



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



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PUBLIC INSTRUCTION

December 8, 2008

MEMORANDUM

TO: Intermediate School District Directors of Special Education *

FROM: Jacquelyn J. Thompson, Ph.D., Director
Office of Special Education and Early Intervention Services

SUBJECT: Deviations to the Administrative Rules for Special Education

The enclosed document, *Procedures for Requesting Deviations Under Rule 340.1734, Effective June 6, 2002* (dated December 8, 2008), describes the bases for considering deviations.

Also enclosed is a copy of the Special Education Deviation Request form (Form: DEV 12/08), with attachments for use and distribution to local school districts. The form and attachments are available at the Office of Special Education and Early Intervention Services' (OSE-EIS) web site: <http://www.michigan.gov/mde>.

If you have any questions concerning the deviation process, please contact Ms. Roxanne Balfour, Department Specialist, Program Accountability, OSE-EIS, at (517) 373-1696.

Enclosures

***Intermediate school district directors of special education are responsible for electronic and hard copy dissemination of this memorandum and enclosures to local district directors of special education and public school academy administrators.**

OSE-EIS 08-17

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**PROCEDURES FOR REQUESTING DEVIATIONS UNDER
RULE 340.1734, EFFECTIVE JUNE 6, 2002**

I. Bases in Rule and Department Policy for Considering Deviation Requests

A deviation is granted when the best interest of students with disabilities who are affected by the deviation is served, and when there is good cause.

A deviation is granted to provide reasonable flexibility to specific rules when unforeseen events make compliance with rules unfeasible. Deviations are not options for preplanning programs and services or for cost containment. Financial or hardship exemptions are addressed in statute (Section 380.1702 of the Michigan School Code).

A deviation may be granted for the current school year. Extensions for more than one school year may be granted due to extenuating circumstances and after individual case review.

A deviation is not granted to exclude a student with disabilities from participation in required special education programs and services.

A deviation is not granted to avoid or postpone correction of rule violations confirmed through Part 8 of the Administrative Rules for Special Education (Complaints).

If a requesting district is out of compliance at the time of the request, and if the request is denied, the local educational agency/intermediate school district (ISD) must correct the noncompliant situation and provide the Michigan Department of Education (MDE) with a written assurance of correction within 30 *school* days of the denial.

A deviation is public information, provided that information allowing the personal identification of students has been deleted.

At the time the request is made, the ISD Parent Advisory Committee must be provided with a copy of the deviation request and, subsequently, with a copy of the MDE's response. [Rule 340.1734(1)(5)]

If the deviation pertains to a student, the local district of residence must receive a copy of the deviation at the time of its filing. [Rule 340.1734(1)]

II. Review Procedure

Initial requests should be complete and comprehensive with respect to the information that the applicant believes is sufficient to grant a deviation. A decision will be based solely on the information provided.

A. Upon receipt of the completed request, the Office of Special Education and Early Intervention Services' (OSE-EIS) staff will review the request and prepare a recommendation.

- B. The decision is signed by the supervisor of Program Accountability on behalf of the director of the OSE-EIS (within 30 calendar days of receipt of the request).
 - 1. The decision will be either "granted" or "denied."
 - 2. If the deviation is denied, the requesting party will receive a notice including a description of necessary corrective action and response due dates.

III. Contested Decisions

Any decisions on appeal will be based solely on the information provided at the time of the initial request unless additional information is solicited by the OSE-EIS. Do not send additional information pertaining to an appeal unless the information is specifically requested.

An appeal may be addressed to the Director, Office of Special Education and Early Intervention Services, P.O. Box 30008, Lansing, Michigan 48909.

While the State Board of Education (State Board) reserves its authority to review any administrative decision at the State Board's discretion, the requesting district has no corresponding right to compel such a review.