

§ 300.164 Authority and/or Responsibility

22 Pa. Code § 14.102(a)(4)
P.S. § 25-2509.8

§ 300.165 – Public participation.

PDE’s policy and procedures are that prior to the adoption of any policies and procedures needed to comply with IDEA-B (including any amendments to those policies and procedures), the State conducts public hearings, issues adequate notice of the hearings, and provides an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

These procedures are conducted consistent with the public participation requirements of 20 U.S.C. § 1232d(b)(7).

§ 300.165 Authority and/or Responsibility

22 Pa. Code § 14.102(a)(4)

§ 300.166 – Rule of construction.

In complying with §§ 300.162 and 300.163, PDE’s policy and procedures do not permit the use of funds paid to it under IDEA-B to satisfy State-law mandated funding obligations to LEAs, including funding based on student attendance or enrollment, or inflation.

§ 300.166 Authority and/or Responsibility

22 Pa. Code § 14.102(a)(4)

§ 300.167 – State advisory panel.

PDE has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in accordance with the requirements of §§300.167 – 300.169.

§ 300.167 Authority and/or Responsibility

22 Pa. Code § 14.102(a)(4)

§ 300.168 – Membership.

The State advisory panel consists of members appointed by the Governor, or other official authorized under State law to make these appointments. A majority of the members of the panel includes individuals with disabilities and/or parents of children with disabilities (ages birth through 26). Members are representative of the State population and are involved in, or concerned with the education of children with disabilities.

Representation is consistent with the federal regulations (§ 300.168). The names and identification of individuals will be made known to the U.S. Department of Education as requested or required within the provisions of the Family Education Rights and Privacy Act.

§ 300.168 Authority and/or Responsibility

22 Pa. Code § 14.102(a)(4)

§ 300.169 – Duties.

By appointment, the advisory panel is charged to:

(a) Advise PDE of unmet needs within the State in the education of children with disabilities;

(b) Comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;

(c) Advise PDE in developing evaluations and reporting on data to the U.S. Department of Education's Secretary under § 618 of IDEA-B;

(d) Advise PDE in developing corrective action plans to address findings identified in Federal monitoring reports under IDEA-B; and

(e) Advise PDE in developing and implementing policies relating to the coordination of services for children with disabilities.

§ 300.169 Authority and/or Responsibility

22 Pa. Code § 14.102(a)(4)

§ 300.170 – Suspension and expulsion rates.

It is PDE's policy, through its combined enforceable statutory and regulatory provisions, the State Performance Plan, compliance monitoring and corrective action system to annually examine data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities among LEAs in the State.

If discrepancies are occurring with the rate of long-term suspensions and expulsions of children with disabilities, PDE reviews the LEA's policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that the policies, procedures, and practices comply with federal and state statutes and regulations.

§ 300.170 Authority and/or Responsibility

22 Pa. Code § 14.102(a)(4)

§ 300.171 – Annual description of use of Part B funds.

It is PDE’s policy to annually describe each fiscal year—

(1) How the amounts retained for State administration and State-level activities under §300.704 will be used in order to meet the requirements of IDEA-B; and

(2) How those amounts will be allocated among the activities described in § 300.704 to meet State priorities based on input from LEAs.

§ 300.171 Authority and/or Responsibility

22 Pa. Code § 14.102(a)(4)

§ 300.172 – Access to instructional materials.

The provisions under § 300.172 are met by State regulations as follows:

The State Board of Education adopts the National Instructional Materials Accessibility Standard (NIMAS) as defined in §674(e)(3)(B) of the Education of Individuals with Disabilities Education Act (20 U.S.C.A. § 1474(e)(3)(B)) and set forth in 71 FR 41084 (July 19, 2006) for the purpose of providing print instructional materials in alternate accessible formats or specialized formats to blind persons or other persons with print disabilities in a timely manner. To ensure the timely provision of high quality, accessible instructional materials to children who are blind or other persons with print disabilities, agencies shall adopt the NIMAS. The NIMAS refers to a standard for source files of print instructional materials created by publishers that may be converted into accessible instructional materials.

Public agencies shall, in a timely manner, provide print instructional materials in specialized, accessible formats (that is, Braille, audio, digital, large-print, and the like) to children who are blind or other persons with print disabilities, have access to their accessible format instructional materials at the same time that students without disabilities have access to instructional materials, and not withhold instructional materials from other students until instructional materials in accessible formats are available. Receipt in a timely manner is defined as receipt of a portion of the instructional materials in alternate accessible or specialized format if the material received covers the chapters that are currently being taught in the student’s class. If a child who is blind or other person with a print disability enrolls in school after the start of the school year, the public agency shall take all reasonable steps to ensure that the student has access to accessible format instructional materials within 10 school days from the time it is determined that the child requires printed instructional materials in an alternate accessible or specialized format.

PDE or other agencies may coordinate with the National Instructional Materials Access Center (NIMAC) to facilitate the production of and delivery of accessible materials to children who are blind or other persons with print disabilities. The NIMAC refers to the central repository, established under § 674(e) of the Education of Individuals with Disabilities Education Act, which is responsible for processing, storing and distributing NIMAS files of textbooks and core instructional materials.

§ 300.172 Authority and/or Responsibility

22 Pa. Code § 14.106

22 Pa. Code § 711.3 (a) (xvi)

§ 300.173 – Overidentification and disproportionality.

The Commonwealth of Pennsylvania, through its combined enforceable statutory and regulatory provisions, compliance monitoring and corrective action system, complaint management systems, due process procedural safeguards, technical assistance system, professional certification program, and its data collecting and monitoring system, has an effective system designed to prevent inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular disability.

§ 300.173 Authority and/or Responsibility

22 Pa. Code § 14.102(a)(4)

§ 300.174 – Prohibition on mandatory medication.

Enforceable rules have been adopted to prohibit State and LEA personnel from requiring parents to obtain a prescription for substances identified under schedules I, II, III, IV, or V in §202(c) of the Controlled Substances Act (21 U.S.C. § 812(c)) for a child as a condition of attending school, receiving an evaluation or receiving services under 34 CFR Part 300.

Moreover, rules have also been adopted that allow teachers and other school personnel to consult or share classroom-based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under child find.

§ 300.174 Authority and/or Responsibility

22 Pa. Code § 14.102(2)(xx)

22 Pa. Code § 711.3(a)(xviii)

§ 300.175 – SEA as provider of FAPE or direct services.

The duty of the SEA regarding the requirement SEA as provider of FAPE or Direct Services are not applicable to PA State Education Agency. The SEA provides no direct services.

§ 300.175 Authority and/or Responsibility

22 Pa. Code § 14.102(a)(4)