) -/NA Language consistent with Federal Regulations.</p> <p>3) -/NA Language consistent with Federal Regulations.</p> <p>4) O/NA Language consistent with Federal Regulations. Consent defined in Glossary.</p> <p>5) -/A</p> <p>6) -/NA & A Additional access to records requirements will be included as stated in Federal Regulations.</p> <p>7) -/NA Language consistent with Federal Regulations.</p> <p>8) O/NA Language consistent with Federal Regulations.</p> <p>9) O/A Added to 8.0.B.2. and Other Resources section.</p>
July 20, 1995	Billie Friedland WVU, Dept. of Special Education 507 E. Allen Hall, P.O. Box 6122 Morgantown, WV 26506	<p>1) To the best of my knowledge, in article B, parental rights to provide informed consent for placement changes are not fully addressed in this section as rewritten. Caution is advised.</p> <p>2) Article C. Should be requiring that temporary guardianship be sought through the courts in order to insure that surrogate parents may legally represent students in considering educational matters.</p>	<p>1) O/N</p> <p>2) O/NA Inconsistent with Federal Regulations.</p>
July 20, 1995	Kim Long Rt. 2, box 157 B Ravenswood, WV 26164	<p>D. - This is good except why should it take a court order to do this? How long would this take? If the student is endangering others he should be removed - end of story.</p>	O/N

July 20, 1995	Margaret McGarrity 833 Spring Rd. Charleston, WV 25314	<p>1) A.1 - reasonable time should be more explicit, such as 10 days.</p> <p>2) A.1.c - Add parent consent on change of placement.</p> <p>3) B.2 - Strike.</p> <p>4) B.3. - Add "parents retain the right to revoke consent at any time".</p> <p>5) D.7. - strike last words, "upon request". Many parents have not been informed about their rights, nor upon parent participation. Many do not know to request a copy.</p> <p>6) J.H. - Change to "The parents of an exceptional student shall be afforded an opportunity to inspect, review copies of all educational records, in accordance with FERPA, with respect to:</p> <p>7) J.I.3 - this is very broad in granting extensions. Some timeline should be given, such as 15-25 days... this practice of extensions has often been abused.</p> <p>8) J.I.7. - Replace the word mediation in the second sentence to "A trained mediator".</p> <p>9) J.I. 16.c - Add "During the pendency of any administrative or judicial proceedings, unless the public agency and the parents of the student agree otherwise, in cases of IEP disputes other than placement, the last agreed upon IEP remains in effect.</p> <p>10) J.I - Add some reference to the State Complaint process.</p>	<p>1) -/NA Specifics will be addressed in LEA policies and procedures.</p> <p>2) -/NA Language consistent with Federal Regulations.</p> <p>3) -/NA Not consistent with language of Federal Regulations.</p> <p>4) O/NA Language consistent with Federal Regulations. Consent defined in Glossary.</p> <p>5) -/A</p> <p>6) -/NA & A Additional access to records requirements will be included as stated in the Federal Regulations.</p> <p>7) -/A Requirement modified and specifics will be addressed in WVDE procedures.</p> <p>8) -/NA Language consistent with Federal Regulations.</p> <p>9) -/NA Language consistent with Federal Regulations.</p> <p>10) O/A Added to 8.0.B.2. and Other Resources section.</p>
July 21, 1995	Sharon Lynch Wood County Parent Ed. Center 1210 13th Street Parkersburg, WV 26101	<p>Under A.1 - Reasonable time - at the Parent Center on more than one time we have been asked what timelines concerning IEP requests for those IEPs that are not the regular triennial. Parents feel that too much time passes between the time they request an IEP until it finally happens. Who decides what is reasonable? Is there a way to address this?</p>	O/N
July 21, 1995	Ann Gentry 6440 A Starlite Sissonville, WV 25320	<p>1) Require parental consent for change of placement. Do not change this.</p> <p>2) Define "stay put". Include old IEP and old placement as part of stay put. Old placement in contested IEP makes no sense.</p>	<p>1) -/NA Language consistent with Federal Regulations.</p> <p>2) O/NA Language consistent with Federal Regulations. Implementation issue.</p>

July 21, 1995

WVA, WVPTI, COPIA, and DDPIC

1)A.1 - Reasonable time should be more explicit, such as 10 calendar days.
2)A.1 - Add that parental consent is required for any change of placement. If parents only have to be notified after the fact, they will have to request an IEP meeting if they disagree and then file due process if the IEP committee cannot come to an agreement. This will be an extraordinary waste of time and money for the counties.
3) IDEA also states that parents can revoke their consent at any time, and we believe placement would apply to this.
4)B.2 - Delete.
5)B - Delete "upon request". Many parents have not been informed of their rights, nor about parent participation. Many do not know to request a copy.
6)H - Change to "The parents of an exceptional student shall be afforded an opportunity to inspect, review, and receive copies of all educational records, in accordance with FERPA." This states that parents will receive copies within 45 days of the written request, or immediately if in preparation for a meeting concerning their child's education.
7)I.3 - This is very broad in granting extensions. Some timeline should be given, such as 15-25 days. This practice of extension has often been abused.
8)I.7 - Change the word "Mediation" to "A trained mediator" in the second sentence.
9)I.16.c - Add "During the pendency of any administrative or judicial proceedings, unless the public agency and the parents of the student agree otherwise, in cases of IEP disputes other than placement, the last agreed upon IEP remains in effect."
10) Add a section explaining the State Complaint Process. Many families' only source of information might be Policy 2419, requested when they encounter problems. Many issues could be resolved through the complaint process with OSEPA's technical assistance. However needless due processes could be initiated. The complaint process is also a way to mediate the situation before negative and antagonistic feelings complicate issues.

1) -/NA Specifics will be addressed in LIEA policies and procedures.
2) -/NA Language consistent with Federal Regulations.

3) O/NA Language consistent with Federal Regulations. Consent defined in Glossary.

4) -/NA Language consistent with Federal Regulations

5) -/A

6) -/NA & A Additional access to records requirements will be included as stated in the Federal Regulations.

7) -/A Requirement modified and specifics will be addressed in WYDE procedures.

8) -/NA Language consistent with Federal Regulations.

9) -/NA Language consistent with Federal Regulations.

10) O/A Added to 8.0.B.2. and Other Resources section.

July 21, 1995	WG Klingberg Center for Child Development WVU Department of Pediatrics P.O. Box 9214 Morgantown, WV 26505	<p>1) Under Policy Statement: Please define agency's policies and procedures. How accessible will this be to parents?</p> <p>2) A.1: Please define reasonable time. This should be defined in a certain number of school days!</p> <p>3) B.1: In the front of the Policy, it states that parental consent is not needed in order to change placement and in this section it is stated that it must be obtained!</p> <p>4) D.7: "...provide the parent with a copy of the IEP, upon request..." Parents should receive a copy of the IEP whether they attend the meeting or not! Why must they request it?</p> <p>5) L.13: What constraints are you referring to here? Under page 39, 16: There is a typo under a. The word must needs to be corrected.</p> <p>6) Under page 40, A.2: "...establish certification requirements for personnel providing educational services to eligible exceptional students..." Please be more specific and define certification requirements.</p>	<p>1) O/N</p> <p>2) -/NA Specifics are included in LEA policies and procedures.</p> <p>3) O/N</p> <p>4) -/A</p> <p>5) O/N</p> <p>6) O/NA Certification requirements are defined in other SBE policies.</p>
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COMMENTS AND SUGGESTIONS LOG
POLICY 2419: REGULATIONS FOR THE EDUCATION OF EXCEPTIONAL STUDENTS

ACTION
N= No Response
NA= Not Accepted
A= Accepted

TYPE
- = Negative
+ = Positive
o = Neutral

COMMENTS FOR SECTION 8.0

June 19, 1995	Jack C. Stewart WV Assistive Technology Systems (WVATS) University Affiliated Center for Developmental Disabilities (UACDD) 955 Hartman Run Road Morgantown, WV 26505	Assistive Technology recommendations to integrate assistive technology throughout Policy 2419 revisions. Section 8.0 Accountability C. Responsibility of local education agencies 4. It is the responsibility of each public agency to: Add: Ensure that assistive technology devices or assistive technology services or both, are made available to a child with a disability if required as a part of the child's special education, related services or supplementary aids and services.	O/A Based on Federal Regulations pertaining to assistive technology.
July 10, 1995	Kathy Finsley Ohio County Schools 2203 National Road Wheeling, WV 26003	B. 2. U. 7) (d) What is your legal basis for stating that the decision of the superintendent regarding a challenge for cause to remove a hearing officer is final and not subject to appeal?	O/N
July 17, 1995	Nancy Gordon Jefferson County Schools T. A. Lowery Schools 55 Shenandoah Jct. Rd. Shenandoah Jct., WV 25442	1) 4-D p. 45 How would I get a copy? I'd prefer it to be included in 2419 - Found source on p. 61. 2) 4-M p. 46 I'd like that specified in detail.	1) O/N 2) O/N
July 19, 1995	Robert G. Miller Special Education Director Mineral County Schools One Baker Place Keyser, WV 26726	In section C, LEA responsibilities, would it be appropriate to include an additional statement indicating that Special Education activities can be done by appropriately trained staff, regardless of their status as "general" or "special" education staff?	O/N

<p>July 20, 1995</p>	<p>Frank Kirkland, Planner WV Developmental Disabilities Planning Council 110 Stockton Street Charleston, WV 25312</p>	<p>1) A. - Add "it is the responsibility of the WV Board of Education to establish standards pertaining to the education of all eligible students." 2) B.2. - Add a section stating it is WV Department of Education's responsibility to disseminate a pamphlet describing these regulations in layman's terms. 3) C.3. - Why only quote part of IDEA - 34 CFR 300.350? Policy 2419 is for professionals, teachers and parents. If part of IDEA is mentioned, then the rest should be as well. These regulations do not relieve agencies and teachers from making good faith efforts to assist the child in achieving the goals and objectives listed in the IEP. This section does not limit parents' rights to complain and ask for revisions in their child's program, or to invoke due process proceedings if they feel these efforts are not being made. 4) C.4.o & q. - Beginning the statements with "provide classrooms" sets the stage for segregation. This needs to be reworded or deleted.</p>	<p>1) O/A Statement reinstated. 2) O/NA Implementation activity. 3) O/N Further clarifies intent of federal requirements. 4) -/NA Statements convey intent of Harris v. Marockie. Clear interpretation is an implementation issue.</p>
<p>July 20, 1995</p>	<p>Margaret McQuartry 833 Spring Rd. Charleston, WV 25314</p>	<p>1) B.2 - Add, after 1, disseminate a pamphlet describing regulations in layman's terms. 2) C.3 - Why only quote part of IDEA - 34 CFR 300.350? Policy 2419 is for professionals, teachers and parents. If part is mentioned, then the rest should also. Add... However these regulations do not relieve agencies and teachers from making good faith efforts to assist the child in achieving the goals and objectives listed in the IEP. Further this section does not limit the parents' right to complain and ask for revisions in the child's program, or to invoke due process procedures, if a parent feels these efforts are not being made. 3) 8.C.4.o & q. - beginning the statement with "provide classrooms" sets the mind for segregation. This could be rephrased or deleted.</p>	<p>1) O/NA 2) O/A Further clarifies intent of federal requirements. 3) -/NA Statements convey intent of Harris v. Marockie. Clear interpretation is an implementation issue.</p>

July 21, 1995	WVA, WVPII, COPA, and DDPC	<p>1) A - Add that "it is the responsibility of the WV Board of Education to establish standards pertaining to the education of all eligible students."</p> <p>2) B.2 - Add a statement that is the WV Dept. Of Education's responsibility to disseminate a pamphlet describing these regulations in layman's terms.</p> <p>3) C.3 - Why only quote part of IDEA - 34 CFR 300.350? Policy 2419 is for professionals, teachers, parents. If part of IDEA is mentioned then the rest should be as well for clarification and the true meaning. Add "These regulations do not relieve agencies and teachers from making good faith efforts to assist the child in achieving the goals and objectives listed in the IEP. This section does not limit parent's rights to complain and ask for revisions in their child's program, or to invoke due process proceedings if they feel these efforts are not being made.</p> <p>4) C.o. & q. - Beginning the statements with "provide classrooms" sets the state for segregation. This needs to be reworded or deleted.</p> <p>5) Glossary - Add definitions for ADD/ADHD, change of placement and nonaversive behavioral strategies.</p> <p>6) Bold all glossary terms throughout the document.</p>	<p>1) O/A Statement reinstated.</p> <p>2) O/NA Implementation activity.</p> <p>3) O/A Further clarifies intent of federal requirements.</p> <p>4) -/NA Statements convey intent of Harris v. Marockie. Clear interpretation is an implementation issue.</p> <p>5) O/NA & A Definition of "nonaversive behavioral strategies" has been added. Other two (2) terms are not defined, because they do not appear in the policy.</p> <p>6) O/NA Formal agreed upon by stakeholders group.</p>
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July 20, 1995	Frank Kirkland, Planner WV Developmental Disabilities Planning Council 110 Stockton Street Charleston, WV 25312	1) Add definitions for ADD/ADHD, change of placement and nonaversive behavioral strategies. 2) Bold all glossary terms throughout the document.	1) O/NA & A Definition of "nonaversive behavioral strategies" added. Other terms not used in policy. 2) O/NA Format agreed upon by stakeholder group.
July 20, 1995	Barbara Campbell Upsalur County Schools P.O. Box 580 Buckhannon, W 26201	Include only terms referred to in Policy.	O/A
July 20, 1995	Mr. and Mrs. Roy Gene Cash P.O. Box 602 Ansted, WV 25812	1) Definitions of ADHD/ADD, Section 504, change of placement, nonaversive behavior need to be added. 2) Bold Type all words used in glossary throughout the policy.	1) O/NA & A Definition of "nonaversive behavioral strategies" added. Other terms not used in policy. 2) O/NA Format agreed upon by stakeholder group.
July 20, 1995	Margaret McGarity 833 Spring Rd. Charleston, WV 25314	1) Add definitions for ADD/ADHD, change of placement and nonaversive. 2) BOLD all glossary terms throughout the document.	1) O/NA & A Definition of "nonaversive behavioral strategies" added. Other terms not used in policy. 2) O/NA Format agreed upon by stakeholder group.
July 20, 1995	Teresa Kurnot Rt. 1, Box 21 Millwood, WV 25262	Definition of caseload: This definition would allow a school psychologist to have a possible caseload in excess of 50. Primary is the problem. A caseload consists of all students served regardless if the specialist has primary responsibility or not.	-/NA Caseloads as specified in Policy 2419 only apply to special education teachers and speech and language therapists.
July 21, 1995	WG Klingberg Center for Child Development WVU Department of Pediatrics P.O. Box 9214 Morgantown, WV 26505	The words public agency need to be defined in a clearer way.	-/NA Language consistent with definition of term in Federal Regulations.

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help we can get)

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OCT 18 1995

SCHOOL TRANSPORTATION
AND FACILITIES

Michael Valentine
TO: Cecil Dolin

AGENCY: Education

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: October 17, 1995

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 16 TITLE: 126 Education

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: *Maureen Rice*

TITLE OF PERSON SIGNING: *Administrative Assistant*

DATE: 10/26/95

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.