

OFFICE OF INSTRUCTIONAL ENHANCEMENT AND INTERNAL OPERATIONS
Summary of State Board of Education Agenda Items
August 15-16, 2013

OFFICE OF SPECIAL EDUCATION

09. Approval of revisions of State Board Policy 7219 and the State Policies Regarding Children with Disabilities under the *Individuals with Disabilities Education Act Amendments of 2004* (IDEA 2004)
(Has cleared the Administrative Procedures Act process with public comments)

Executive Summary

State Board Policy 7219 and the *State Policies Regarding Children with Disabilities under the Individuals with Disabilities Education Act Amendments of 2004* were amended to address needed changes in requirements. These policies address the requirements of the Federal regulations (34 CFR 300 et. seq.) promulgated by the United States Department of Education, Office of Special Education Programs (OSEP).

In compliance with the Administrative Procedures Act and Federal regulations, three public hearings were held throughout the State. The dates and locations of the public hearings follow:

May 15, 2013	1:00 p.m. – 2:00 p.m.	Ridgeland, MS
May 21, 2013	6:00 p.m. – 7:00 p.m.	Oxford, MS
May 23, 2013	6:00 p.m. – 7:00 p.m.	Hattiesburg, MS

Participants at the public hearings were given an opportunity to present oral as well as written comments. Staff from the Office of Special Education was present and recorded comments. Additionally, written comments were received via email, phone, and postal service through June 3, 2013. Staff was also available to speak individually with parents who had concerns or questions about their child's special education program and/or services.

A summary of all public comments is attached.

Recommendation: Approval

Back-up material attached

Summary of Public Comments regarding the Proposed Changes to State Policies regarding Children with Disabilities under the Individuals with Disabilities Education Act (IDEA) Amendments of 2004, State Board Policy 7219

Written comments were received from 7 individuals and groups. Comments generally fell into one or more of the following categories.

Commenters expressed appreciation relative to specific proposed changes in State Board Policy (SBP) 7219:

- Changing mental retardation to intellectual disability.
- Establishing and including the seven (7) day timeline for parents to receive Written Prior Notice (WPN) for an initial evaluation or a refusal to evaluate.
- Including the wording, “Any observations conducted for a specific student in order to determine eligibility must be written in a report and included in the documentation provided to parents.”
- Including the timeline for parents to receive a copy of their child’s evaluation report prior to the eligibility determination meeting.
- Establishing and including the basic requirements of a Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP).

POLICY CHANGES AFTER PUBLIC COMMENT

Category	Policy Number	Suggestions	Actions
Initial Evaluation	300.301(b)(1) (i), (ii) and (iii)	Two commenters suggested adding the language in bold print, ... the Multidisciplinary Evaluation Team (MET) “of which the parent is a member,” ...	300.301(b)(1) (i), (ii) and (iii) Added of which the parent is a member,
Initial Evaluation	300.301(b)(1)	One commenter suggested changing verbal request to the following: “For parents who need assistance with a written request for assessment, require school personnel to do so upon verbal request by the parent.”	300.301(b)(2) Added LEA personnel must provide assistance in documenting the parent’s verbal request for initial evaluation.
Determination of Eligibility	300.306(a)(2)	Two commenters suggested the following: The use of the phrase “within a reasonable amount of time is a concern for us. The timeline used in §300.323 (c)(1) should be included.)	300.306 (a) Added <u>Within fourteen (14) calendar days, upon completion of the administration of assessments and other evaluation measures, within a reasonable amount of time—</u>
Determination of Eligibility	300.306	Is this language implying that eligibility determination occurs AFTER the 60-day evaluation timeline? If not, and the assessment results are going to be released to the parents seven days prior to the eligibility determination meeting, the 60-day timeline would be shortened. Therefore, it is recommended that the eligibility determination timeline be lengthened. The evaluation would be completed within 60 days. The report would be completed no later than 7 days after the evaluation date. The WPN and the evaluation report would be given to the parent at the same time, with an offer of interpretation of results prior to the MET meeting. The MET meeting would be scheduled within 7 days of the first WPN.	300.503 Added Unless the parent waives the timeline, written notice that meets the requirements of paragraph (b) <i>below</i> must be given to parents of a child with a disability a reasonable time seven (7) calendar days prior, the public agency—

<p>Prior Notice by Public Agency</p>	<p>300.503</p>	<p>One commenter suggested adding changes to 300.503as noted: “Written prior notice will be provided to the parents of the child at least seven (7) days whenever an LEA proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to that child.”</p>	<p>300.503 Added Unless the parent waives the timeline, written notice that meets the requirements of paragraph (b) <i>below</i> must be given to parents of a child with a disability a reasonable time seven (7) calendar days prior, the public agency—</p>
<p>Methods of Ensuring Services</p>	<p>300.154(d)(2)(iv)</p>	<p>Federal Law at 34 C.F.R. § 300.154(d)(2)(iv) changed and MDE changed its policies to correspond with the Federal Law change.</p>	<p>§ 300.154(d)(2)(iv) now read as follows: Prior to accessing a child’s or parent’s public benefits or insurance for the first time, and after providing notification to the child’s parents consistent with paragraph (d)(2)(v) of this section, must obtain written, parental consent that – (A) Meets the requirements of § 99.30 of this title and § 300.622, which consent must specify the personally identifiable information that may be disclosed (e.g. records or information about the services that may be provided to a particular child), the purpose of the disclosure (e.g. billing for services under part 300), and the agency to which the disclosure may be made (e.g. the State’s public benefits or insurance program (e.g. Medicaid)); and (B) specifies that the parent understands and agrees that the public agency may access the parent’s or child’s public benefits or insurance to pay for services under part 300.</p>

<p>Methods of Ensuring Services</p>	<p>300.154(d)(2)(v)</p>	<p>Federal Law at 34 C.F.R. § 300.154(d)(2)(v) changed and MDE changed its policies to correspond with the Federal Law change.</p>	<p>§ 300.154(d)(2)(v) now read as follows: Prior to accessing a child’s or parent’s public benefits or insurance for the first time, and annually thereafter, must provide written notification, consistent with § 300.503 (c), to the child’s parents, that includes— (A) A statement of the parental consent provisions in paragraphs (d)(2)(iv)(A) and (B) of this section; (B) A statement of the “no cost” provisions in paragraphs (d)(2)(i) through (iii) of this section; (C) A statement that the parents have the right under 34 C.F.R. part 99 and part 300 to withdraw their consent to disclosure of their child’s personally identifiable information to the agency responsible for the administration of the State’s public benefits or insurance program (e.g. Medicaid) at any time; and (D) A statement that the withdrawal of consent or refusal to provide consent under 34 C.F.R. part 99 and part 300 to disclose personally identifiable information to the agency responsible for the administration of the State’s public benefits or insurance program (e.g. Medicaid) does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.</p>
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Determination of Eligibility	Developmentally Delayed Evaluation Requirements p. 308	<p>One commenter suggested the following: All references to eligibility for the preschool population should include wording to indicate that the child’s ability to participate in developmentally appropriate activities must be impacted, rather than having “adverse educational impact.” Developmentally appropriate activities include: interacting with others; playing with other children; using toys and playground equipment in the same way other children their age do; sharing; communicating effectively through verbalizations; behavioral responding and emotional regulation; following directions; responding as expected to sensory input; moving around and within, and exploring their environments; independence in daily living skills, including feeding and toileting skills (adaptive behavior); separating easily from parents, etc. In the recommended changes in Section I of the Eligibility Determination Guidelines, Adverse Educational Impact, there is a statement: “Each evaluation must be sufficient to substantiate adverse educational impact. The report(s) must clearly document adverse educational impact for all eligibility determinations, including language/speech.” However, for preschoolers, this wording should indicate that the child’s ability to participate in developmentally appropriate activities must be impacted, especially for children ages 5 and under who are suspected of having a Developmental Disability.</p>	General Guidelines and Developmental Disabilities Added <i>For preschool age children, the results of the evaluation must indicate an adverse impact on the child’s ability to participate in developmentally appropriate activities.</i>
Disability Categories: Language Speech		<p>One commenter suggested the following: Language/Speech: Wording is awkward: “which is required for suspected impaired articulation disorders.” Take out the word “impaired.”</p>	Removed impaired: <i><u>which is required for suspected impaired articulation disorders</u></i>
Disability Categories: Specific Learning Disability		<p>One commenter suggested the following: NOTE: Severe discrepancy is defined as 1.5 standard deviations below the mean of the standardized test measuring the measure of intellectual disability. Ability, not disability.</p>	<i>Severe discrepancy is defined as achievement performance that is 1.5 standard deviations below <u>the mean of the standardized test measuring the measure of intellectual disability.</u></i>
		<p>One commenter suggested the following: SLD team requirements—Diagnostics personnel: add—conduct <i>and interpret</i> individual diagnostic evaluations</p>	<i>At least one person qualified to conduct <u>and interpret</u> individual diagnostic examinations of children, such as a school psychologist, psychometrist, speech-language pathologist, or remedial reading teacher.</i>

NO ACTION TAKEN AFTER PUBLIC COMMENTS

Category	Policy Number	Suggestions	Actions
Implementation by MDE	300.147	<p>One commenter suggested the Mississippi Department of Education (MDE) State Policies should reflect the same wording as the IDEA regulations used in Section 300.147. In this section of the MDE State Policies, the word shall is used instead of the word must.</p> <p>In implementing § 300.146, the MDE must—</p> <ul style="list-style-type: none"> a) Monitor compliance through procedures such as written reports, onsite visits, and parent questionnaires; b) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a child with a disability; and c) (c) Provide an opportunity for those private schools and facilities to participate in the development and revision of State standards that apply to them. 	MDE did not propose a change to SBP 7219 § 300.147; therefore, no action was taken.
Minimum State Complaint Procedures	300.152	<p>One commenter suggested the following changes</p> <p>(1) If the local educational agency (LEA) sends a response to MDE, a copy of such response must be simultaneously provided to the child’s parents/guardian.</p> <p>(2) MDE will simultaneously provide local school board members a copy of the MDE letter of findings and decisions relative to a complaint when sent to the LEA’s superintendent.</p>	MDE did not propose a change to SBP 7219 § 300.152; therefore, no action was taken.
Advisory Board Membership	300.168	Two commenters suggested adding a representative from Parent Training and Information Center.	MDE did not propose a change to SBP 7219 § 300.168; therefore, no action was taken.
	300.168(a)(4)	Two commenters suggested adding “including one community college representative” to the representatives of institutions of higher education...	MDE did not propose a change to SBP 7219 § 300.168; therefore, no action was taken.
	300.168(a)(8)	One commenter suggested changing private school to non-public school.	MDE did not propose a change to SBP 7219 § 300.168; therefore, no action was taken.
State Advisory Panel Duties	300.169	<p>One commenter suggested adding the following duties to Advisory Panel:</p> <ul style="list-style-type: none"> 1) To meet at least annually. 2) To review vacancies on the panel and members whose terms are expiring. 3) To review membership applications. 4) To make recommendations to the State Superintendent of Education for members to be appointed. <p>A State Advisory Panel membership application must be completed for any individual being considered as a panel member. The membership application will be accessible, but not limited to the MDE, Office of</p>	MDE did not propose a change to SBP 7219 § 300.169; therefore, no action was taken.

		Special Education (OSE) web site, standard mail or fax.	
		<p>One commenter suggested adding the following duties to Advisory Panel:</p> <ul style="list-style-type: none"> • The Mississippi Advisory Panel on Special Education members will review any input received from LEAs to determine how IDEA Part B funds will be allocated in state level activities as described in section 300.704 to meet Mississippi's priorities in ensuring special education and related services are provided to children with disabilities. • The State Advisory Panel will establish a membership committee consisting of panel members. • The Mississippi Advisory Panel on Special Education members will determine the composition of the membership committee. 	MDE did not propose a change to SBP 7219 § 300.169; therefore, no action was taken.
Initial Evaluation	300.301(b)(1)	<p>One commenter suggested the following: When changing the timeline in 300.301 from school days to 14 calendar days for the parent, Teacher Support Team (TST), teacher, public agency, etc., to meet to consider the request for an initial evaluation, there needs to be a statement that Christmas Break is excluded from this timeline. If a request were to be made on the last day of school before Christmas Break, it would be impossible for the school to make the 14-calendar day timeline. You might want to go as far as to say that Christmas Break is the ONLY exclusion. Fall, Spring, and Summer breaks are NOT excluded.</p> <p>Under (i), (ii), and (iii)--(a) and (b) are in the wrong order. The wording under (b) should come first; the wording under (a) should come last.</p>	No Action
Initial Evaluation	300.301(b)(1)(iii)	One commenter suggested changing the 14-calendar day timeline to 14 school days. For example, our Christmas holidays this coming school year will begin December 21. Teachers and staff won't report back until January 6. That's a total of 17 days out of school, which means 17 days without school employees to hold a MET meeting.	No Action
Evaluation/Reevaluation Requirements	300.305	One commenter suggested adding a 7-day timeline for WPN.	MDE did not propose a change to SBP 7219 § 300.305; therefore, no action was taken.
Individualized Education Program	300.306(c)(2)	One commenter suggested adding the 30-day timeline to develop the Individualized Educational Program (IEP) after determining eligibility.	MDE did not propose a change to SBP 7219 § 300.306(c)(2); therefore, no action was taken.
Free Appropriate Public	300.305(e)(3)	One commenter suggested adding language that states if a student who is aging out has a Transition Portfolio, the Summary of Performance is	No Action

Education		not necessary.	
Determination of Eligibility	300.306(a)(2)	One commenter suggested changing the date of eligibility from the 60-day timeline.	No Action
		One commenter suggested that districts should be required to provide parents with a copy of the reports on or before the date the WPN is given/provided. Providing parents with a copy of the report 7 days prior to the meeting basically cuts the school district's 60 days to conduct comprehensive assessment to 53 days.	No Action
	300.306(a)(2)	One commenter suggested the following: Is this language implying that eligibility determination occurs AFTER the 60-day evaluation timeline? If not, and the assessment results are going to be released to the parents seven days prior to the eligibility determination meeting, the 60-day timeline would be shortened. Therefore, it is recommended that the eligibility determination timeline be lengthened. The evaluation would be completed within 60 days. The report would be completed no later than 7 days after the evaluation date. The WPN and the evaluation report would be given to the parent at the same time, with an offer of interpretation of results prior to the MET meeting. The MET meeting would be scheduled within 7 days of the first WPN.	No Action
		One commenter suggested the following: For students who are placed in a private facility by a public agency, the private facility <u>may not</u> determine initial eligibility for a student. The eligibility determination process must be a collaboration between the public and private agencies who have the most knowledge of the child, including the most recent placements, public and private, and the LEA in which boundaries the private facility is located. Ultimately, the agency representatives responsible for eligibility and IEP development must be primarily from LEAs, including <u>public school settings in which the child has been enrolled</u> and the LEA in which the private facility is situated.	No Action
	Special Education Eligibility Determination Guidelines p. 296	One commenter suggested the following: University-based programs cannot make eligibility determinations, nor can they develop IEPs for students with disabilities. As part of Child Find, they must refer children who are parentally-placed in their programs to the appropriate Child Find agency. For children under the age of three, the appropriate Child Find agency is the Department of Health. For children age three and older, the appropriate Child Find agency is the LEA of the parents' residence.	MDE did not propose a change to page 296 which begins the Special Education Eligibility Determination Guidelines; therefore, no action was taken.
	Developmentally Delayed Evaluation Requirements p. 308	One commenter suggested the following: Assessment reports containing psycho-educational assessment results should not be released to parents without an appropriately trained professional (e.g., psychometrist, school psychologist, psychologist) who has experience in interpretation of test results providing	No Action

		<p>the parents with an explanation of the results, and providing them the opportunity to ask questions concerning the results. The American Psychological Association (APA) defines interpretation as “application of scientific knowledge and professional judgment to test data to describe and/or make inferences about individual or group characteristics or behavior” (APA Test User Qualifications, p. 8). The process of gathering information and making decisions in the assessment process includes (among other things) “accurately interpreting information, which may include knowing when to question the usual interpretation of a procedure because of intervening or mitigating circumstances; using assessment data and resultant interpretation to make professionally sound decisions; and when appropriately communicating assessment results in a way that is understandable to the client”. Thus, without the ability to ask direct questions of a knowledgeable professional, the parent may have unanswered questions, misperceptions of assessment results, and experience undue distress without an appropriately provided interpretation of assessment results in a manner that is understandable. Most parents do not have the knowledge and expertise to understand standardized scores, categorical information, and other information that is required in a psycho-educational report. However, with a skilled professional providing information about the results and the ability to ask clarifying questions, the parent can be empowered to have a fuller understanding of the assessment process and results. If necessary, this interpretation session could occur in advance of the eligibility meeting to allow the parent to fully consider the implications of the assessment results. Instead of routinely releasing assessment results to ALL parents, perhaps the requirement should be to release results to parents upon written request, with the offer of interpretation prior to the eligibility meeting.</p>	
Specific Learning Disabilities	300.307(a)(1) and (2)	<p>One commenter suggested changing the wording to mirror Federal Regulations to avoid confusion:</p> <p>(a) (1) Must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability, as defined in § 300.8(c)(10);</p> <p>(2) Must permit the use of a process based on the child’s response to scientific, research-based intervention;</p>	<p>MDE did not propose a change to SBP 7219 § 300.307(a)(1); therefore, no action was taken.</p>
Examining Records	300.501	<p>One commenter suggested adding 300.501 to: “An outside individual or entity contracting with a local educational agency for the purpose of performing an observation in order to make recommendations of possible changes in a child's IEP, or any outside individual or entity making an observation of a child which results in such recommendations, shall submit a report of the observation to the LEA within fourteen</p>	<p>MDE did not propose a change to SBP 7219 § 300.501; therefore, no action was taken.</p>

		(14) days. The LEA shall provide a written copy of the report to the parent within seven (7) days of receiving the report.”	
Procedural Safeguard	300.504	Two commenters suggested adding language from MS Code 37-23-137 regarding audio recording of IEP meetings. Suggested addition is as follows: “The parent or guardian, or the LEA, has the right to participate in the development of the IEP and to initiate their intent to audio record the proceedings of the IEP meetings. The parent or guardian or LEA shall notify the members of the IEP team of their intent to record a meeting at least twenty-four (24) hours prior to the meeting.”	MDE did not propose a change to SBP 7219 § 300.504; therefore, no action was taken.
Discipline	300.530(d)(ii)	One commenter expressed concern that even though MDE established basic requirements for a Functional Behavioral Assessment (FBA) and Behavioral Intervention Plans (BIP), there is a lack of behavior and social skills goals on a child's IEP when a BIP is developed. The BIP should be used as a tool to implement measurable goals on a child's IEP.	No Action
		One commenter suggested the following: A) Partial-day suspensions, parental home care and temporary cooling-off periods, in-school suspensions, and any other whole or partial day disciplinary action which results in the IEP not being implemented as written are counted as a full-day of suspension for students with IEPs, including: students with Language Speech (L/S) disabilities, students who are not yet eligible (basis of knowledge), and students who are receiving comparable services while an initial evaluation is being completed. B) Bus suspensions and expulsions which result in an inability of the student to receive a free appropriate public education are treated the same as full-day school suspensions and expulsions for students with IEPs.	No Action
		Administrators cannot arbitrarily make a decision to place students with IEPs on long-term homebound status or half-day programs for disciplinary purposes. Neither should IEP Committees consider half-day programs or homebound services as appropriate placements for students with behavior problems as first or second placement options. Half-day programs and homebound status are the most restrictive of placement options and generally provide little to no access to the general education curriculum and generally do not provide for a free appropriate public education. Private placement, either day treatment or residential treatment, should be considered in instances when the school cannot provide appropriate full-day services in the public school system.	No Action
General Eligibility Determination Guidelines		One commenter suggested that the requirements for Vocational Assessment need to be more specific.	No Action
Disability Categories:		One commenter suggested the following: The added requirement for Emotional Disability—	No Action

Emotional Disability		situations in which the behavior does not occur—needs further explanation. If the child exhibits appropriate behavior in some settings, will s/he be excluded from the disability category? What is the purpose of this reporting requirement? Also, to be consistent in the wording, use the plural—“behaviors”—in the added statement since you use the plural throughout the definition.	
Disability Categories: Intellectual Disability		<p>One commenter suggested the following:</p> <p>A) The definition of Intellectual Disability should include a cognitive score of 70, <i>and</i> the standard error of measurement for the instrument should be included in the range, as well. For example, if the standard error of measurement for an instrument is 70 ± 2, then 72 should be included in the range when considering the ID category, when all other data are clearly indicative of ID. This definition is similar to the definition adopted by the American Association for Individuals with Developmental Disabilities, which takes into account both the standard error of measurement and the confidence interval of the instrument(s) used, including cognitive, achievement, and adaptive scales.</p> <p>B) Achievement scores, according to Federal regulations at 34 CFR and State Board Policy 7219, are expected to be “below average.” Either policy or procedure should clarify the definition of “below average,” as there is a wide difference in interpretation of “below average.” My suggestion is that “below average” be defined broadly. There should be room for professional judgment to be applied, depending on the instrument used, the age of the child, and the subtest. For instance, a standard score of 84 for an 8-year old second grader on reading fluency would not be an inordinately high score for a child with ID, especially if instruction and interventions were focused on fluency. However, a standard score of 84 on Reading Comprehension for a 16- year old 8th grader might be a higher score than would be expected for a student with ID. Policy could indicate, for instance, that “Achievement test scores of ‘below average’ are subject to interpretation, depending on the test/subtest, age and grade level of the student, instructional level, interventions, professional judgment of the team, and suggestions for interpretation as given by the test manual. Below average achievement test scores are typically viewed as scores falling between 1 to 1.5 standard deviations below the mean of the test. Justification for any eligibility determination made with achievement scores above 77 must be clearly described in the test report.”</p> <p>C) The standard error of measure (SEM) should be taken into consideration for all measures for all disability categories when all other data clearly indicate</p>	No Action

		the presence of a disability.	
Disability Categories: Specific Learning Disability and OHI		One commenter suggested the following: Please clarify that the observation for SLD or ADHD should be summarized in an assessment report. The actual observation form should be included with other assessment results, such as protocols. There is no specific required form for SLD or ADHD observations. Observations should document academics and behaviors, and their relationships to each other.	No Action
Revised Program Improvement		Two commenters suggested adding the LEA status determination will be included on the MDE website. The OSE is required to make annual determinations of each LEA's performance status. Determinations under RDA will be based upon an LEA's overall performance on a set of priority indicators and other relevant data. The following State determinations will be used: <ol style="list-style-type: none"> 1. Meets Requirements 2. Needs Assistance 3. Needs Intervention 4. Needs Substantial Intervention 	No Action
		One commenter suggested seeing procedures for Revised Program Improvement	No Action
Other		One commenter suggested adding a section on seclusion and restraint	No Action
		One commenter suggested adding a section on seclusion and restraint for students receiving special education services and the following content: <ol style="list-style-type: none"> 1. Prohibit the following in schools under all conditions: <ol style="list-style-type: none"> a) Prone restraints; b) Any restraints that interfere with breathing; c) Mechanical and chemical restraints; d) Any other form of restraint except in situations in which the student poses a clear and imminent physical danger to himself or others; e) Locked seclusion rooms or other rooms from which a child cannot exit, unless there is an imminent threat of immediate bodily harm, in which case a child can be placed in a locked room while awaiting the arrival of law enforcement or crisis intervention team; f) Use of restraint or seclusion when they are medically or psychologically contraindicated for a child and; g) Any behavior management or discipline technique that is intended to inflict injury, cause pain, demean, or deprive the student of basic human necessities or rights. 2. Make clear the other physical restraints can be used in school settings only to control acute or episodic aggressive behaviors that pose a clear and imminent physical danger to the student or others. Restraints must 	No Action

		<p>a) Be applied only by trained personnel, b) May last only as long as necessary to resolve the actual risk of danger or harm, and c) Be limited to only the degree of force needed to protect from imminent injury and no more. They may not be used when less intrusive methods would resolve the threat of harm, or to coerce compliance, as punishment, or for staff convenience.</p> <p>3. Prohibit the use of locked seclusion rooms and spaces from which children cannot exit, as noted above. If, in order to allow a child to de-escalate, timeout or cooling-off spaces are used, children must be able to exit them, they must be supervised at all times. The rooms must not be used for other purposes (e.g., punishment) or in place of providing appropriate related services and behavioral supports in the classroom. A child's legal right to learn with their peers in the least-restrictive environment must be respected and enforced.</p> <p>4. School districts and their employees will be held accountable when abusive interventions are used.</p> <p>5. Retaliation against any school personnel, parents, children, or other school community members who report the inappropriate or wrongful use of restraint, seclusion, or aversives will be prohibited.</p> <p>6. Children experiencing behavioral issues will receive a properly-conducted Functional Behavioral Assessment as part of creating the behavioral intervention plan.</p> <p>7. Children will receive effective positive behavior supports developed within a comprehensive, professionally-developed individualized plan of behavioral accommodations, related services, and interventions.</p> <p>8. Parents and school staff should work together collaboratively as equals to ensure that children receive appropriate interventions. School districts must ensure that parents are equal, participating members of the IEP team with regard to all decisions.</p> <p>9. Because of the dangers that restraints and seclusion pose, staff must immediately notify parents and senior administrators in writing of any use of seclusion or restraint, and document the incident in the child's file.</p> <p>10. School districts must always allow parents to make reasonable visits to their children's classroom and schools. Parents are an integral part of the school community and have a right to observe their children. After a restraint is used, the IEP team must meet to debrief, so as to prevent further incidents and to provide the child with the appropriate behavioral and other supports he may</p>	
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		<p>need. If the child has not received an FBA during the current school year, the IEP team should refer the child for an FBA.</p> <p>11. Training must include the proper use of research validated positive behavioral supports, crisis reduction and de-escalation techniques, along with other best practices. If the use of a particular restraint or form of seclusion is approved for use with any student in an emergency or dangerous situation, all personnel must receive training in its appropriate use and risks.</p> <p>12. Require schools and educational facilities to gather and report data, regarding each incident of in which an aversive intervention was used, the circumstances surrounding its use, whether a positive behavioral intervention plan had been implemented and a summary of it, and whether the child has suffered physical or psychological injury. Senior administrators should analyze trends within the school and among schools to ensure restraints and seclusion are used only in the rarest of situations; that positive behavioral interventions and de-escalation techniques are used in almost all situations.</p> <p>13. Data must be reported at the local and state levels.</p>	
Other		<p>One commenter suggested the following: Students with IEPs cannot have shorter school day schedules than students without IEPs, unless their IEPs specifically call for a shorter day schedule due to individual needs, such as medically fragile children. However, in no instance, can “wholesale” administrative decisions be made to shorten school day schedules for entire groups of students with IEPs. For instance, if students without IEPs attend school from 8:00-3:00, students with IEPs cannot have a schedule of 8:30-2:00 as a matter of convenience, due to availability of buses, bus assistants, traffic, hallway traffic, etc.</p>	No Action

Tanya Bradley

From: Danita Munday <remaincalmeducation@yahoo.com>
Sent: Sunday, June 02, 2013 9:41 PM
To: Audrey Shaifer
Subject: Fw: Automatic reply: public comments
Attachments: Proposed Changes for State Board Policy 7219.docx

I sent my public comments to Ellen's email and got the following automated reply. I am forwarding them to you.

Remain Calm Education Consulting
Danita Munday, M.Ed., Owner/Consultant
143 Lakeview Road
Brandon, Mississippi 39047
(601) 668-7775

----- Forwarded Message -----

From: Ellen Burnham <EBurnham@mde.k12.ms.us>
To: Danita Munday <remaincalmeducation@yahoo.com>
Sent: Sunday, June 2, 2013 9:38 PM
Subject: Automatic reply: public comments

I will be out of the office on medical leave beginning May 30th.

If you need immediate assistance, please contact
Audrey Shaifer (applications, MOE, ESY, PBS, Ed Inter, Ed Child)
Mary Bobbit (applications)
Barbara Quarles (Ed Child),
Debra Hines (payments and billing),
Yvonne Ellis (contracts),
Deborah Donovan (SPP/APR), or
Jolene Miesse (MSIS).

Thank you,
Ellen

Proposed Changes to State Board Policy 7219

These proposed changes would address systemic issues that continue to occur across the state and are not clearly addressed in state policy or federal regulations.

THE FOLLOWING PROPOSALS SHOULD BE IN POLICIES, NOT PROCEDURES, SO AS TO BE BINDING.

- 1) A) The definition of Intellectual Disability should include a cognitive score of 70, *and* the standard error of measurement for the instrument should be included in the range, as well. For example, if the standard error of measurement for an instrument is 70 ± 2 , then 72 should be included in the range when considering the ID category, **when all other data are clearly indicative of ID**. This definition is similar to the definition adopted by the American Association for Individuals with Developmental Disabilities, which takes into account **both the standard error of measurement and the confidence interval of the instrument(s) used, including cognitive, achievement, and adaptive scales**. B) Achievement scores, according to federal regulations at CFR 34 and State Board Policy 7219, are expected to be "below average." Either policy or procedure should clarify the definition of "below average," as there is a wide difference in interpretation of "below average." My suggestion is that "below average" be defined broadly. There should be room for professional judgment to be applied, depending on the instrument used, the age of the child, and the subtest. For instance, a standard score of 84 for an 8 year old second grader on reading fluency would not be an inordinately high score for a child with ID, especially if instruction and interventions were focused on fluency. However, a standard score of 84 on Reading Comprehension for a 16 year old 8th grader might be a higher score than would **be expected for a student with ID. Policy could indicate, for instance, that "Achievement test scores of 'below average' are subject to interpretation, depending on the test/subtest, age and grade level of the student, instructional level, interventions, professional judgment of the team, and suggestions for interpretation as given by the test manual. Below average achievement test scores are typically viewed as scores falling between 1 to 1.5 standard deviations below the mean of the test. Justification for any eligibility determination made with achievement scores above 77 must be clearly described in the test report."** C) The SEM should be taken into consideration for all measures for all disability categories when all other data clearly indicate the presence of a disability.
- 2) For students who are placed in a private facility by a public agency, the private facility may not determine initial eligibility for a student. The

eligibility determination process must be a collaboration between the public and private agencies who have the most knowledge of the child, including the most recent placements, public and private, and the Local Education Agency (LEA) in which boundaries the private facility is located. Ultimately, the agency representatives responsible for eligibility and IEP development must be primarily from LEAs, including public school settings in which the child has been enrolled and the LEA in which the private facility is situated.

- 3) A) Partial day suspensions, parental home care and temporary cooling off periods, in-school suspensions, and any other whole or partial day disciplinary action which results in the IEP not being implemented as written are counted as a full day of suspension for students with IEPs, including: students with L/S disabilities, students who are not yet eligible (basis of knowledge), and students who are receiving comparable services while an initial evaluation is being completed. B) Bus suspensions and expulsions which result in an inability of the student to receive a free appropriate public education are treated the same as whole day school suspensions and expulsions for students with IEPs.
- 4) Administrators cannot arbitrarily make a decision to place students with IEPs on long-term homebound status or half-day programs for disciplinary purposes. Neither should IEP committees consider half-day programs or homebound services as appropriate placements for students with behavior problems as first or second placement options. Half-day programs and homebound status are the most restrictive of placement options and generally provide little to no access to the general education curriculum and generally do not provide for a free appropriate public education. Private placement, either day treatment or residential treatment, should be considered in instances when the school cannot provide appropriate full-day services in the public school system.
- 5) Students with IEPs cannot have shorter school day schedules than students without IEPs, unless their IEPs specifically call for a shorter day schedule due to individual needs, such as medically fragile children. However, in no instance, can "wholesale" administrative decisions be made to shorten school day schedules for entire groups of students with IEPs. For instance, if students without IEPs attend school from 8:00-3:00, students with IEPs cannot have a schedule of 8:30-2:00 as a matter of convenience, due to availability of buses, bus assistants, traffic, hallway traffic, etc.
- 6) University-based programs cannot make eligibility determinations nor can they develop IEPs for students with disabilities. As part of Child Find, they must refer children who are parentally-placed in their programs to the appropriate Child Find agency. For children under the age of three, the

appropriate Child Find agency is the Department of Health. For children age three and older, the appropriate Child Find agency is the Local Education Agency of the parents' residence.

- 7) **All references to eligibility for the preschool population** should include wording to indicate that the child's ability to participate in **developmentally appropriate activities** must be impacted, rather than having "adverse educational impact." Developmentally appropriate activities include: interacting with others; playing with other children; using toys and playground equipment in the same way other children their age do; sharing; communicating effectively through verbalizations; behavioral responding and emotional regulation; following directions; responding as expected to sensory input; moving around and within, and exploring their environments; independence in daily living skills, including feeding and toileting skills (adaptive behavior); separating easily from parents, etc. In the recommended changes in Section I of the Eligibility Determination Guidelines, Adverse Educational Impact, there is a statement: "Each evaluation must be sufficient to substantiate adverse educational impact. The report(s) must clearly document adverse educational impact for all eligibility determinations, including language/speech." However, for preschoolers, this wording should indicate that the child's ability to participate in developmentally appropriate activities must be impacted, especially for the Developmental Disability category for children ages 5 and under.
- 8) Assessment reports containing psycho-educational assessment results should not be released to parents without an appropriately trained professional (e.g., psychometrist, school psychologist, psychologist) who has experience in interpretation of test results providing them with an explanation of the results, with an opportunity to ask questions concerning the results. The American Psychological Association (APA) defines interpretation as "application of scientific knowledge and professional judgment to test data to describe and/or make inferences about individual or group characteristics or behavior" (APA Test User Qualifications, p. 8). The process of gathering information and making decisions in the assessment process includes (among other things) "accurately interpreting information, which may include knowing when to question the usual interpretation of a procedure because of intervening or mitigating circumstances; using assessment data and resultant interpretation to make professionally sound decisions; and when appropriately communicating assessment results in a way that is understandable to the client". Thus, without the ability to ask direct questions of a knowledgeable professional, the parent may have unanswered questions, misperceptions of assessment results, and experience undue distress without an appropriately provided interpretation of assessment results in a manner that is understandable. Most parents do not have the knowledge

and expertise to understand standardized scores, categorical information, and other information that is required in a psycho-educational report. However, with a skilled professional providing information about the results and the ability to ask clarifying questions, the parent can be empowered to have a fuller understanding of the assessment process and results. If necessary, this interpretation session could occur in advance of the eligibility meeting to allow the parent to fully consider the implications of the assessment results. Instead of routinely releasing assessment results to ALL parents, perhaps the requirement should be to release results to parents upon written request, with the offer of interpretation prior to the eligibility meeting.

- 9) 300.306: Is this language implying that eligibility determination occurs AFTER the 60 day evaluation timeline? If not, and the assessment results are going to be released to the parents seven days prior to the eligibility determination meeting, the 60-day timeline would be shortened. Therefore, it is recommended that the eligibility determination timeline be lengthened. The evaluation would be completed within 60 days. The report would be completed no later than 7 days after the evaluation date. The WPN and the evaluation report would be given to the parent at the same time, with an offer of interpretation of results prior to the MET meeting. The MET meeting would be scheduled within 7 days of the first WPN.
- 10) 300.301(b): When changing the timeline from school days to 14 calendar days for parent, TST, teacher, public agency, etc., requests for comprehensive evaluation, there needs to be a statement that Christmas Break is excluded from this timeline. If a request were to be made on the last day of school before Christmas Break, it would be impossible for the school to make the 14-calendar day timeline. You might want to go as far as to say that Christmas Break is the ONLY exclusion. Fall, Spring, and Summer breaks are NOT excluded. Under (i), (ii), and (iii)--(a) and (b) are in the wrong order. The wording under (b) should come first; the wording under (a) should come last.
- 11) NOTE: Severe discrepancy is defined as 1.5 standard deviations below ~~the mean of the standardized test measuring the measure of intellectual disability.~~ Ability, not disability
- 12) Please clarify that the observation for SLD or ADHD should be summarized in an assessment report. The actual observation form should be included with other assessment results, such as protocols. There is no specific required form for SLD or ADHD observations. Observations should document academics and behaviors, and their relationships to each other.

- 13) The requirements for Vocational Assessment need to be more specific.
- 14) The added requirement for Emotional Disability—situations in which the behavior does not occur—needs further explanation. If the child exhibits appropriate behavior in some settings, will s/he be excluded from the disability category? What is the purpose of this reporting requirement? Also, to be consistent in the wording, use the plural—“behaviors”—in the added statement since you use the plural throughout the definition.
-
- 15) Disability category—Language/Speech: Wording is awkward: “which is required for suspected ~~impaired~~ articulation disorders.” Take out the word “impaired.”
- 16) SLD team requirements—Diagnostics personnel: add—conduct *and interpret* individual diagnostic evaluations

Parents United Together Public Comments on 2013 proposed Changes to Policy 7219

Regulation Section

<p>Change the term mental retardation to intellectual disability</p> <p>300.8(a)(1); 300.8(c)(6-7); 300.8(c)(10)(ii); 300.309(3)(iii); 300.311(a)(6);</p>	<p>In 2007 the American Association on Mental Retardation changed its name to the American Association on Intellectual and Developmental Disabilities in order to reflect a change of vision. The change from "mental retardation" to "intellectual disability" reflects a revised focus. "Mentally retarded," once an accepted medical term, is today often used to demean and insult people. Changing how we talk about people with intellectual disabilities is a critical step in promoting and protecting basic civil and human rights.</p> <p>In 2009, National Special Olympics started the "Spread the Word to End the R-word Campaign." Many parents and advocates in Mississippi joined this campaign to encourage people and state agencies to replace the outdated terms "mentally retarded" and "mental retardation" with the terms "individual with an intellectual disability" and "intellectual disability."</p> <p>In 2009, parents, advocates, disability organizations, professionals and the Mississippi State Advisory Panel on Special Education made it very clear that the revised Mississippi Policies and Procedures Regarding Children with Disabilities under the Individuals with Disabilities Education Act Amendments of 2004 should also reflect this change of vision. After reviewing policies from all fifty states, we found sixty-one percent (61%) of state departments of education use a term other than mental retardation. An online survey was developed the need for this change in the Mississippi policies. Two hundred (200) people participated in the survey and overwhelmingly expressed the need for this change. The approved policies did not make these changes in terminology but instead added the following words, "<i>Mental retardation (MR)</i> (also referred to as intellectual disability by some entities)". Unfortunately, this recommendation was viewed as being controversial instead of simply being a recommendation for changes we knew were coming. We do want to thank State Board member Bill Jones from Petal who supported our recommendation</p>
	<p>In 2010, parents, advocates and disability organizations came together and advocate for changes in Mississippi laws to modernize terminology regarding Mississippians with intellectual disabilities. On April 1, 2010, Senate Bill 3004 was signed into law. We want to thank all our state Representatives and Senators who supported passage of SB 3004, but especially to Representatives Rita Martinson and Steve Holland and Senators Hob Bryan and former Senator Billy Hewes for all working together to make Mississippi one of the first states to change the terms mentally retarded and mental retardation to intellectual disability in state law.</p>
	<p>In 2010, a journey that began as one Maryland family's battle for respect and acceptance for their daughter and sister, Rosa, became a significant milestone in the ongoing battle for dignity, inclusion and respect of all people with intellectual disabilities when United States President Barack Obama signed bill S.2781 into federal law on October 5, 2010. Known as "Rosa's Law," the law removes the terms "mental retardation" and "mentally retarded" from federal health, education and labor policy and replaces them with people first language "individual with an intellectual disability" and "intellectual disability."</p>
	<p>In 2013, we are thankful for this change in terminology regarding children with intellectual disabilities.</p>

Regulation Section	Parents United Together Public Comments on 2013 proposed Changes to Policy 7219
<p>§ 300.147 Implementation by MDE.</p>	<p>Recommended Change: The MDE state policies should reflect the same wording as the IDEA regulations used in Section 300.147. In this section of the MDE state policies, the word shall is used instead of the word must.</p> <p>§ 300.147 Implementation by MDE.</p> <p>In implementing § 300.146, the MDE <u>must</u>—</p> <ul style="list-style-type: none"> (a) Monitor compliance through procedures such as written reports, onsite visits, and parent questionnaires; (b) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a child with a disability; and (c) Provide an opportunity for those private schools and facilities to participate in the development and revision of State standards that apply to them.
<p>§300.152 Minimum State complaint procedures</p>	<p>Recommended Changes: The MDE state policies should include the following wording:</p> <ul style="list-style-type: none"> (1) If the local educational agency sends a response to MDE, a copy of such response must be simultaneously provided to the child's parents/guardian. (2) MDE will simultaneously provide local school board members a copy of the MDE letter of findings and decisions relative to a complaint when sent to the local educational agency's superintendent.
<p>§300.168 State Advisory Panel Membership</p>	<p>Recommended Changes: The following positions should be added to the list of required members:</p> <ul style="list-style-type: none"> A representative from the Mississippi Parent Training and Information Center will be added to the list of required positions on the state advisory panel. A representative of the community colleges will take the place of one of the IHL representatives.
<p>§300.169 State Advisory Panel Duties</p>	<p>Recommended Changes: The following should be added to the list of duties:</p> <p>The Mississippi Advisory Panel on Special Education members will review any input received from LEA's to determine how IDEA Part B funds will be allocated in state level activities as described in section 300.704 to meet Mississippi's priorities in ensuring special education and related services are provided to children with disabilities.</p> <p>The state advisory panel will establish a membership committee consisting of panel members.</p> <p>The Mississippi Advisory Panel on Special Education members will determine the composition of the membership committee.</p>

<p>Regulation Section §300.169 State Advisory Panel Duties cont.</p>	<p>Parents United Together Public Comments on 2013 proposed Changes to Policy 7219</p> <p>The duties of the state advisory panel membership committee will be</p> <ol style="list-style-type: none"> 1) To meet at least annually 2) To review vacancies on the panel and members whose terms are expiring 3) To review membership applications 4) To make recommendations to the State Superintendent of Education for members to be appointed <p>A state advisory panel membership application must be completed for any individual being considered as a panel member. The membership application will be accessible but not limited to the MDE OSE web site, standard mail or fax.</p>
<p>§300.301 Initial Evaluations</p>	<p>We appreciate MDE establishing and including the seven day timeline for parents to receive a written prior notice for an initial evaluation or a written prior notice for the refusal to evaluate.</p> <p>Recommended Changes:</p> <ol style="list-style-type: none"> (1) When a verbal or written request for an initial evaluation is requested by: <ol style="list-style-type: none"> (i) a parent, the multidisciplinary evaluation team (MET) (<u>of which the parent is a member</u>) must meet within fourteen (14) calendar days to consider the request and to determine if a comprehensive evaluation is necessary. (ii) a public agency, the MET (<u>of which the parent is a member</u>) must meet within fourteen (14) calendar days to consider the request and to determine if a comprehensive evaluation is necessary. (iii) the Teacher Support Team (TST), the MET (<u>of which the parent is a member</u>) must meet within fourteen (14) calendar days to consider the request and to determine if a comprehensive evaluation is necessary.
<p>§300.305 Additional requirements for evaluations and reevaluations</p>	<p>We appreciate MDE including the wording, "Any observations conducted for a specific student in order to determine eligibility must be written in a report and included in the documentation provided to parents."</p>
<p>§300.306 Determination of Eligibility</p>	<p>We appreciate MDE establishing and including the timeline for parents to receive a copy of their child's evaluation report prior to the eligibility determination meeting.</p> <p>The use of the phrase "within a reasonable amount of time is a concern for us. The timeline used in §300.323 (c) (1) should be included.</p>

Regulation Section	Parents United Together Public Comments on 2013 proposed Changes to Policy 7219
§300.307 (a) (1) and (2) Specific Learning Disabilities	The MS policies regarding §300.307 should be changed to the wording used in the federal regulations to avoid confusion.
	§ 300.307 Specific learning disabilities. (a) (1) Must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability, as defined in § 300.8(c)(10); (2) Must permit the use of a process based on the child's response to scientific, research-based intervention;
§ 300.501 Opportunity to examine records; parent participation in meetings.	Recommended Change: The following words will be added to this section: An outside individual or entity contracting with a local educational agency for the purpose of performing an observation in order to make recommendations of possible changes in a child's IEP, or any outside individual or entity making an observation of a child which results in such recommendations, shall submit a report of the observation to the local educational agency within fourteen (14) days. The local educational agency shall provide a written copy of the report to the parent within seven (7) days of receiving the report.
§ 300.503 Prior notice by the public agency; content of notice.	Recommended Change: The following words will be added to this section: Written prior notice will be provided to the parents of the child at least seven (7) days whenever a local educational agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to that child.
§ 300.504 Procedural safeguards notice	The wording from MS Code Section 37-23-137 regarding the audio recording of an Individual Education Program Meeting should be included. The parent or guardian, or the local educational agency (LEA), has the right to participate in the development of the IEP and to initiate their intent to audio record the proceedings of the individualized education program (IEP) meetings. The parent or guardian or local educational agency shall notify the members of the IEP team of their intent to record a meeting at least twenty-four (24) hours prior to the meeting.
§ 300.530(d)(ii) Discipline	We appreciate MDE establishing and including the basic requirements of an Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP). A concern is the lack of behavior and social skills goals on a child's IEP when a BIP is developed. The BIP should be used as a tool to implement measurable goals on a child's IEP.

<p>Regulation Section Revised Program Improvement Monitoring</p>	<p>Parents United Together Public Comments on 2013 proposed Changes to Policy 7219</p> <p>Annual LEA Status Determinations</p> <p>The OSE is required to make annual determinations of each LEA's performance status. Determinations under RDA will be based upon an LEA's overall performance on a set of priority indicators and other relevant data. The following State determinations will be used:</p> <ol style="list-style-type: none"> 1. Meets Requirements 2. Needs Assistance 3. Needs Intervention 4. Needs Substantial Intervention <p>Recommended Change: All Annual LEA status determinations will be posted on the MDE OSE website.</p>
<p>Seclusion and Restraint policies for students receiving special education services</p>	<p>Recommended Change: Add an additional section which contains seclusion and restraint policies for students receiving special education services.</p> <ol style="list-style-type: none"> 1. Prohibit the following in schools under all conditions: <ol style="list-style-type: none"> (a) Prone restraints; (b) Any restraints that interfere with breathing; (c) Mechanical and chemical restraints; (d) Any other form of restraint except in situations in which the student poses a clear and imminent physical danger to himself or others; (e) Locked seclusion rooms or other rooms from which a child cannot exit, unless there is an imminent threat of immediate bodily harm, in which case a child can be placed in a locked room while awaiting the arrival of law enforcement or crisis intervention team; (f) Use of restraint or seclusion when they are medically or psychologically contraindicated for a child and; (g) Any behavior management or discipline technique that is intended to inflict injury, cause pain, demean, or deprive the student of basic human necessities or rights. 2. Make clear the other physical restraints can be used in school settings only to control acute or episodic aggressive behaviors that pose a clear and imminent physical danger to the student or others. <p>Restraints must</p> <ol style="list-style-type: none"> (a) be applied only by trained personnel, (b) may last only as long as necessary to resolve the actual risk of danger or harm, and (c) be limited to only the degree of force needed to protect from imminent injury and no more. <p>They may not be used when less intrusive methods would resolve the threat of harm, or to coerce compliance, as punishment, or for staff convenience.</p>

<p>Seclusion and Restraint policies for students receiving special education services</p>	<p>3. Prohibit the use of locked seclusion rooms and spaces from which children cannot exit, as noted above. If, in order to allow a child to de-escalate, timeout or cooling-off spaces are used, children must be able to exit them, they must be supervised at all times. The rooms must not be used for other purposes (e.g., punishment) or in place of providing appropriate related services and behavioral supports in the classroom. A child's legal right to learn with their peers in the least-restrictive environment must be respected and enforced.</p>
	<p>4. School districts and their employees will be held accountable when abusive interventions are used.</p>
	<p>5. Retaliation against any school personnel, parents, children, or other school community members who report the inappropriate or wrongful use of restraint, seclusion, or aversives will be prohibited.</p>
	<p>6. Children experiencing behavioral issues will receive a properly-conducted Functional Behavioral Assessment as part of creating the behavioral intervention plan.</p>
	<p>7. Children will receive effective positive behavior supports developed within a comprehensive, professionally-developed individualized plan of behavioral accommodations, related services, and interventions.</p>
	<p>8. Parents and school staff should work together collaboratively as equals to ensure that children receive appropriate interventions. School districts must ensure that parents are equal, participating members of the IEP team with regard to all decisions.</p>
	<p>9. Because of the dangers that restraints and seclusion pose, staff must immediately notify parents and senior administrators in writing of any use of seclusion or restraint, and document the incident in the child's file.</p>
	<p>10. School districts must always allow parents to make reasonable visits to their children's classroom and schools. Parents are an integral part of the school community and have a right to observe their children. After a restraint is used, the IEP team must meet to debrief, so as to prevent further incidents and to provide the child with the appropriate behavioral and other supports he may need. If the child has not received an FBA during the current school year, the IEP team should refer the child for an FBA.</p>
	<p>11. Training must include the proper use of research validated positive behavioral supports, crisis reduction and de-escalation techniques, along with other best practices. If the use of a particular restraint or form of seclusion is approved for use with any student in an emergency or dangerous situation, all personnel must receive training in its appropriate use and risks.</p>
	<p>12. Require schools and educational facilities to gather and report data, regarding each incident of in which an aversive intervention was used, the circumstances surrounding its use, whether a positive behavioral intervention plan had been implemented and a summary of it, and whether the child has suffered physical or psychological injury. Senior administrators should analyze trends within the school and among schools to ensure restraints and seclusion are used only in the rarest of situations; that positive behavioral interventions and de-escalation techniques are used in almost all situations.</p>
	<p>13. Data must be reported at the local and state levels.</p>

Parents United Together Public Comments on 2013 Proposed Changes to Policy 7219

Mandy Rogers

P.O. Box 2121

Madison, MS 39130

Desma Manigault-McElveen

From: Raymond Reeves
Sent: Thursday, May 30, 2013 11:52 AM
To: Desma Manigault-McElveen
Subject: FW: Public Comment

From: Ellen Burnham
Sent: Wednesday, May 15, 2013 2:20 PM
To: Raymond Reeves
Cc: Ann Moore; Armerita Tell
Subject: Fwd: Public Comment

Please add these to any other comments that have come in.

Sent from my iPhone :-)

Begin forwarded message:

From: Ruby Husband <husbandr.mde@gmail.com>
Date: May 15, 2013, 3:17:00 PM EDT
To: <EBurnham@mde.k12.ms.us>
Subject: Public Comment

Ellen,

Please find my comments in regards to changes in policies and procedures.

Public Comment

Provide parents a copy of the evaluation report 7 days prior to the eligibility determination

300.306(a)(2)

(2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. **LEAs must provide the parent(s) a copy of the evaluation report at least seven (7)**

calendar days prior to the eligibility determination meeting, unless the parent elects to waive the seven (7) day timeline in writing

Comment:

This would mean that Mississippi would be shortening the 60 day timeline for evaluation to a 53 day timeline due to the fact that Mississippi has decided that the evaluation and eligibility timelines are the same. If Mississippi did not have the eligibility timeline the same as evaluation timeline there would not be a problem with this policy change. In addition to this it could be an even greater issue in that the report has to be typed and therefore the evaluation timelessness is less than 53 days keeping in mind that these are calendar days and not school days without any consideration for long holidays. Please see the example below.

Parent signs for evaluation on November 25, 2013

Eligibility Date has to be on or before January 27, 2014

Thirty-six days you can't test due to weekends and holidays when children are not in school.

That leaves twenty-four days of the sixty days.

Take away seven days for sending assessment team report to parent, that leaves seventeen days.

Take away one day to write the assessment team report, it would leave sixteen days available for evaluation. That would be sixteen days if child is available. Most schools don't have school psychologists on staff for those who may need additional assessments. It could take a couple of weeks to get glasses.

Proposed change:

Change the date of eligibility from the 60 day timeline.



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Relay 711

June 3, 2013

Ellen Davis Burnham, Bureau Director
Mississippi Department of Education
Office of Special Education
Post Office Box 771
Jackson, Mississippi 39205-0771

Dear Ms. Burnham,

On behalf of the Mississippi Parent Training and Information Center (MSPTI) I am submitting the attached document as public comment on the 2013 Proposed Changes to Policy 7219.

MSPTI wishes to commend the Mississippi Department of Education on the following:

- Changing the term mental retardation to intellectual disability
- Establishing and including a seven day timeline for parents to receive a written prior notice for an initial evaluation or a written prior notice for the refusal to evaluate
- Inclusion of the wording, "Any observations conducted for a specific student in order to determine eligibility must be written in a report and included in the documentation provided to parents." In §300.306 - Determination of Eligibility
- Establishing and including the timeline for parents to receive a copy of their child's evaluation report prior to the eligibility determination meeting
- Establishing and including the basic requirements of a Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP).

Thank you for your consideration of our comments on proposed changes and additions to the 2013 Proposed Changes to Policy 7219.

Sincerely,

Pam Dollar
Executive Director

**Mississippi Parent Training and Information Center
Public Comments on 2013 Proposed Changes to Policy 7219**

Regulation Number	Public Comment - 2013 proposed Changes to Policy 7219
300.147	<p>Recommended Change: The MDE state policies should reflect the same wording as the IDEA regulations used in Section 300.147. In this section of the MDE state policies, the word shall is used instead of the word must.</p> <p>In implementing § 300.146, the MDE <u>must</u> —</p> <ul style="list-style-type: none"> (a) Monitor compliance through procedures such as written reports, onsite visits, and parent questionnaires; (b) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a child with a disability; and (c) Provide an opportunity for those private schools and facilities to participate in the development and revision of State standards that apply to them.
300.152 Minimum State complaint procedures	<p>Recommended Changes: The MDE state policies should include the following wording:</p> <ul style="list-style-type: none"> (1) If the local educational agency sends a response to MDE, a copy of such response must be simultaneously provided to the child's parents/guardian. (2) MDE will simultaneously provide local school board members a copy of the MDE letter of findings and decisions relative to a complaint when sent to the local educational agency's superintendent.
300.168 State Advisory Panel Membership	<p>Recommended Changes: The following positions should be added to the list of required members:</p> <ul style="list-style-type: none"> • A representative from the Mississippi Parent Training and Information Center will be added to the list of required positions on the state advisory panel. • A representative of the community colleges will take the place of one of the IHL representatives.

Mississippi Parent Training and Information Center Public Comments on 2013 Proposed Changes to Policy 7219

Regulation Number	Public Comment - 2013 proposed Changes to Policy 7219
<p>300.169 State Advisory Panel Duties</p>	<p>Recommended Changes: The following should be added to the list of duties:</p> <ul style="list-style-type: none"> • The Mississippi Advisory Panel on Special Education members will review any input received from LEA's to determine how IDEA Part B funds will be allocated in state level activities as described in section 300.704 to meet Mississippi's priorities in ensuring special education and related services are provided to children with disabilities. • The state advisory panel will establish a membership committee consisting of panel members. • The Mississippi Advisory Panel on Special Education members will determine the composition of the membership committee.
<p>300.169 State Advisory Panel Duties continued</p>	<p>The duties of the state advisory panel membership committee will be</p> <ol style="list-style-type: none"> 1) To meet at least annually 2) To review vacancies on the panel and members whose terms are expiring 3) To review membership applications 4) To make recommendations to the State Superintendent of Education for members to be appointed <p>A state advisory panel membership application must be completed for any individual being considered as a panel member. The membership application will be accessible but not limited to the MDE OSE web site, standard mail or fax.</p>
<p>300.301 Initial Evaluations</p>	<p>Recommended Changes:</p> <ol style="list-style-type: none"> (1) When a verbal or written request for an initial evaluation is requested by: <ol style="list-style-type: none"> (i) a parent, the multidisciplinary evaluation team (MET) (of which the parent is a member) must meet within fourteen (14) calendar days to consider the request and to determine if a comprehensive evaluation is necessary. (ii) a public agency, the MET (of which the parent is a member) must meet within fourteen (14) calendar days to consider the request and to determine if a comprehensive evaluation is necessary. (iii) the Teacher Support Team (TST), the MET (of which the parent is a member) must meet within fourteen (14) calendar days to consider the request and to determine if a comprehensive evaluation is necessary.

Mississippi Parent Training and Information Center Public Comments on 2013 Proposed Changes to Policy 7219

Regulation Number	Public Comment - 2013 proposed Changes to Policy 7219
300.306 Determination of Eligibility	The use of the phrase "within a reasonable amount of time is a concern. The timeline used in §300.323 (c) (1) should be included.
300.307 (a) (1) and (2) Specific Learning Disabilities	<p>The MS policies regarding §300.307 should be changed to the wording used in the federal regulations to avoid confusion.</p> <p>§ 300.307 Specific learning disabilities.</p> <p>(a) (1) Must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability, as defined in § 300.8(c)(10);</p> <p>(2) Must permit the use of a process based on the child's response to scientific, research-based intervention;</p>
300.501 Opportunity to examine records; parent participation in meetings.	<p>Recommended Change: The following words will be added to this section: An outside individual or entity contracting with a local educational agency for the purpose of performing an observation in order to make recommendations of possible changes in a child's IEP, or any outside individual or entity making an observation of a child which results in such recommendations, shall submit a report of the observation to the local educational agency within fourteen (14) days. The local educational agency shall provide a written copy of the report to the parent within seven (7) days of receiving the report.</p>
300.503 Prior notice by the public agency; content of notice.	<p>Recommended Change: The following words will be added to this section: Written prior notice will be provided to the parents of the child withinat least seven (7) days whenever a local educational agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to that child.</p>
300.504 Procedural safeguards notice	<p>The wording from MS Code Section 37-23-137 regarding the audio recording of an Individual Education Program Meeting should be included.</p> <p>The parent or guardian, or the local educational agency (LEA), has the right to participate in the development of the IEP and to initiate their intent to audio record the proceedings of the individualized education program (IEP) meetings. The parent or guardian or local educational agency shall notify the members of the IEP team of their intent to record a meeting at least twenty-four (24) hours prior to the meeting.</p>

**Mississippi Parent Training and Information Center
Public Comments on 2013 Proposed Changes to Policy 7219**

Regulation Number	Public Comment - 2013 proposed Changes to Policy 7219
300.530(d)(ii) Discipline	<p>A concern is the lack of behavior and social skills goals on a child's IEP when a BIP is developed. The BIP should be used as a tool to implement measurable goals on a child's IEP.</p>
Revised Program Improvement Monitoring	<p>Annual LEA Status Determinations</p> <p>The OSE is required to make annual determinations of each LEA's performance status. Determinations under RDA will be based upon an LEA's overall performance on a set of priority indicators and other relevant data. The following State determinations will be used:</p> <ol style="list-style-type: none"> 1. Meets Requirements 2. Needs Assistance 3. Needs Intervention 4. Needs Substantial Intervention <p>Recommended Change: All Annual LEA status determinations will be posted on the MDE OSE website.</p>
Seclusion and Restraint policies for students receiving special education services	<p>Recommended Change: Add an additional section which contains seclusion and restraint policies for students receiving special education services.</p> <ol style="list-style-type: none"> 1. Prohibit the following in schools under all conditions: <ol style="list-style-type: none"> (a) Prone restraints; (b) Any restraints that interfere with breathing; (c) Mechanical and chemical restraints; (d) Any other form of restraint except in situations in which the student poses a clear and imminent physical danger to himself or others; (e) Locked seclusion rooms or other rooms from which a child cannot exit, unless there is an imminent threat of immediate bodily harm, in which case a child can be placed in a locked room while awaiting the arrival of law enforcement or crisis intervention team; (f) Use of restraint or seclusion when they are medically or psychologically contraindicated for a child and; (g) Any behavior management or discipline technique that is intended to inflict injury, cause pain, demean, or deprive the student of basic human necessities or rights.

Mississippi Parent Training and Information Center Public Comments on 2013 Proposed Changes to Policy 7219

Regulation Number	Public Comment - 2013 proposed Changes to Policy 7219
<p>Seclusion and Restraint policies for students receiving special education services (continued)</p>	<p>2. Make clear the other physical restraints can be used in school settings only to control acute or episodic aggressive behaviors that pose a clear and imminent physical danger to the student or others.</p> <p>Restraints must</p> <ul style="list-style-type: none"> (a) be applied only by trained personnel, (b) may last only as long as necessary to resolve the actual risk of danger or harm, and (c) be limited to only the degree of force needed to protect from imminent injury and no more. <p>They may not be used when less intrusive methods would resolve the threat of harm, or to coerce compliance, as punishment, or for staff convenience.</p> <p>3. Prohibit the use of locked seclusion rooms and spaces from which children cannot exit, as noted above. If, in order to allow a child to de-escalate, timeout or cooling-off spaces are used, children must be able to exit them, they must be supervised at all times. The rooms must not be used for other purposes (e.g., punishment) or in place of providing appropriate related services and behavioral supports in the classroom. A child's legal right to learn with their peers in the least-restrictive environment must be respected and enforced.</p> <p>4. School districts and their employees will be held accountable when abusive interventions are used.</p> <p>5. Retaliation against any school personnel, parents, children, or other school community members who report the inappropriate or wrongful use of restraint, seclusion, or aversives will be prohibited.</p> <p>6. Children experiencing behavioral issues will receive a properly-conducted Functional Behavioral Assessment as part of creating the behavioral intervention plan.</p> <p>7. Children will receive effective positive behavior supports developed within a comprehensive, professionally-developed individualized plan of behavioral accommodations, related services, and interventions.</p> <p>8. Parents and school staff should work together collaboratively as equals to ensure that children receive appropriate interventions. School districts must ensure that parents are equal, participating members of the IEP team with regard to all decisions.</p> <p>9. Because of the dangers that restraints and seclusion pose, staff must immediately notify parents and senior administrators in writing of any use of seclusion or restraint, and document the incident in the child's file.</p>

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Public Comments on 2013 Proposed Changes to Policy 7219**

Regulation Number	Public Comment - 2013 proposed Changes to Policy 7219
<p>Seclusion and Restraint policies for students receiving special education services (continued)</p>	<p>10. School districts must always allow parents to make reasonable visits to their children's classroom and schools. Parents are an integral part of the school community and have a right to observe their children. After a restraint is used, the IEP team must meet to debrief, so as to prevent further incidents and to provide the child with the appropriate behavioral and other supports he may need. If the child has not received an FBA during the current school year, the IEP team should refer the child for an FBA.</p> <p>11. Training must include the proper use of research validated positive behavioral supports, crisis reduction and de-escalation techniques, along with other best practices. If the use of a particular restraint or form of seclusion is approved for use with any student in an emergency or dangerous situation, all personnel must receive training in its appropriate use and risks.</p> <p>12. Require schools and educational facilities to gather and report data, regarding each incident of in which an aversive intervention was used, the circumstances surrounding its use, whether a positive behavioral intervention plan had been implemented and a summary of it, and whether the child has suffered physical or psychological injury. Senior administrators should analyze trends within the school and among schools to ensure restraints and seclusion are used only in the rarest of situations; that positive behavioral interventions and de-escalation techniques are used in almost all situations.</p> <p>13. Data must be reported at the local and state levels.</p>

Reply Reply All Forward

Comments Regarding Proposed MDE SPED Policy

Candace Moore [candacemoore@amory.k12.ms.us]

To: Special Ed

Cc: Tony Cook

Thursday, May 16, 2013 7:48 AM

You forwarded this message on 5/29/2013 8:53 AM.

300.115(b)(1)

Please **exclude verbal** with the following obligation: **For parents who need assistance with a written request for assessment, require school personnel to do so upon verbal request by the parent.**

300.301 (b) iii

It will be all but impossible to hold a MET meeting within the proposed time line of 14 calendar days. For the sake of the reality of the typical MS school calendar, please **consider school days** rather than calendar days. For example, our Christmas holidays this coming school year will begin December 21. Teachers and staff won't report back until January 6. That's a total of 17 days out of school which means 17 days without school employees to hold a MET meeting.

300.306(a) (2)

Providing parents with a copy of the report 7 days prior to the meeting basically cuts the school district's 60 days to conduct comprehensive assessment to 53. Please consider requiring districts to provide parents with a copy of the reports **on or before the date the Written Prior Notice** is given/provided.

Candace T. Moore, PhD

Director of Special Programs

Amory School District

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