

New Special Education Rules

Effective January 13, 2016, regulations governing special education in Illinois have been updated by the Illinois State Board of Education (ISBE). In the new special education rules, codified within Title 23 of the Illinois Administrative Code, ISBE made several significant alterations to the special education process and has also addressed minor changes in terminology and updated deadlines for certain policy enactments:

- The regulations now include a definition of “dyslexia”: “a specific learning disability that is neurobiological in origin. It is characterized by difficulties with accurate and/or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problem in reading comprehension and reduced experience that can impeded growth of vocabulary and background knowledge.” (Section 226.126). This change was made pursuant to Public

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Act 98-705, which required ISBE to adopt rules incorporating an international definition of dyslexia into the regulations.

- The regulations have been revised such that implementation of an IEP shall begin no later than 10 **school** days (instead of 10 calendar days) after parents receive notice that an IEP has been developed or revised (Section 226.220(a)).
- Beginning at age 14½, the IEP for students **must** address independent living skills. (Section 226.230(c)). Previously, the School Code required that the IEP only include independent living skills “where applicable.” This new requirement reflects Public Act 98-517, which removed the term “where applicable” from the School Code provisions regarding transition services.
- Parents may file a request for a due process hearing within 10 days after mediation to invoke “stay put.” (Section 226.560). Previously, to obtain the benefit of stay put, a parent was required to file due process within 10 days of the IEP team decision to change the student’s

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placement. This new provision allows the parent additional time to secure stay put.

- Districts must submit a written response to an ISBE complaint within 60 days after receiving the complaint. This response must be submitted not only to ISBE, but also to the parent, individual or organization that filed the complaint. (Section 226.570(c)).
- If a district receives a parent's consent for evaluation with fewer than 60 school days remaining in the school year, the district must make the eligibility determination and complete the IEP meeting prior to the first day of the following school year. (Section 226.110(d)). This provision was previously included in the School Code, but not in the regulations.
- At the conclusion of the IEP meeting, a district is required to provide written notice to the parent as to the eligibility determination reached (previously this was to be provided within 10 school days after the meeting). (Section 226.110(f)).
- Within 10 days after receiving a report of an independent

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evaluation conducted at either public or private expense, the district must provide written notice stating the date the IEP Team will meet to consider the results. (Section 226.180(d)).

- The regulations align the Qualifications of Evaluators (Section 226.840), List of Qualified Workers (Section 226.850), and List of Other Employees Qualifying for Reimbursement (Section 226.860) with the Illinois educator licensure requirements.

In addition to these substantive changes, many of the changes in the new special education rules are terminology updates in an attempt to standardize the use of terms in Illinois:

- “Intellectual disability” (replaces “cognitive disability”)
- Present levels of “academic and functional” performance (replaces “educational” performance)
- “Career and technical counselor” (replaces “vocational counselor”)

Districts must now have updated policies and procedures in place to address:

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- Work load limits for special educators (Section 226.735)
- A child's response to scientific, research-based interventions (Section 226.130)

Additionally, written policies and procedures demonstrating compliance with the special education rules no longer need to be submitted to ISBE for approval. Now, these policies and procedures must be kept on file and made available to ISBE upon request. (Section 226.710).

[The full version of the updated special education rules can be accessed through this link.](#)

If you have questions regarding the recent changes to the Illinois special education regulations, please contact one of our attorneys in Oak Brook (630.928.1200) or Flossmoor (708.799.6766).