

ATTACHMENT TO SECTION IV
(State Administration)
of Part B Annual State Application: FFY 2009

Delaware Department of Education
John G. Townsend Building
401 Federal Street
Dover, DE 19901

The following list identifies rules, regulations, and policies that are State-imposed (not required by the IDEA or Federal regulations).

Effective June 2007, the Delaware Department of Education (“DDOE”) adopted into state regulation most of the federal regulations implementing Part B of the IDEA Any rule or regulation that is state-imposed (rather than a federal requirement) is italicized throughout DDOE’s regulations at 14 DE Admin Code §§ 922 through 929.

State Rule, Regulation, and/or Practice	Brief Description
14 DE Admin Code § 923.7.3	<p><u>Transportation</u></p> <p>When special transportation needs are identified in an IEP, transportation must be deemed a related service, and provided at the expense of the public agency, including the costs of travel to and from school and between schools, and any required specialized equipment. Transportation incidental to the educational program of a child with a disability shall not be at the expense of the public agency. Travel arrangements shall be made in consultation with the public agency’s transportation representative when unusual requirements are necessary for a child with a disability. (Authority: 34 C.F.R. § 300.107)</p>
14 DE Admin Code § 923.9.0	<p><u>Full Educational Opportunity; Length of School Day; Compulsory School Attendance</u></p> <p>State regulations require each public agency to ensure full educational opportunity is offered to its eligible children with disabilities. The minimum length of the school day for a child with a disability in K-12 must be the same as it is for non-disabled children. The minimum length of the school day for children with disabilities in pre-K must approximate that of non-disabled pre-K children, except in a program for the hearing impaired in which the parent is involved in the educational program. In such a program, the school and the parent together shall determine the schedule for at least 5 hours a week of instruction. State regulations further specify compulsory school attendance requirements in accordance with state law apply to children with disabilities. (Authority: 34 C.F.R. § 300.109)</p>
14 DE Admin Code § 923.10.0	<p><u>Vocational and Career Technical Programs and Services</u></p>

	<p>State regulations require each public agency to ensure children with disabilities have available to them a variety of educational programs and services available to non-disabled children in the area served by the agency, including arts, music, industrial arts, consumer, and homemaking education, and vocational and career technical programs and services. Each public agency must provide assurances to the DOE it will assist in fulfilling the transitional service requirement of the state regulations, and ensure the provision of a vocational and career technical programs in the least restrictive environment to ensure equal access by children with disabilities. (Authority: 34 C.F.R. § 300.110)</p>
14 DE Admin Code § 923.11.0	<p><u>Child Find</u></p> <p>State regulations outline procedures to ensure all children in need of special education are identified, located, and evaluated. State regulations also establish practices and procedures for identifying children in need of general education interventions consistent with response to intervention procedures.</p>
14 DE Admin Code § 923.14.4	<p><u>Interagency Agreements</u></p> <p>When special education and related services for children with disabilities are provided in whole, or in part, by an LEA or LEAs, other than the LEA of residence, a written interagency agreement must be developed between or among the LEAs and meet the criteria outlined in state regulations.</p>
14 DE Admin Code § 923.53.2.3.6	<p><u>Administrative Complaints</u></p> <p>When filing an administrative complaint, state regulations require the complainant to include a description of the attempts made to resolve the issue(s) prior to filing the complaint.</p>
14 DE Admin Code § 924.1.0	<p><u>Condition of Assistance</u></p> <p>Each public agency providing services to children with disabilities must use any forms or procedures as from time to time are specifically developed or promulgated by the DDOE.</p>
14 DE Admin Code § 924.29.0 14 DE Admin Code § 252	<p><u>Discipline Record</u></p> <p>State regulations establish procedures for maintaining the school discipline records of a child with a disability. (Authority: 34 C.F.R. § 300.229)</p>
14 DE Admin Code § 925.2.3	<p><u>Time for Initial Evaluations</u></p> <p>State regulations require public agencies to conduct initial evaluations within 45 school days or 90 calendar days, whichever is less, of receiving written parental consent. (Authority: 34 C.F.R. § 300.301(c)(1)(ii))</p>
14 DE Admin Code § 925.6.1	<p><u>Determination of Eligibility</u></p> <p>The evaluation report provided to parents must document the team's discussion of the eligibility determination.</p>
14 DE Admin Code § 925.6.3.1	<p><u>Determination of Eligibility</u></p> <p>When determining a child's eligibility for special education and related services, public agencies must</p>

	draw upon information from a variety of sources. State regulations require public agencies to examine information from the child's response to intervention procedures, to the extent it is available.
14 DE Admin Code § 925.6.5.4.1	<p><u>State Exit Criteria</u></p> <p>State regulations generally require a child's eligibility for special education and related services to terminate when the child reaches his or her 21st birthday. However, a child with a disability who reaches his or her 21st birthday after August 31st may continue to receive special education and related services until the end of the school year, including appropriate summer services through August 31st.</p>
14 DE Admin Code §§ 925.6.6 - 6.18	<p><u>State Eligibility Criteria</u></p> <p>State regulations establish eligibility criteria for 13 disability categories (i.e., autism, developmental delay, deaf/blind, emotional disturbance, hearing impairment, learning disability, mental disability, orthopedic impairment, other health impairment, speech and language impairment, traumatic brain injury, visual impairment, preschool speech delay). (Authority: 34 C.F.R. § 300.307)</p>
14 DE Admin Code § 925.12.0	<p><u>Response to Intervention</u></p> <p>Each public agency must establish procedures to determine whether a child responds to scientific, research-based interventions in the area of reading as described in 14 DE Admin Code § 925.12.0. RTI procedures are currently required for all elementary school children. Implementation of RTI for secondary students and in the area of math will be determined on a timeline and schedule to be determined by the State.</p>
14 DE Admin Code § 925.20.1.8	<p><u>Required Content of IEP</u></p> <p>The IEP must include a statement designating whether or not it is necessary to place the child who is transported from school by bus into the charge of a parent or other authorized person.</p>
14 DE Admin Code § 925.20.2	<p><u>Required Content of IEP – Transition Services</u></p> <p>State regulations require, by the middle of the 8th grade, the IEP must include the child's strengths, interests, and preferences, postsecondary goals, high school courses of study needed to assist the child in reaching these goals, and plans to make application to high school and career technical education programs. Full transition services planning must apply by the end of the 9th grade, or prior to the child's 15th birthday, whichever occurs first, unless determined appropriate at a younger age by the IEP team.</p>
14 DE Admin Code § 925.20.4	<p><u>Required Use of State IEP Forms</u></p> <p>Each public agency shall use the primary and secondary IEP forms developed by the DDOE. The primary form shall be used for students beginning with preschool (age 3) and until the Secondary IEP form is used. The Secondary IEP form shall be used beginning in the 8th grade, or earlier, if the IEP team agrees. The requirement that public agencies use the DDOE's IEP forms does not prohibit or prevent an IEP team from including on an IEP any information, service, or other notation the team determines necessary to provide FAPE to a child with a disability.</p>
14 DE Admin Code §§ 923.6.0 and	<u>Extended School Year Services Criteria</u>

925.20.5	State regulations obligate public agencies to consider specific factors in deciding whether a child needs extended school year services in order to receive FAPE. Such factors are set forth in the regulations, and include the degree of impairment, regression, recoupment, breakthrough opportunities, vocational opportunities, and any other rare and unusual extenuating circumstances.
14 DE Admin Code § 925.21.1.4.4	<u>IEP Team</u> The IEP team must include a public agency representative who has authority to commit agency resources and be able to ensure that whatever services are set out in the IEP will actually be provided.
14 DE Admin Code § 925.21.1.8	<u>IEP Team</u> Whenever a child's participation in a cooperative education or diversified occupations program will be discussed, the career technical teacher coordinator must be part of the IEP team.
14 DE Admin Code § 925.22.1.1	<u>Parent Participation</u> State regulations require public agencies to notify parents of an IEP team meeting no less than 10 business days prior to the meeting (unless mutually agreed otherwise) to ensure parents will have an opportunity to attend, and no less than 3 business days for removal due to disciplinary action.
14 DE Admin Code § 925.22.2.3	<u>Parent Participation</u> For a child with a disability beginning not later than the 8 th grade or when the child turns 14, whichever occurs first, the notice of meeting must state that a purpose of meeting will be the consideration of postsecondary goals and transition services for the child.
14 DE Admin Code § 925.23.6.1	<u>Transfer Students</u> For children who transfer, the receiving public agency must ensure that all requirements concerning evaluation, IEP development, placement, and procedural safeguards are applied in determining the provision of special education and related services.
14 DE Admin Code § 925.2.7	<u>Placement in the Least Restrictive Environment</u> State regulations describe a continuum of educational placement options based on the LRE requirement, including criteria when public agencies are considering homebound instruction for temporary periods.
14 DE Admin Code § 925.29.0	<u>High School Graduation</u> State regulations permit students with disabilities who are unable to meet the requirements for graduation an option to complete those requirements by continuing their education, at public agency expense, until their 21 st birthday. Regardless of the document received at graduation by the student, whether a diploma or certificate of performance, the student may not be discriminated against during the graduation ceremonies. Specifically, a student with disabilities must be allowed to participate in graduation exercise without reference to his or her disability, educational placement, or the type of document conferred.
14 DE Admin Code § 926.1.2.3	<u>Opportunity to Examine Educational Placements</u>

<p>14 Del. C. § 3130</p>	<p>Public agencies must permit the parents of a child with a disability to visit and observe, either personally or through a representative, their child’s current or proposed educational program.</p>
<p>14 DE Admin Code § 926.1.5 14 Del. C. § 3131</p>	<p><u>Minutes of Meetings</u></p> <p>State law permits parents and public agencies to take minutes of IEP meetings. Minutes must be maintained subject to applicable confidentiality requirements.</p>
<p>14 DE Admin Code § 926.3.1 14 Del. C. § 3133</p>	<p><u>Prior Written Notice</u></p> <p>State law requires public agencies to provide prior written notice no less than 10 days before the public agency proposes or refuses an action. In cases involving a change of placement for a disciplinary removal, public agencies must provide prior written notice no less than 3 business days before the public agency proposes to change the child’s placement.</p>
<p>14 DE Admin Code § 926.3.2.8 14 Del. C. § 3134</p>	<p><u>Prior Written Notice</u></p> <p>State law requires the prior written notice to include a full explanation of all the procedural safeguards available to parents.</p>
<p>14 DE Admin Code § 926.4.0</p>	<p><u>Procedural Safeguards Notice</u></p> <p>Public agencies must offer a copy of the procedural safeguards notice to parents at each IEP meeting.</p>
<p>14 DE Admin Code § 926.6.0</p>	<p><u>Mediation</u></p> <p>Any public agency involved in mediation must assure that an individual from the public agency with the authority to make decisions and commit resources to agreed upon services attends the mediation. In addition, parents are permitted to be accompanied and advised at mediation by individuals of their choice.</p>
<p>14 DE Admin Code § 926.11.10 14 Del. C. § 3140</p>	<p><u>Due Process Hearings</u></p> <p>The burden of proof and persuasion in a due process hearing is placed on the public agency which is a party to the proceeding.</p>
<p>14 DE Admin Code § 926.12.3 14 Del. C. § 3138</p>	<p><u>Due Process Hearings</u></p> <p>State regulations require that any testimony presented at a due process hearing be under oath or affirmation. The hearing panel must also ensure that parents have been advised of their procedural safeguards.</p>
<p>14 DE Admin Code § 926.12.1.6 14 Del. C. § 3139</p>	<p><u>Due Process Hearings</u></p> <p>State regulations afford parties the right to compel the attendance of witnesses at due process hearings by requesting the issuance of subpoenas through the Secretary of Education.</p>
<p>14 DE Admin Code § 926.19.0 14 Del. C. § 3132</p>	<p><u>Educational Surrogate Parents</u></p> <p>Educational surrogate parents are appointed by the DDOE through the process outlined in state regulations.</p>

<p>14 DE Admin Code § 926.30.8</p>	<p><u>Notification of Discipline Policies</u></p> <p>Public agencies must ensure that the parents, guardian, or Relative Caregiver of each child with disabilities receives written notice of the rules and regulations applicable to such children with respect to discipline, suspension, expulsion, and exclusion as a treatment procedure at the beginning of each school year or upon entry into a special education program during the school year.</p>
<p>14 DE Admin Code § 923.32.3</p>	<p><u>Expedited Appeal</u></p> <p>State regulations require parties to disclose evidence to the opposing party at 2 business days prior to an expedited due process hearing. The hearing officer may bar any party that fails to comply from introducing a relevant evaluation or recommendation at the hearing without the consent of the party.</p>
<p>14 DE Admin Code § 926.36.1.3</p>	<p><u>Change of Placement Because of Disciplinary Removals</u></p> <p>A change of placement occurs if a child has been subjected to a series of in-school removals totaling more than 10 school days and it deprives the child from meeting the goals set out in the IEP, progressing in the general curriculum though in another setting, and receiving those services and modifications described in the IEP; or, if the child has been subjected to a series of removals from transportation and it results in the child's absence from school for more than 10 school days.</p>
<p>14 DE Admin Code § 927.22.5</p>	<p><u>Consent for Releasing Personally Identifiable Information</u></p> <p>If a parent refuses to provide consent before personally identifiable information is disclosed in situations requiring consent, the parent must be advised in writing either: (1) that the participating agency acknowledges that refusal and will not disclose the information or forward the records; or (2) that the participating agency will exercise its option to request a due process hearing in order to effect the release of records.</p>
<p>14 DE Admin Code § 928.18.1 - 18.2</p>	<p><u>Facilities, Equipment, and Materials</u></p> <p>All instructional or treatment programs for children with disabilities must provide appropriate materials and equipment for implementation of individualized education programs. All facilities which house programs for children with disabilities must meet state and federal standards with regard to space, health, fire, safety, and barrier free regulations.</p>
<p>14 DE Admin Code § 929.3.0</p>	<p><u>Students in Need of Unique Educational Alternatives</u></p> <p>The State may provide unique educational alternative support for children with disabilities who have needs that cannot be addressed through existing resources and programs of the State, including, residential placements and private day programs. State statutes and regulations establish how and when such support may be provided to public agencies.</p>