



State of Rhode Island and Providence Plantations  
**DEPARTMENT OF EDUCATION**  
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Peter McWalters  
Commissioner

**Enclosure # 4**  
**RI Board of Regents**  
**Date: December 19, 2007**

**TO:** Board of Regents

**FROM:** Peter McWalters, Commissioner

**DATE:** December 19, 2007

**RE:** Approval of the Special Education Regulations

The Rhode Island Department of Education must promulgate special education regulations to be implemented no later than July 1, 2008. The Proposed regulations were approved for public comment by the Rhode Island Board of Regents on September 27, 2007. The Board then held four public hearings and four work sessions, after which they determined that additional changes should be made to several sections of the proposed regulations, as follows:

**Extended School Year;**

ESY services will be determined through the IEP process on an individual basis. The language promulgated in the regulations will comply with the intent and language of the Individuals with Disabilities Education Act, while promoting the use of an ESY, when needed.

**Class Size/Case Load;**

Class size maximums for self contained classrooms and case load ratios will be determined based on the needs of students within a district. The Department of Education will continue to give guidance and to monitor the district plans and results, and, as an additional safeguard, the commissioner will have authority to intervene when necessary.

**Parentally Placed Private School Students;**

PPPSS will continue to receive FAPE from the district where the student resides as well as a service plan from the district where the private school is located through the 2008-2009 school year. As of July 1, 2009, PPPSS will receive services through a service plan based on proportionate share only.

**Speech-Language;**

Speech and language shall remain a special education service for students through age eight.

These regulations will help to provide the best education for Rhode Island public school students. Staff will be available to answer any questions you might have.

**THEREFORE, I RECOMMEND THAT: the Rhode Island Board of Regents for Elementary and Secondary Education Approve the Changes to the Special Education Regulations, as Presented.**

**EDITED ON 12-19-07**

**Proposed regulation:**

**300.106 Extended school year services.**

**(a) General.**

(1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a) (2) of this section.

(2) Extended school year services must be provided **when** a child's IEP Team determines, on an individual basis, in accordance with § 300.320 through § 300.324, that the services are necessary for the provision of FAPE to the child.

(3) In implementing the requirements of this section, a public agency may not—

(i) Limit extended school year services to particular categories of disability; or

(ii) Unilaterally limit the type, amount, or duration of those services.

(b) **Definition.** As used in this section, the term extended school year services means special education and related services that—

(1) Are provided to a child with a disability—

(i) Beyond the normal school year of the public agency;

(ii) In accordance with the child's IEP; and

(iii) At no cost to the parents of the child; and

(2) Meet the RI Department of Education extended school year standards as adopted by the RI Board of Regents.

## **Parentally Placed Private School Students**

**Recommended regulations:**

**\*\*\*This section (300.129) is effective until July 1, 2009\*\*\***

### **300.129 Children with Disabilities Enrolled By Their Parents in Private Schools**

#### **I. Definition of "private school children with disabilities."**

As used in this part, **private school children with disabilities** means children with disabilities enrolled by their parents in private schools or facilities.

#### **II. Child find for private school children with disabilities.**

(a) Each LEA shall locate, identify, and evaluate all private school children with disabilities, including religious-school children residing in the jurisdiction of the LEA. The activities undertaken to carry out this responsibility for private school children with disabilities must be comparable to activities undertaken for children with disabilities in public schools.

(b) Each LEA shall consult with appropriate representatives of private school children with disabilities on how to carry out the activities described in paragraph (a) of this section.

#### **III. Provision of services—basic requirement.**

(a) **General.** Each LEA shall make a FAPE available to eligible students with disabilities who are enrolled by their parents in private schools.

(b) **LEA Responsibility.** Each LEA shall ensure that, an IEP is developed and implemented for each eligible child with a disability enrolled by their parents in a private school and that the child is afforded all of the rights of a child with a disability served by the LEA.

#### **IV. Services determined.**

(1) A private school child with a disability has a right to a FAPE.

(2) Decisions about the services that will be provided to private school children with disabilities must be made by the IEP team.

## **V. Services provided.**

### **(a) General.**

(1) The services provided to private school children with disabilities by the LEA must be provided by personnel meeting the same standards as personnel providing services in the public schools.

### **(b) Services provided in accordance with an IEP.**

(1) Each private school child with a disability who has been designated to receive special education and related services must have an IEP.

## **VI. Location of services; transportation.**

(a) **On-site.** Services provided to private school children with disabilities may be provided on-site at a child's private school, including a religious school.

### **(b) Transportation.**

#### **(1) General.**

(i) If necessary for the child to benefit from or participate in the services provided under this part, a private school child with a disability must be provided transportation—

(A) From the child's school or the child's home to a site other than the private school; and

(B) From the service site to the private school, or to the child's home, depending on the timing of the services.

## **VI. (A) Non Public and State Operated School Programs.**

(1) To be eligible for approval by the Rhode Island Department of Elementary and Secondary Education, special education programs conducted in private and state-operated schools in Rhode Island shall meet the regulations governing the approval of school programs. Private and state operated school programs shall be evaluated in the same manner, on the same schedule and with the same criteria and procedures as utilized for public schools in Rhode Island and shall be subject to on-site visits by the Rhode Island Commissioner of Elementary and Secondary or the Commissioner's authorized representative as often as is deemed necessary by the RIDE. Approval of such programs shall be on a triennial basis.

(2) All special education programs in any private and state operated day or residential school shall meet the same standards as those established for public school programs.

(3) Private and state operated school programs shall provide related services by appropriately certified personnel in accordance with the needs of the students with disabilities to be served, as determined by the IEP process. Caseloads for specialized personnel shall be assigned based on the time required to meet the needs of children with disabilities, as determined by the IEP process.

(4) Monitoring of a child with a disability's progress in a private day or residential school program shall be conducted by the special education director or designee, trained in the child's area of need, who shall be from the school district where the child resides.

(5) Special Education programs for children with disabilities in state operated schools shall be monitored by the Rhode Island Department of Elementary and Secondary Education.

(6) Private day or residential programs shall employ a certified administrator of special education, whose basic responsibilities shall be the overall administration and supervision of the special education program, and whose schedule shall be determined based on the time required to meet the needs of the children with disabilities.

(7) Each private day and residential school program shall have a statement of financial stability which identifies sufficient assets to establish and maintain a satisfactory program of education on a continuing basis. The owner(s) of a school, whether for initial approval or renewal of approval, shall also furnish statements of income and retained earnings and changes in financial position.

These statements shall include in a clearly identifiable manner, records of receipts and expenditures, personnel salaries, and tuition. All statements shall be prepared by a Public Accountant or Certified Public Accountant, but need not be certified by the Accountant or supported by an audit. These statements shall be accompanied by a notarized statement by the owner(s) or the director of the school that the financial statements are true and correct, and shall identify the name of the Public Accountant or Certified Public Accountant who prepared the statements.

(8) Information on tuition and/or fee schedule shall be submitted to the Rhode Island Department of Elementary and Secondary Education in accordance with forms and instructions supplied by the RIDE as part of the school approval application.

(9) Each non-public day and residential school program shall use and have available for inspection written administrative procedures that encompass the following:

(i) Provision for emergency and early termination of children including prior consultation with the special education director in the school district of the child's residence in order to provide for an orderly transfer of responsibility back to this special education director.

(ii) Provision of procedural safeguards which cover the same areas required for public schools.

(iii) Provision for parental involvement including parental education and counseling. (iv) Provision for staff training.

(v) Provision of measures which protect all students from exposure to humiliation or verbal abuse or any form of corporal punishment that could be construed as cruel or severe.

(vi) Provision of written reports on each child which are mailed to the child's parents and the special education director in the child's resident school district at least as often as the public school district reports progress to parents of non disabled children.

#### **VI. (B) State Responsibility.**

In ensuring that each LEA meets their responsibilities under section 300.145 through 300.147 of these regulations, the RIDE shall—

(a) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;

(b) Disseminate copies of applicable standards to each private school and facility to which a LEA has referred or placed a child with a disability; and

(c) Provide an opportunity for those private schools and facilities to participate in development and revision of State standards that apply to them.

#### **VII. Complaints and Due Process.**

(a) Complaints. The procedures in 300.151-300.153 apply to complaints that a LEA has failed to meet their responsibility to provide FAPE to children enrolled in private schools under this section.

(b) Due Process. The procedures in 300.504-300.518 relating to mediation and due process hearings apply to complaints that a LEA has failed to meet their requirements under this section.

#### **VIII. Separate classes prohibited.**

A LEA may not use funds available under section 611 or 619 of the Act for classes that are organized separately on the basis of school enrollment or religion of the student if—

(a) The classes are at the same site; and

(b) The classes include students enrolled in public schools and students enrolled in private schools.

#### **IX. Requirement that Funds Not Benefit a Private School.**

(a) A LEA may not use funds provided under section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school.

(b) The LEA shall use funds provided under part B of the Act to meet the special education and related services needs of students enrolled in private schools, but not for—

- (1) The needs of a private school; or
- (2) The general needs of the students enrolled in the private school.

**X. Use of Public School Personnel.**

A LEA may use funds available under sections 611 and 619 of the Act to make public school personnel available in other than public facilities---

- (a) to the extent necessary to provide services under this part for private school children with disabilities; and
- (b) If those services are not normally provided by the private school.

**XI. Use of Private School Personnel.**

A LEA may use funds available under section 611 or 619 of the Act to pay for the services of an employee of a private school to provide services for private school children with disabilities if--

- (a) The employee performs the services outside of his or her regular hours of duty; and
- (b) The employee performs the services under public supervision and control.

**XII. Requirements concerning property, equipment, and supplies for the benefit of private school children with disabilities.**

(a) A LEA must keep title to and exercise continuing administrative control of all property, equipment, and supplies that the LEA acquires with funds under section 611 or 619 of the Act for the benefit of private school children with disabilities.

(b) The LEA may place equipment and supplies in a private school for the period of time needed for the program.

(c) The LEA shall ensure that the equipment and supplies placed in a private school—

- (1) Are used only for Part B purposes; and
- (2) Can be removed from the private school without remodeling the private school facility.

(d) The LEA shall remove equipment and supplies from a private school if--

- (1) the equipment and supplies are no longer needed for Part B purposes; or
  - (2) Removal is necessary to avoid unauthorized use of the equipment and supplies from other than Part B purposes.
- (d) No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities.

**\*\*\*This section (300.132) becomes effective on July 1, 2009\*\*\***

**300.132 Provision of services for parentally-placed private school children with disabilities—basic requirement.**

(a) *General.* To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, provision is made for the participation of those children in the program assisted or carried out under Part B of the Act by providing them with special education and related services, including direct services determined in accordance with § 300.137.

(b) *Services plan for parentally-placed private school children with disabilities.* In accordance with paragraph (a) of this section and §§ 300.137 through 300.139, a services plan must be developed and implemented for each private school child with a disability who has been designated by the LEA in which the private school is located to receive special education and related services under this part.

(c) *Record keeping.* Each LEA must maintain in its records, and provide to the SEA, the following information related to parentally-placed private school children covered under §§ 300.130 through 300.144:

- (1) The number of children evaluated;
- (2) The number of children determined to be children with disabilities; and
- (3) The number of children served.

**\*\*\*This section (300.133) becomes effective on July 1, 2009\*\*\***

### **300.133 Expenditures.**

(a) *Formula.* To meet the requirement of § 300.132(a), each LEA must spend the following on providing special education and related services (including direct services) to parentally-placed private school children with disabilities:

(1) For children aged 3 through 21, an amount that is the same proportion of the LEA's total subgrant under section 611(f) of the Act as the number of private school children with disabilities aged 3 through 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged 3 through 21.

(2)(i) For children aged three through five, an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the number of parentally-placed private school children with disabilities aged three through five who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged three through five.

(ii) As described in paragraph (a)(2)(i) of this section, children aged three through five are considered to be parentally-placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school in §300.13.

(3) If an LEA has not expended for equitable services all of the funds described in paragraphs (a)(1) and (a)(2) of this section by the end of the fiscal year for which Congress appropriated the funds, the LEA must obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school children with disabilities during a carry-over period of one additional year.

(b) *Calculating proportionate amount.* In calculating the proportionate amount of Federal funds to be provided for parentally-placed private school children with disabilities, the LEA, after timely and meaningful consultation with representatives of private schools under § 300.134, must conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending private schools located in the LEA. (See Appendix B of federal regulations for an example of how proportionate share is calculated)

(c) *Annual count of the number of parentally-placed private school children with disabilities.*

(1) Each LEA must—

(i) After timely and meaningful consultation with representatives of parentally-placed private school children with disabilities (consistent with § 300.134), determine the number of parentally-placed private school children with disabilities attending private schools located in the LEA; and

(ii) Ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year.

(2) The count must be used to determine the amount that the LEA must spend on providing special education and related services to parentally-placed private school children with disabilities in the next subsequent fiscal year.

(d) *Supplement, not supplant.* State and local funds may supplement and in no case supplant the proportionate amount of Federal funds required to be expended for parentally-placed private school children with disabilities under this part.

**\*\*\*This section (300.134) becomes effective on July 1, 2009\*\*\***

### **300.134 Consultation.**

To ensure timely and meaningful consultation, an LEA, or, if appropriate, an SEA, must consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

(a) Child find. The child find process, including—

(1) How parentally-placed private school children suspected of having a disability can participate equitably; and

(2) How parents, teachers, and private school officials will be informed of the process.

(b) *Proportionate share of funds*. The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under § 300.133(b), including the determination of how the proportionate share of those funds was calculated.

(c) *Consultation process*. The consultation process among the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.

(d) *Provision of special education and related services*. How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of—

(1) The types of services, including direct services and alternate service delivery mechanisms; and

(2) How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and

(3) How and when those decisions will be made;

(e) *Written explanation by LEA regarding services*. How, if the LEA disagrees with the views of the private school officials on the provision of services or the types of services (whether provided directly or through a contract), the LEA will provide to the private school officials a written explanation of the reasons why the LEA chose not to provide services directly or through a contract.

**\*\*\*This section (300.135) becomes effective on July 1, 2009\*\*\***

### **300.135 Written affirmation.**

(a) When timely and meaningful consultation, as required by § 300.134, has occurred, the LEA must obtain a written affirmation signed by the representatives of participating private schools.

(b) If the representatives do not provide the affirmation within a reasonable period of time, the LEA must forward the documentation of the consultation process to the SEA.

**\*\*\*This section (300.136) becomes effective on July 1, 2009\*\*\***

### **300.136 Compliance.**

(a) *General*. A private school official has the right to submit a complaint to the SEA that the LEA—

(1) Did not engage in consultation that was meaningful and timely; or

(2) Did not give due consideration to the views of the private school official.

(b) *Procedure*. (1) If the private school official wishes to submit a complaint, the official must provide to the SEA the basis of the noncompliance by the LEA with the applicable private school provisions in this part; and

(2) The LEA must forward the appropriate documentation to the SEA.

- (3)(i) If the private school official is dissatisfied with the decision of the SEA, the official may submit a complaint to the Secretary by providing the information on noncompliance described in paragraph (b)(1) of this section; and
- (ii) The SEA must forward the appropriate documentation to the Secretary.

**\*\*\*This section (300.137) becomes effective on July 1, 2009\*\*\***

**300.137 Equitable services determined.**

- (a) *No individual right to special education and related services.* No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.
- (b) *Decisions.* (1) Decisions about the services that will be provided to parentally-placed private school children with disabilities under §§ 300.130 through 300.144 must be made in accordance with paragraph (c) of this section and § 300.134(c).
- (2) The LEA must make the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities.
- (c) *Services plan for each child served under §§ 300.130 through 300.144.* If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from an LEA, the LEA must—
- (1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with § 300.138(b); and
- (2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls.

**\*\*\*This section (300.138) becomes effective on July 1, 2009\*\*\***

**300.138 Equitable services provided.**

- (a) *General.* (1) The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to meet the highly qualified special education teacher requirements of §300.18.
- (2) Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.
- (b) *Services provided in accordance with a services plan.* (1) Each parentally-placed private school child with a disability who has been designated to receive services under § 300.132 must have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in §§ 300.134 and 300.137, it will make available to parentally-placed private school children with disabilities.
- (2) The services plan must, to the extent appropriate—
- (i) Meet the requirements of § 300.320, or for a child ages three through five, meet the requirements of § 300.323(b) with respect to the services provided; and
- (ii) Be developed, reviewed, and revised consistent with §§ 300.321 through 300.324.
- (c) *Provision of equitable services.* (1) The provision of services pursuant to this section and §§ 300.139 through 300.143 must be provided:
- (i) By employees of a public agency; or

- (ii) Through contract by the public agency with an individual, association, agency, organization, or other entity.
- (2) Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular and neutral.

**\*\*\*This section (300.139) becomes effective on July 1, 2009\*\*\***

### **300.139 Location of services and transportation.**

- (a) *Services on private school premises.* Services to parentally-placed private school children with disabilities may be provided on the premises of private, including religious, schools, to the extent consistent with law.
- (b) *Transportation*—(1) *General.* (i) If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed private school child with a disability must be provided transportation—
  - (A) From the child’s school or the child’s home to a site other than the private school; and
  - (B) From the service site to the private school, or to the child’s home, depending on the timing of the services.
- (ii) LEAs are not required to provide transportation from the child’s home to the private school.
- (2) *Cost of transportation.* The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the LEA has met the requirement of §300.133.

**\*\*\*This section (300.140) becomes effective on July 1, 2009\*\*\***

### **300.140 Due process complaints and State complaints.**

- (a) *Due process not applicable, except for child find.* (1) Except as provided in paragraph (b) of this section, the procedures in §§ 300.504 through 300.519 do not apply to complaints that an LEA has failed to meet the requirements of §§ 300.132 through 300.139, including the provision of services indicated on the child’s services plan.
- (b) *Child find complaints—to be filed with the LEA in which the private school is located.* (1) The procedures in §§ 300.504 through 300.519 apply to complaints that an LEA has failed to meet the child find requirements in § 300.131, including the requirements in §§ 300.300 through 300.311.
  - (2) Any due process complaint regarding the child find requirements (as described in paragraph (b)(1) of this section) must be filed with the LEA in which the private school is located and a copy must be forwarded to the SEA.
- (c) *State complaints.* (1) Any complaint that an SEA or LEA has failed to meet the requirements in §§ 300.132 through 300.135 and 300.137 through 300.144 must be filed in accordance with the procedures described in §§ 300.151 through 300.153.
  - (2) A complaint filed by a private school official under § 300.136(a) must be filed with the SEA in accordance with the procedures in § 300.136(b).

**\*\*\*This section (300.141) becomes effective on July 1, 2009\*\*\***

### **300.141 Requirement that funds not benefit a private school. (formerly 300.459)**

- (a) An LEA may not use funds provided under section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school.
- (b) The LEA must use funds provided under Part B of the Act to meet the special education and related services needs of parentally-placed private school children with disabilities, but not for meeting—

- (1) The needs of a private school; or
- (2) The general needs of the students enrolled in the private school.

**\*\*\*This section (300.142) becomes effective on July 1, 2009\*\*\***

**300.142 Use of personnel. (formerly 300.460-461)**

(a) *Use of public school personnel.* An LEA may use funds available under sections 611 and 619 of the Act to make public school personnel available in other than public facilities—

- (1) To the extent necessary to provide services under §§ 300.130 through 300.144 for parentally-placed private school children with disabilities; and
- (2) If those services are not normally provided by the private school.

(b) *Use of private school personnel.* An LEA may use funds available under sections 611 and 619 of the Act to pay for the services of an employee of a private school to provide services under §§ 300.130 through 300.144 if—

- (1) The employee performs the services outside of his or her regular hours of duty; and
- (2) The employee performs the services under public supervision and control.

**\*\*\*This section (300.143) becomes effective on July 1, 2009\*\*\***

**300.143 Separate classes prohibited. (formerly 300.458)**

An LEA may not use funds available under section 611 or 619 of the Act for classes that are organized separately on the basis of school enrollment or religion of the children if—

- (a) The classes are at the same site; and
- (b) The classes include children enrolled in public schools and children enrolled in private schools.

**\*\*\*This section (300.144) becomes effective on July 1, 2009\*\*\***

**300.144 Property, equipment, and supplies. (formerly 300.462)**

(a) A public agency must control and administer the funds used to provide special education and related services under §§ 300.137 through 300.139, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the Act.

(b) The public agency may place equipment and supplies in a private school for the period of time needed for the Part B program.

(c) The public agency must ensure that the equipment and supplies placed in a private school—

- (1) Are used only for Part B purposes; and
- (2) Can be removed from the private school without remodeling the private school facility.

(d) The public agency must remove equipment and supplies from a private school if—

- (1) The equipment and supplies are no longer needed for Part B purposes; or
- (2) Removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.

(e) No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities.

## Personnel

### Proposed regulations:

#### **300.157 Personnel Requirements**

(a) Staffing. It is the responsibility of the public agency to assess the needs of students with disabilities, assign personnel in accordance with those needs, and evaluate the delivery of services to determine whether the agency's program conforms to the requirements of these regulations and the Individuals with Disabilities Act (IDEA).

(b) Special Education Administrators. Every public agency shall employ a sufficient number of special education administrators necessary to carry out the requirements of these regulations and the IDEA. Any public agency may enter into an agreement with one or more other public agencies to employ the required number of special education administrators in operation of a regional special education program

(c) Other Personnel. Every public agency shall employ a sufficient number of professionals, paraprofessionals, and assistants to meet all of the evaluation and placement timelines, as well as each student's individual service needs identified through the evaluation, and resulting in the individualized education program (IEP). Caseloads shall be assigned by the public agency in a prudent and equitable manner, based on the time required to properly serve the needs of the students with disabilities involved, as determined by the evaluation process and resulting in the IEP.

(d) Reporting. Every public agency shall provide RIDE with the agency's policy to determine the number and types of personnel required under this section, and a description of the public process the agency used to develop its policy. Every public agency shall report annually to RIDE **the agency's plan, pursuant to said policy, to comply with this regulation, including** the number of full-time equivalent positions of special education administrators, special education teachers, school psychologist, speech/language pathologists, school social workers, and physical and occupational therapists, respectively, it uses to meet the needs of students with disabilities.

**(e) The Commissioner of Education may establish a class size maximum and/or staffing ratios for any group(s) of personnel, class, school, or district, if the commissioner determines that:**

**(1) The plan submitted by the district under paragraph (d) is insufficient to fulfill the requirements of this section,**

**(2) The district has failed to comply with the terms of the plan submitted by the district under paragraph (d),  
or**

**(3) Student performance within or throughout the district warrants intervention as dictated through R.I.G.L. 16-7.1-5**

**(f) Any decision made under this section by the commissioner may be appealed under R.I.G.L. 16-39-3.**

## Definition of Speech-Language Services

### Proposed regulations:

#### **300.39 Special education.**

(a) **General.** (1) **special education** means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—

(i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(ii) Instruction in physical education.

(2) Special education includes each of the following, if it meets the requirements of paragraph (a)(1) of this section —

(i) **Speech-language pathology services for students through eight years of age (up to the child's ninth birthday)**

(ii) Travel training; and

(iii) Vocational education.

#### **300.34 Related services.**

(c) **Individual related services terms defined.** The terms used in this definition are defined as follows:

(15) **Speech-language pathology services includes—**

(i) Identification of children with speech or language impairments;

(ii) Diagnosis and appraisal of specific speech or language impairments;

(iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;

(iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and

(v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.