



The New Jersey Coalition for Special Education Funding Reform

PROPOSED FISCAL ACCOUNTABILITY RULES (N.J.A.C. 6A: 23A) AS THEY PERTAIN TO SPECIAL EDUCATION

June 2009

BACKGROUND:

The New Jersey Department of Education has proposed new fiscal accountability regulations. The rules implement legislation designed to consolidate municipal and education services, reduce costs, and expand the role of the Executive County Superintendent (ECS). Rules now in place, adopted in two phases last winter without opportunity for comment by the public, expire on June 30, 2009.

Special education parents and other advocates, including the Coalition and its members, actively opposed many of the provisions of the draft rules currently in effect. **The new language proposed by the Department addresses some, but not all, of our concerns.**

1) Section 2.3 allows the Executive County Superintendent to recommend the establishment or expansion of public regional providers, but now appropriately limits such expansion to administrative services only. The Coalition had opposed this section because further expansion and development of special education services in public regional programs, (i.e. Education Service Commissions, Jointure Commissions, and County Special Services Districts), is in direct conflict with the Department's efforts to reduce reliance on segregated programs. We support this change, with the understanding that the term 'administrative services' refers to the services described at 2.3(b)(4) and (5).

2) Section 2.7, which describes the role of the Executive County Superintendent in coordinating special education services, now limits referrals to services and programs in local school districts. This important distinction will help advance the Department's efforts to build local capacity, and will help ensure that special education services are delivered, to the maximum extent possible, in settings with typical students. We support this change.

There are, however, several major areas around which we remain deeply concerned:

We remain solidly opposed to rules at 2.7 (3)(I)-(iv) that *require* the IEP team to notify the ECS each time they are considering an out-of-district placement and involve the ECS in individual IEP determinations.

The ECS should be a referral source for the IEP team, including the parent, but teams should not be required to contact the ECS. In addition, referrals should not be limited to programs, but should include a range of supports and services to foster in-class support for teachers and students. Such supports and services could come from any provider, including local districts, approved clinics, approved private schools and public regional programs.

A number of the specific aspects of the ECS role in the IEP process remain particularly objectionable:

1) We oppose the language requiring local districts to write a letter of explanation to the ECS each time they place a student in a program other than one identified by the ECS. Review of placement decisions should be based on general data and trends, not on a student-by-student basis. Such direct oversight at the level of the individual student undermines the IDEA-mandated IEP team decision-making process, and diminishes the professional role of psychologists, teachers, social workers and others on the IEP team. With nearly 23,000 students with disabilities in New Jersey placed by local districts in out-of-district programs, this provision has the potential to cause violations in IDEA time-line requirements, and drive up local district costs associated with meeting time and legal fees.

2) The rules allow the ECS to recommend that certain out-of-district students be returned to district. This violates the federal law, which requires placement decisions to be made individually by the IEP team.

Although we oppose a role of the ECS in the IEP process, we do appreciate the proposed elimination of language that would allow the ECS to refer IEP teams to *public regional programs* if no programs in local districts could be identified. The Coalition had opposed this provision because it would fuel further growth of self-contained programs at a time when the Department is trying to encourage less restrictive settings.

There is important language from the CORE bill that is NOT in the rules and should be made a part of the rules.

1) The CORE bill requires that the ECS work with districts to develop in-district special education programs and services, including providing training in inclusive education, positive behavior supports, transition to adult life, and parent professional collaboration. This vital provision is not mentioned in the rules and is central to building local capacity.

2) CORE requires the ECS to report on a regular basis to the Commissioner on progress in achieving the goal of increasing the number of special education students educated in appropriate programs with non-disabled peers. This vital provision is also not mentioned in the rules and should be added to underscore its importance.

The rules can be found on the Department's website:

<http://www.nj.gov/education/code/current/title6a/chap23a.htm>

Hearing Dates and Locations Have Been Announced

Tuesday, June 9
11:00 a.m. to 1:00 p.m.
Morris County Fire and Police Academy
500 West Hanover Avenue
Parsippany NJ 07054

Wednesday, June 10
5:00 p.m. to 7:00 p.m.
New Jersey Department of Education
1st Floor Conference Room
100 Riverview
Trenton, NJ

Thursday, June 18
3:00 p.m. to 5:00 p.m.
MCVTS at East Brunswick
Middlesex County Vocational & Technical School
112 Rues Lane
East Brunswick, New Jersey 08816

Friday, June 19
3:00 p.m. to 5:00 p.m.
Kean University
Downs Hall
1000 Morris Avenue
Union, New Jersey 07083

Monday, June 22
3:00 p.m. to 5:00 p.m.
Oakcrest High School Auditorium
Greater Egg Harbor Regional School District
1825 Dr. Dennis Foreman Drive
Mays Landing, NJ 08330

Written Comments can be submitted through August 14. They should be sent to:

Katherine Attwood, Assistant Commissioner
New Jersey Department of Education
River View Executive Plaza, Building 100
PO Box 500
Trenton, NJ 08625-0500