



## SOME OF WHAT'S NEW IN CHAPTER 14

The changes in 22 PA Code Chapter 14 are far more extensive than the few items covered in the PowerPoint. Here is a slightly more comprehensive list of the changes with citations. Chapter 14 will be posted on ELC's website as soon as it is final. In the meantime, the final form Chapter 14 regulations (changes only here) can be downloaded from: <http://www.irrc.state.pa.us/Regulations/RegInfo.cfm?IRRCNo=2618>.

Unilateral Placement of student in private school by parents: The IU where the private school is located is the "local education agency" for students placed by their families in private schools and is responsible for providing students with "equitable participation" services. (22 PA Code §14.103)

School District Plans: School districts' special education plans must include (new requirements) (22 PA Code § 14.104):

- Whatever early intervening services the school district is providing
- Procedures for identifying children with specific learning disabilities
- For those districts with disproportions, policies and procedures to prevent over-identification by race or ethnicity
- Procedures on behavior support, including a description of staff training on de-escalation techniques and appropriate responses to student behavior that may require immediate intervention
- parent training.

Paraprofessionals: New qualifications for instructional paraprofessionals and personal care assistants. (22 PA Code § 14.105(a)(1)-(3)).

Education Interpreters: New qualifications for education interpreters for students who are deaf or hard of hearing. (22 PA Code § 14.105(B)).

Educational Placements: The regulations now include only three types of special education placements: itinerant (<20% of school day), supplemental (>20% but <80%), and full-time (>80%). The "supplemental" category replaces the previous term "resource room" and has the same maximum teacher caseload requirements for each type of service. Part-time placements – with caseload requirements lower than full-time but somewhat stricter than for supplemental/resource room programs – are eliminated. 22 PA Code §14.105(C).

NIMAS Standards: Adoption of NIMAS standard for print instructional materials for persons who are blind or who have print disabilities. (22 PA Code § 14.106)

Access to Classrooms: Parents must have reasonable access to classrooms (22 PA Code § 14.108)

Initial Evaluations and Reevaluations:

- Evaluation deadline changed to 60 calendar days minus the summer (instead of 60 school days) (22 PA Code § 14.123(b)).
- If parent makes a request for an evaluation in writing, the school entity must make the Permission to Evaluate form readily available. If the parent makes a request orally to any professional employee or administrator, the staff person must provide the parent with a PTE form within 10 calendar days of the oral request (22 PA Code § 14.123(c)).

Specific Learning Disabilities: New rules for determining whether a student has a specific learning disability (22 PA Code § 14.125)

IEPs: Now includes standard for LRE from court cases (“Special education supports and services may be delivered in the regular classroom setting and other settings as determined by the IEP Team. In determining the educational placement, the IEP Team must first consider the regular classroom with the provision of supplementary aids and services before considering the provision of services in other settings.”) (22 PA Code §14.131(a)(1))

ESY: New rules on eligibility:

- For school-age students, new annual deadlines for determining eligibility for students with most severe impairments (2/28) and for issuing NOREP to those parents (3/31). Determinations for other students must be made in a timely manner with expedited review available. (22 PA Code §14.132).
- Preschool students can be eligible for ESY programs. (22 PA Code §14.132).
- Positive Behavior Support and Use of Restraints (greatly expanded) (22 PA Code §14.133):
- Programs must use research-based practices; be based on a functional behavioral assessment, and use positive behavior techniques; restraints are a last resort
- Students with disabilities that interfere with learning must have a positive behavior support plan based on an FBA that is part of the IEP

- If a restraint is used, the school district must notify the parent and cause a meeting to be convened within 10 school days unless the parent waives the meeting in writing. At the meeting the team must consider whether the child needs an FBA, a reevaluation, a new positive behavior plan, or a change in placement.
- If restraints are included in an IEP, the IEP must also include specific PBS components, be used in conjunction with teaching of socially acceptable alternative skills, be used by authorized and trained staff, and there must be a plan in place to eliminate the use of restraints.
- Prone restraints are prohibited.
- School districts must maintain and report to the Secretary data on restraints used.
- After a student with a PBS plan is referred to law enforcement, an updated FBA and PBS plan is required.

Discipline: Suspension for 1 school day for students with mental retardation, and 15 school days in a school year for other students with disabilities remains the standard for a “change in placement” and hence use of special education discipline protections. (22 PA Code §14.143).

LRE: More incorporation of favorable court decisions (22 PA Code §14.145):

- To the maximum extent appropriate and as provided in the IEP, students must be educated with students who are not disabled.
- Removals from the regular education classroom can occur only when the nature or severity of the disability is such that education in the regular education classroom, even with the use of appropriate supplementary aids and services, cannot be achieved satisfactorily.
- A student may not be determined to need separate education because he cannot achieve to the same level as his classmates without disabilities if, with the full range of supplementary aids and services, he can make meaningful progress in the goals in the student’s IEP.
- Administrative convenience or cost cannot be the sole reason for separate education.
- Students must have access to a full continuum of placement options.

Procedural Safeguards (22 PA Code §14.161-.463):

- Incorporates new federal rules on special education hearings.
- Appeal Panels are eliminated; hearing officer's decision now appealed directly to court.
- Parents can bring an "advocate" to a resolution session (the step before the hearing).
- Pendency applies when a parent requests mediation (this is in addition to pendency applying when the parent requests a hearing).

Date prepared: May 21, 2008