

DEPARTMENT OF EDUCATION
SUPERINTENDENT OF PUBLIC INSTRUCTION
SPECIAL EDUCATION PROGRAMS AND SERVICES

Filed with the Secretary of State on June 11, 2010

These rules take effect immediately upon filing with the Secretary of State unless adopted under sections 33, 34, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By the authority conferred on the superintendent of public instruction by sections 1701 and 1703 of 1976 PA 451, MCL 380.1701 and MCL 380.1703, and Executive Reorganization Order Nos. 1996-6 and 1996-7, MCL 388.993 and MCL 388.994)

R 340.1701b, R 340.1702, R 340.1705, R 340.1706, R 340.1707, R 340.1708, R 340.1709, R 340.1709a, R 340.1710, R 340.1711, R 340.1713, R 340.1714, R 340.1715, R 340.1716, R 340.1721, R 340.1721a, R 340.1721c, R 340.1721d, R 340.1722, R 340.1722a, R 340.1724f, R 340.1733, and R 340.1772 of the Michigan Administrative Code are amended; and R 340.1724 is rescinded from the Code as follows.

R 340.1701b Definitions; I to P.

Rule 1b. As used in these rules:

(a) "Instructional services" means services provided by teaching personnel that are specially designed to meet the unique needs of a student with a disability. These may be provided by any of the following:

(i) An early childhood special education teacher under R 340.1755.

(ii) A teacher consultant under R 340.1749.

(iii) A teacher of the speech and language impaired under R 340.1745.

(iv) A teacher providing instruction to students with disabilities who are homebound or hospitalized.

(v) A teacher providing instruction to students who are placed in juvenile detention facilities under R 340.1757.

(b) "Multidisciplinary evaluation team" means a minimum of 2 persons who are responsible for evaluating a student suspected of having a disability. The team shall include at least 1 special education teacher or other specialist who has knowledge of the suspected disability.

(c) "Occupational therapy" means therapy provided by an occupational therapist or an occupational therapy assistant who provides therapy under the supervision of a licensed occupational therapist. Occupational therapist and occupational therapy assistants are licensed by the state of Michigan under 1978 PA 368, MCL 333.1101 et seq.

(d) "Parent" means any of the following:

(i) A biological or adoptive parent of a child.

(ii) A foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent.

(iii) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, but not the state if the child is a ward of the state.

(iv) An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the child lives, or an individual who is legally responsible for the child's welfare.

(v) A surrogate parent who has been appointed in accordance with R 340.1725f.

(vi) Except as provided in paragraph (vii) of this subdivision, the biological or adoptive parent, when attempting to act as the parent under this part and when more than 1 party is qualified under paragraphs (i) to (v) of this subdivision to act as a parent, shall be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(vii) If a judicial decree or order identifies a specific person or persons under paragraphs (i) to (iv) of this subdivision to act as the parent of a child, or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the parent.

(viii) The affected student or youth with a disability when the student or youth with a disability reaches 18 years of age, if a legal guardian has not been appointed by appropriate court proceedings.

(e) "Parent advisory committee" means a committee of parents of students with disabilities of a particular intermediate school district appointed by the board of that district under R 340.1838.

(f) "Physical therapy" means therapy prescribed by a physician and provided by a therapist who is licensed by the state of Michigan under 1978 PA 368, MCL 333.1101 et seq. or a physical therapy assistant who provides therapy under the supervision of a licensed physical therapist.

R 340.1702 "Student with a disability" defined.

Rule 2. "Student with a disability" means a person who is determined by an individualized education program team or a hearing officer to have 1 or more of the impairments specified in this part that necessitates special education or related services, or both, who is not more than 25 years of age as of September 1 of the school year of enrollment, and who has not graduated from high school. A student who reaches the age of 26 years after September 1 is a "student with a disability" and entitled to continue a special education program or service until the end of that school year.

R 340.1705 Cognitive impairment; determination.

Rule 5. (1) Cognitive impairment shall be manifested during the developmental period and be determined through the demonstration of all of the following behavioral characteristics:

(a) Development at a rate at or below approximately 2 standard deviations below the mean as determined through intellectual assessment.

(b) Scores approximately within the lowest 6 percentiles on a standardized test in reading and arithmetic. This requirement will not apply if the student is not of an age, grade, or mental age appropriate for formal or standardized achievement tests.

(c) Lack of development primarily in the cognitive domain.

(d) Impairment of adaptive behavior.

(e) Adversely affects a student's educational performance.

(2) A determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include a psychologist.

R 340.1706 Emotional impairment; determination; evaluation report.

Rule 6. (1) Emotional impairment shall be determined through manifestation of behavioral problems primarily in the affective domain, over an extended period of time, which adversely affect the student's education to the extent that the student cannot profit from learning experiences without special education support. The problems result in behaviors manifested by 1 or more of the following characteristics:

(a) Inability to build or maintain satisfactory interpersonal relationships within the school environment.

(b) Inappropriate types of behavior or feelings under normal circumstances.

(c) General pervasive mood of unhappiness or depression.

(d) Tendency to develop physical symptoms or fears associated with personal or school problems.

(2) Emotional impairment also includes students who, in addition to the characteristics specified in subrule (1) of this rule, exhibit maladaptive behaviors related to schizophrenia or similar disorders. The term "emotional impairment" does not include persons who are socially maladjusted, unless it is determined that the persons have an emotional impairment.

(3) Emotional impairment does not include students whose behaviors are primarily the result of intellectual, sensory, or health factors.

(4) When evaluating a student suspected of having an emotional impairment, the multidisciplinary evaluation team report shall include documentation of all of the following:

(a) The student's performance in the educational setting and in other settings, such as adaptive behavior within the broader community.

(b) The systematic observation of the behaviors of primary concern which interfere with educational and social needs.

(c) The intervention strategies used to improve the behaviors and the length of time the strategies were utilized.

(d) Relevant medical information, if any.

(5) A determination of impairment shall be based on data provided by a multidisciplinary evaluation team, which shall include a full and individual evaluation by both of the following:

(a) A psychologist or psychiatrist.

(b) A school social worker.

R 340.1707 Hearing impairment explained; determination.

Rule 7. (1) The term "hearing impairment" is a generic term which includes both students who are deaf and those who are hard of hearing and refers to students with any type or degree of hearing loss that interferes with development or adversely affects educational performance. "Deafness" means a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification. The term "hard of hearing" refers to students with hearing impairment who have permanent or fluctuating hearing loss which is less severe than the hearing loss of students who are deaf and which generally permits the use of the auditory channel as the primary means of developing speech and language skills.

(2) A determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include an audiologist and an otolaryngologist or otologist.

R 340.1708 Visual impairment explained; determination.

Rule 8. (1) A visual impairment shall be determined through the manifestation of both of the following:

(a) A visual impairment which, even with correction, interferes with development or which adversely affects educational performance. Visual impairment includes both partial sight and blindness.

(b) One or more of the following:

(i) A central visual acuity for near or far point vision of 20/70 or less in the better eye after routine refractive correction.

(ii) A peripheral field of vision restricted to not more than 20 degrees.

(iii) A diagnosed progressively deteriorating eye condition.

(2) A determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include an ophthalmologist or optometrist.

(3) If a student cannot be tested accurately for acuity, then functional visual assessments conducted by a teacher certified in visual impairment may be used in addition to the medical evaluation for determination of impairment.

(4) For students with visual impairment who have a visual acuity of 20/200 or less after routine refractive correction, or who have a peripheral field of vision restricted to not more than 20 degrees, an evaluation by an orientation and mobility specialist shall be conducted. The orientation and mobility specialist shall also include in the report a set of recommended procedures to be used by a mobility specialist or a teacher of students with visual impairment in conducting orientation and mobility training activities.

R 340.1709 "Physical impairment" defined; determination.

Rule 9. (1) "Physical impairment" means severe orthopedic impairment that adversely affects a student's educational performance.

(2) A determination of disability shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include assessment data from 1 of the following persons:

(a) An orthopedic surgeon.

(b) An internist.

(c) A neurologist.

(d) A pediatrician.

(e) A family physician or any other approved physician as defined in 1978 PA 368, MCL 333.1101 et seq.

R 340.1709a "Other health impairment" defined; determination.

Rule 9a. (1) "Other health impairment" means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, which results in limited alertness with respect to the educational environment and to which both of the following provisions apply:

(a) Is due to chronic or acute health problems such as any of the following:

(i) Asthma.

- (ii) Attention deficit disorder.
 - (iii) Attention deficit hyperactivity disorder.
 - (iv) Diabetes.
 - (v) Epilepsy.
 - (vi) A heart condition.
 - (vii) Hemophilia.
 - (viii) Lead poisoning.
 - (ix) Leukemia.
 - (x) Nephritis.
 - (xi) Rheumatic fever.
 - (xii) Sickle cell anemia.
- (b) The impairment adversely affects a student's educational performance.
- (2) A determination of disability shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include 1 of the following persons:
- (a) An orthopedic surgeon.
 - (b) An internist.
 - (c) A neurologist.
 - (d) A pediatrician.
 - (e) A family physician or any other approved physician as defined in 1978 PA 368, MCL 333.1101 et seq.

R 340.1710 "Speech and language impairment" defined; determination.

Rule 10. (1) A "speech and language impairment" means a communication disorder that adversely affects educational performance, such as a language impairment, articulation impairment, fluency impairment, or voice impairment.

(2) A communication disorder shall be determined through the manifestation of 1 or more of the following speech and language impairments that adversely affects educational performance:

(a) A language impairment which interferes with the student's ability to understand and use language effectively and which includes 1 or more of the following:

- (i) Phonology.
- (ii) Morphology.
- (iii) Syntax.
- (iv) Semantics.
- (v) Pragmatics.

(b) Articulation impairment, including omissions, substitutions, or distortions of sound, persisting beyond the age at which maturation alone might be expected to correct the deviation.

(c) Fluency impairment, including an abnormal rate of speaking, speech interruptions, and repetition of sounds, words, phrases, or sentences, that interferes with effective communication.

(d) Voice impairment, including inappropriate pitch, loudness, or voice quality.

(3) Any impairment under subrule (2)(a) of this rule shall be evidenced by both of the following:

- (a) A spontaneous language sample demonstrating inadequate language functioning.

(b) Test results on not less than 2 standardized assessment instruments or 2 subtests designed to determine language functioning which indicate inappropriate language functioning for the student's age.

(4) A student who has a communication disorder, but whose primary disability is other than speech and language may be eligible for speech and language services under R 340.1745(a).

(5) A determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include a teacher of students with speech and language impairment under R 340.1796 or a speech and language pathologist qualified under R 340.1792.

R 340.1711 "Early childhood developmental delay" defined; determination.

Rule 11. (1) "Early childhood developmental delay" means a child through 7 years of age whose primary delay cannot be differentiated through existing criteria within R 340.1705 to R 340.1710 or R 340.1713 to R 340.1716 and who manifests a delay in 1 or more areas of development equal to or greater than 1/2 of the expected development. This definition does not preclude identification of a child through existing criteria within R 340.1705 to R 340.1710 or R 340.1713 to R 340.1716.

(2) A determination of early childhood developmental delay shall be based upon a full and individual evaluation by a multidisciplinary evaluation team.

R 340.1713 Specific learning disability defined; determination.

Rule 13. (1) "Specific learning disability" means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of cognitive impairment, of emotional impairment, of autism spectrum disorder, or of environmental, cultural, or economic disadvantage.

(2) In determining whether a student has a learning disability, the state shall:

(a) Not require the use of a severe discrepancy between intellectual ability and achievement.

(b) Permit the use of a process based on the child's response to scientific, research-based intervention.

(c) Permit the use of other alternative research-based procedures.

(3) A determination of learning disability shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include at least both of the following:

(a) The student's general education teacher or, if the student does not have a general education teacher, a general education teacher qualified to teach a student of his or her age or, for a child of less than school age, an individual qualified by the state educational agency to teach a child of his or her age.

(b) At least 1 person qualified to conduct individual diagnostic examinations of children and who can interpret the instructional implications of evaluation results, such as a school

psychologist, an authorized provider of speech and language under R 340.1745(d), or a teacher consultant.

R 340.1714 Severe multiple impairment; determination.

Rule 14. (1) Students with severe multiple impairments shall be determined through the manifestation of either of the following:

(a) Development at a rate of 2 to 3 standard deviations below the mean and 2 or more of the following conditions:

(i) A hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills.

(ii) A visual impairment so severe that the visual channel is not sufficient to guide independent mobility.

(iii) A physical impairment so severe that activities of daily living cannot be achieved without assistance.

(iv) A health impairment so severe that the student is medically at risk.

(b) Development at a rate of 3 or more standard deviations below the mean or students for whom evaluation instruments do not provide a valid measure of cognitive ability and 1 or more of the following conditions:

(i) A hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills.

(ii) A visual impairment so severe that the visual channel is not sufficient to guide independent mobility.

(iii) A physical impairment so severe that activities of daily living cannot be achieved without assistance.

(iv) A health impairment so severe that the student is medically at risk.

(2) A determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include a psychologist and, depending upon the disabilities in the physical domain, the multidisciplinary evaluation team participants required in R 340.1707, R 340.1708, or R 340.1709, R 340.1709a, or R 340.1716.

R 340.1715 Autism spectrum disorder defined; determination.

Rule 15. (1) Autism spectrum disorder is considered a lifelong developmental disability that adversely affects a student's educational performance in 1 or more of the following performance areas:

(a) Academic.

(b) Behavioral.

(c) Social.

Autism spectrum disorder is typically manifested before 36 months of age. A child who first manifests the characteristics after age 3 may also meet criteria. Autism spectrum disorder is characterized by qualitative impairments in reciprocal social interactions, qualitative impairments in communication, and restricted range of interests/repetitive behavior.

(2) Determination for eligibility shall include all of the following:

(a) Qualitative impairments in reciprocal social interactions including at least 2 of the following areas:

- (i) 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.
- (ii) Failure to develop peer relationships appropriate to developmental level.
- (iii) Marked impairment in spontaneous seeking to share enjoyment, interests, or achievements with other people, for example, by a lack of showing, bringing, or pointing out objects of interest.
- (iv) Marked impairment in the areas of social or emotional reciprocity.
- (b) Qualitative impairments in communication including at least 1 of the following:
 - (i) 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.
 - (ii) Marked impairment in pragmatics or in the ability to initiate, sustain, or engage in reciprocal conversation with others.
 - (iii) Stereotyped and repetitive use of language or idiosyncratic language.
 - (iv) Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level.
- (c) Restricted, repetitive, and stereotyped behaviors including at least 1 of the following:
 - (i) Encompassing preoccupation with 1 or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus.
 - (ii) Apparently inflexible adherence to specific, nonfunctional routines or rituals.
 - (iii) Stereotyped and repetitive motor mannerisms, for example, hand or finger flapping or twisting, or complex whole-body movements.
 - (iv) Persistent preoccupation with parts of objects.
- (3) Determination may include unusual or inconsistent response to sensory stimuli, in combination with subdivisions (a), (b), and (c) of subrule (2) of this rule.
- (4) While autism spectrum disorder may exist concurrently with other diagnoses or areas of disability, to be eligible under this rule, there shall not be a primary diagnosis of schizophrenia or emotional impairment.
- (5) A determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team including, at a minimum, a psychologist or psychiatrist, an authorized provider of speech and language under R 340.1745(d), and a school social worker.

R 340.1716 "Traumatic brain injury" defined; determination.

Rule 16. (1) "Traumatic brain injury" means an acquired injury to the brain which is caused by an external physical force and which results 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 impairment in 1 or more of the following areas:

- (a) Cognition.
- (b) Language.
- (c) Memory.
- (d) Attention.
- (e) Reasoning.
- (f) Behavior.
- (g) Physical functions.
- (h) Information processing.

(i) Speech.

(2) The term does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.

(3) A determination of disability shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include an assessment from a family physician or any other approved physician as defined in 1978 PA 368, MCL 333.1101 et seq.

R 340.1721 Parental consent for initial evaluation; contents of notice; refusal to consent or respond.

Rule 21. (1) Within 10 calendar days of receipt of a written referral of a student suspected of having a disability, and before any formal evaluation designed to determine eligibility for special education programs and services, the public agency shall notify the parent and shall request written consent to evaluate. The written notice shall contain both of the following:

(a) The reason or reasons an evaluation is sought and the nature of the evaluation.

(b) A description of the types of special education programs and services currently available within the intermediate school district.

R 340.1721a Initial evaluation procedure.

Rule 21a. (1) Each student suspected of having a disability shall be evaluated by a multidisciplinary evaluation team as defined in R 340.1701b(b). If an initial evaluation review is conducted by the individualized education program team, then the multidisciplinary evaluation team shall complete the evaluation as determined by the individualized education program team in addition to requirements as defined in R 340.1705 to R 340.1716 as applicable to the suspected impairment.

(2) The multidisciplinary evaluation team shall do both of the following:

(a) Complete a diagnostic evaluation.

(b) Make a recommendation of eligibility and prepare a written report to be presented to the individualized education program team by the appointed multidisciplinary evaluation team member. The report shall include information needed to determine a student's present level of academic achievement and functional performance and educational needs of the student. Information presented to the individualized education program team shall be drawn from a variety of sources, including parent input.

(3) Special education personnel who are authorized to conduct evaluations of students suspected of having a disability may provide prereferral consultation to general education personnel in accordance with procedures established by the department.

R 340.1721c Scheduling and time line for an initial individualized education program team meeting.

Rule 21c. (1) The school district of residence is responsible for conducting the initial individualized education program team meeting involving a student in its district and shall conduct, or authorize the operating district to conduct, each subsequent individualized education program team meeting at a mutually agreed upon time and place.

(2) The time from receipt of parental consent for an initial evaluation to the completion of the individualized education program or the determination of ineligibility shall not be more than 30 school days. This time line begins upon receipt of the signed parental consent by the

public agency requesting the consent. This time line may be extended if agreed to by the parent and public agency. Any extension to this time line shall be both of the following:

- (a) In writing.
- (b) Measured in school days.

R 340.1721d Responsibilities of individualized education program team.

Rule 21d. Upon completing the individualized education program, the individualized education program team shall submit the individualized education program to the superintendent or his or her designee. The individualized education program shall not be restricted to the programs and services available.

R 340.1722 Placement in special education programs and services.

Rule 22. (1) The individualized education program team determines the educational placement of a student with a disability in programs and services from a continuum of placements, such as instruction in general education classes, special classes or special instruction in general education classes, special classes or special schools, home instruction in hospitals and institutions, resource rooms, or itinerant instruction with general education class placements.

(2) The superintendent or his or her designee shall appoint a staff person to be responsible for the implementation of the individualized education program, including services provided by other agencies. The person shall be either the principal of the building where the primary educational program is provided to the student who has a disability or other staff person who is generally accessible to the staff and who will be working with the student who has a disability.

R 340.1722a Implementation of individualized education program.

Rule 22a. (1) The superintendent of the school district of residence, upon receipt of the individualized education program, shall, within 7 calendar days, provide written notice to the parent of the agency's intent to implement special education programs and services. The notice shall identify where the programs and services are to be provided and when the individualized education program begins.

(2) The parent, upon receipt of notification from the superintendent, shall have the right, at any time, to appeal the decision under R 340.1724f. If the parent does not appeal, then the superintendent shall initiate the individualized education program as soon as possible, but not later than 15 school days after the parent has been notified. An initiation date may be later than 15 school days if clearly specified in the individualized education program; however, a projected initiation date shall not be used to deny or delay programs or services because they are not available and shall not be used for purposes of administrative convenience.

(3) For the purposes of 34 C.F.R. 300.300(b), if a student with a disability is to be provided special education or related services for the first time, then the parent has 10 calendar days after receipt of the notice from the superintendent to provide the public agency with written consent to provide special education programs and services.

(4) Each public agency shall provide special education and related services to a student with a disability in accordance with the student's individualized education program.

R 340.1724 Rescinded.

R 340.1724f Due process complaints; procedures.

Rule 24f. (1) This rule applies only to due process complaints filed on or after July 1, 2006.

(2) Due process complaints under this rule shall be administered by the department of education.

(3) A parent, a public agency, or the department of education may initiate a hearing by filing a written due process complaint with the department of education, office of special education and early intervention services, and providing a copy of the complaint to the public agency or other party or parties that are the subject of the due process complaint. A due process complaint shall be all of the following:

(a) In writing.

(b) Signed by the complainant.

(c) Properly filed when the office of special education and early intervention services and the other party or parties that are the subject of the due process complaint have received a due process complaint that meets the requirements of these rules and 34 CFR §300.508(a) and (b)(1) to (4).

(d) Delivered to the office of special education and early intervention services in the following manner:

(i) By mail, by facsimile, or in person.

(ii) With a statement describing the facts of delivery to the party or parties that are the subject of the due process complaint in the following manner:

(A) If by mail, to whom the complaint was addressed and the date it was mailed.

(B) If by facsimile, to whom the complaint was addressed, the date and time it was sent.

(C) If in person, the date and place the complaint was delivered and to whom it was given.

(4) Due process timelines begin when the office of special education and early intervention services and the other party that is the subject of the due process complaint have received a due process complaint that meets the requirements of these rules and 34 CFR §300.508.

(5) A hearing may be initiated on matters related to any of the following:

(a) Identification.

(b) Evaluation.

(c) Educational Placement.

(d) Provision of a free appropriate public education.

(e) Provision of appropriate Part C services to the child or the child's family.

(f) Assignment of financial obligations for Part C services to the parents.

(g) Determination that behavior was not a manifestation of the student's disability.

(h) Determination of an appropriate interim alternative educational setting by the individualized education program team.

(i) Placement in an interim alternative setting for not more than 45 school days, because maintaining the current placement is substantially likely to result in injury to the student or others.

(6) Upon receipt of a due process complaint that meets the requirements of these rules and 34 CFR §300.508(a) and (b)(1) to (4), the department of education will refer the complaint to the state office of administrative hearings and rules which will appoint an administrative law judge to conduct a hearing in accordance with the individuals with disabilities education act, 20 U.S.C. §1401 et seq., 1976 PA 451, MCL 380.1701 et seq., R 340.1883 to R 340.1885 and these rules.

(7) Any party who is aggrieved by the final decision in a hearing conducted under this rule may appeal to a court of competent jurisdiction within 90 days after the mailing date of the final decision.

(8) Unless otherwise specified in the administrative law judge's decision, the decision shall be implemented by the public agency within 15 school days of the agency's receipt of the decision.

(9) When required by an administrative law judge order and decision the public agency shall submit proof of compliance to the department of education, office of special education and early intervention services, documenting that the public agency has implemented the provisions of the final decision.

R 340.1733 Program and service requirements.

Rule 33. An intermediate school district, local school district, public school academy, and any other agency shall adhere to all of the following general requirements for all programs and services for students with disabilities:

(a) Special education classrooms or areas where related services are provided shall have at least the same average number of square feet per student, light, ventilation, and heat conditions as provided for general education students in the school district.

(b) Programs for students with severe cognitive impairment and severe multiple impairments which have students under 16 years of age shall not exceed a 6-year age span at any 1 time.

(c) All other special education programs which have students under 16 years of age and which are operated in separate facilities shall not exceed a 4-year age span at any 1 time.

(d) The age span for students who are assigned to special education programs, except for programs for students with severe cognitive impairment and severe multiple impairments, operated in elementary buildings attended by children who are nondisabled, shall not exceed, at any 1 time, a 6-year age span or the age span of the students who are nondisabled in the building, whichever is less.

(e) The age span for students who are assigned to special education programs, except for programs for students with severe cognitive impairment and severe multiple impairments, operated in secondary buildings attended by students who are nondisabled, shall not exceed, at any 1 time, the age span of the students who are nondisabled in the building, except in high school buildings where students up to 26 years of age may be served. The term "nondisabled" shall not include persons participating in adult education programs.

(f) Programs for students with severe cognitive impairment, severe multiple impairments, and moderate cognitive impairment shall comply with subdivisions (b), (c), (d), and (e) of this rule unless a program is operated in accordance with an approved intermediate school district plan where, due to the low incidence of eligible students, expanded age ranges may be necessary for programmatic feasibility and meeting the needs of students.

(g) Students with disabilities qualifying for special education programs and services shall be provided with supplies and equipment at least equal to those provided to other students in general education programs, in addition to those supplies and equipment necessary to implement a student's individualized education program.

(h) Intermediate school districts, local school districts, public school academies, or a combination of such agencies in cooperation with public and private entities, shall provide or contract for the provision of transition services. Special education teachers shall be assigned

to supervise such services. Professional special education personnel, a transition coordinator, or both, shall coordinate transition services.

(i) For worksite-based learning, a written agreement/plan is required and shall be signed by the student, parent, school, and worksite representative.

The agreement shall set forth all of the following information:

- (i) Expectations and standards of attainment.
- (ii) Job activities.
- (iii) Time and duration of the program.
- (iv) Wages to be paid to the student, if applicable.
- (v) Related instruction, if applicable.

The superintendent of the school district shall designate a staff member to visit the student's worksite at least once every 30 calendar days for the duration of the program to check attendance and student progress and assess the placement in terms of health, safety, and welfare of the student.

(j) Substitute instructional aides specified in R 340.1738, R 340.1739, and R 340.1748 shall be provided when assigned instructional aides are absent. In addition, teacher aides specified in R 340.1739 and R 340.1740 shall be provided when assigned teacher aides are absent.

R 340.1772 Supervisor of special education; education and experience requirements.

Rule 72. (1) For full approval, a supervisor of special education shall possess all of the following minimum qualifications:

- (a) A master's degree or higher.
- (b) Full approval in at least 1 area of special education.
- (c) Three years of successful experience in special education.
- (d) Twelve semester or equivalent hours of graduate credit in a college or university whose program has been approved by the state board of education.

Graduate credit shall be distributed appropriately to assure knowledge and competency as related to special education in all of the following areas:

- (i) Curriculum and instruction.
- (ii) Administrative procedures.
- (iii) Personnel supervision and evaluation.
- (iv) Communication skills.
- (v) Leadership of professional development.
- (vi) Facilitation of effective instruction.
- (vii) Data-based program improvement.
- (viii) School law and policy.
- (ix) Parental and family collaboration.

(e) Verification from a college or university approved for the preparation of special education supervisors.

(2) A supervisor of special education who has full approval status shall maintain full approval status indefinitely.

(3) For temporary approval, a supervisor of special education shall possess all of the following minimum qualifications:

- (a) A master's degree or higher.
- (b) Full approval in at least 1 area of special education.

(c) Three years of successful experience in special education.

(d) Verification of enrollment in the supervisor of special education program from a college or university approved by the state board of education for preparation of special education supervisors.

(4) Continuation of temporary approval is dependent upon the satisfactory completion of not less than 6 semester or equivalent hours of required credit toward full approval before the beginning of the next school year.

(5) Any person who has completed all program requirements in effect before the effective date of these rules shall be eligible for full approval as a supervisor of special education.