

DEPARTMENT OF EDUCATION
SUPERINTENDENT OF PUBLIC INSTRUCTION
SPECIAL EDUCATION PROGRAMS AND SERVICES

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These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By the authority conferred on the superintendent of public instruction by sections 1701, 1703, 1711, 1729, 1741, 1751, and 1761 of 1976 PA 451, MCL 380.1701, MCL 380.1703, MCL 380.1711, MCL 380.1729, MCL 380.1741, MCL 380.1751, and MCL 380.1761, and Executive Reorganization Order Nos. 1996-6 and 1996-7, MCL 388.993 and MCL 388.994).

R 340.1721 of the Michigan Administrative Code is rescinded, R 340.1701a, R 340.1701b, R 340.1702, R 340.1705, R 340.1706, R 340.1707, R 340.1708, R 340.1709, R 340.1709a, R 340.1710, R 340.1711, R 340.1713, R 340.1714, R 340.1715, R 340.1716, R 340.1717, R 340.1721a, R 340.1721b, R 340.1721e, R 340.1722, R 340.1724d, R 340.1724f, R 340.1724i, R 340.1799c, and R 340.1832 of the Code are amended, and R 340.1784 and R 340.1785 are added to the Code as follows:

PART 1. GENERAL PROVISIONS

R 340.1701a Definitions; A to D.

Rule 1a. As used in these rules:

(a) "Adaptive behavior" means a student's ability to perform the social roles appropriate for a person of his or her age and gender in a manner that meets the expectations of home, culture, school, neighborhood, and other relevant groups in which he or she participates.

(b) "Agency" means a public or private entity or organization, including ~~the~~ **a** local school district, **a** public school academy, **an** intermediate school district, the department, and any other political subdivision of the state that is responsible for providing education or services to students with disabilities.

(c) "Complaint" means a written and signed allegation that includes facts on which the allegation is based, by an individual or an organization, that there is a violation of any of the following:

(i) Any current provision of these rules.

(ii) The revised school code, 1976 PA 451, MCL 380.1 ~~et seq~~ **to 380.1853**, as it pertains to special education programs and services.

(iii) The individuals with disabilities education act of 2004, 20 U.S.C., chapter 33, §1400 et seq., and the regulations implementing the act, 34 C.F.R. part 300 and 34 C.F.R. part 303.

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- (iv) An intermediate school district plan **for special education**.
- (v) An individualized education program team report, **or** administrative law judge decision, ~~or court decision~~ regarding special education programs or services.
- (vi) The state application for federal funds under the individuals with disabilities education act.
- (d) "Department" means the state department of education.
- (e) "Departmentalize" means ~~a~~ **to** delivery **services by a** system in which 2 or more special education teachers teach groups of students with disabilities by instructional content areas.

R 340.1701b Definitions; I to P.

Rule 1b. As used in these rules:

- (a) "Instructional services" means services provided by teaching personnel that are specially designed to meet the unique needs of a student with a disability. These may be provided by any of the following:
 - (i) An early childhood special education teacher under R 340.1755.
 - (ii) A teacher consultant under R 340.1749.
 - (iii) A teacher of ~~the~~ **students with** speech and language impairment~~ed~~ under R 340.1745.
 - (iv) A teacher providing instruction to students with disabilities who are homebound or hospitalized.
 - (v) A teacher providing instruction to students who are placed in juvenile detention facilities under R 340.1757.
 - ~~(b) "Multidisciplinary evaluation team" means a minimum of 2 persons who are responsible for evaluating a student suspected of having a disability. The team shall include at least 1 special education teacher or other specialist who has knowledge of the suspected disability.~~
 - ~~(b)~~(e) "Occupational therapy" means therapy provided by an occupational therapist or an occupational therapy assistant who provides therapy under the supervision of a licensed occupational therapist. Occupational therapists and occupational therapy assistants are licensed by the state of Michigan under 1978 PA 368, MCL 333.1101 ~~et seq.~~ **to 333.25211.**
 - ~~(c)~~(d) "Parent" means any of the following:
 - (i) A biological or adoptive parent of a child.
 - (ii) A foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent.
 - (iii) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, but not the state if the child is a ward of the state.
 - (iv) An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the child lives, or an individual who is legally responsible for the child's welfare.
 - (v) A surrogate parent who has been appointed in accordance with R 340.1725f.
 - (vi) Except as provided in paragraph (vii) of this subdivision, the biological or adoptive parent, when attempting to act as the parent under this part and when more than 1 party is qualified under paragraphs (i) to (v) of this subdivision to act as a parent, ~~shall be~~ **is** presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.
 - (vii) If a judicial decree or order identifies a specific person or persons under paragraphs (i) to (iv) of this subdivision to act as the parent of a child, or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the parent.

(viii) The affected student or youth with a disability when the student or youth with a disability reaches 18 years of age, if a legal guardian has not been appointed by appropriate court proceedings.

~~(d)~~**(e)** "Parent advisory committee" means a committee of parents of students with disabilities of a particular intermediate school district appointed by the board of that district under R 340.1838.

~~(e)~~**(f)** "Physical therapy" means therapy prescribed by a physician and provided by a therapist who is licensed by the state of Michigan under 1978 PA 368, MCL 333.1101 ~~et seq.~~ **to 333.25211** or a physical therapy assistant who provides therapy under the supervision of a licensed physical therapist.

R 340.1702 "Student with a disability" defined; **determination of eligibility.**

Rule 2. **(1) As used in these rules, "Student with a disability" means a person who has been evaluated and found eligible for special education according to the individuals with disabilities education act 20 U.S.C. chapter 33, §1400 et seq. and these rules this part.**

(2) and is Eligibility and the educational needs of a student shall be determined by an individualized education program team, an individualized family service plan team, or an administrative law judge a group of qualified professionals which includes at least the following:

(a) A person qualified to interpret the results of evaluations required in R 340.1705 to R 340.1717.

(b) A person who has knowledge of each suspected disability.

(c) A parent of the child suspected to be a student with a disability.

(d) The student's general education teacher qualified to teach a student of his or her age or, for a child less than school age, an individual qualified by the department to teach a child of his or her age.

(e) A special education teacher.

(3) A student with a disability shall to have 1 or more of the impairments specified in this part that necessitates special education or related services, or both, who is not have either of the following:

(a) Attained the age of more than 25 26 years of age as of September 1 of the school year of enrollment, and who has not graduated from

(b) Completed the requirements for a regular high school diploma.

(4) A student with a disability who reaches the age of 26 years after September 1 continues to be is a "student with a disability" and is entitled to continue a special education program or service until the end of that school year.

R 340.1705 Cognitive impairment; ~~determination.~~

Rule 5. (1) Cognitive impairment shall be manifested during the developmental period and **shall** be determined through the demonstration of all of the following behavioral characteristics:

(a) Development at a rate at or below approximately 2 standard deviations below the mean as determined through intellectual assessment.

(b) Scores approximately within the lowest 6 percentiles on a standardized test in reading and arithmetic. This requirement ~~will~~ **does** not apply if the student is not of an age, grade, or mental age appropriate for formal or standardized achievement tests.

- (c) Lack of development primarily in the cognitive domain.
- (d) Impairment of adaptive behavior.
- (e) Adversely affects on a student's educational performance.
- (2) A ~~determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include~~ **an assessment by a psychologist.**

R 340.1706 ~~Emotional impairment; determination; evaluation report.~~

Rule 6. (1) Emotional impairment shall be determined through manifestation of behavioral problems primarily in the affective domain, over an extended period of time, which adversely affects the student's education to the extent that the student cannot profit from learning experiences without special education support. The problems result in behaviors manifested by 1 or more of the following characteristics:

- (a) Inability to build or maintain satisfactory interpersonal relationships within the school environment.
- (b) Inappropriate types of behavior or feelings under normal circumstances.
- (c) General pervasive mood of unhappiness or depression.
- (d) Tendency to develop physical symptoms or fears associated with personal or school problems.

(2) Emotional impairment ~~also includes students who~~, in addition to the characteristics specified in subrule (1) of this rule, exhibited maladaptive behaviors related to schizophrenia or similar disorders. ~~The term "Emotional impairment" does not include a persons who are~~ **is** socially maladjusted, unless it is determined that the persons ~~have~~ **has** an emotional impairment.

(3) Emotional impairment does not include students whose behaviors are primarily the result of intellectual, sensory, or health factors.

(4) ~~When evaluating~~ **An evaluation of** a student suspected of having an emotional impairment, ~~the multidisciplinary evaluation team report~~ shall include documentation of all of the following:

- (a) The student's performance in the educational setting and in other settings, ~~such as~~ **including** adaptive behavior within the broader community.
- (b) The systematic observation of the behaviors of primary concern which interfere with educational and social needs.
- (c) The intervention strategies used to improve the behaviors and the length of time the strategies were utilized.
- (d) Relevant medical information, if any.

(5) ~~A determination of impairment shall be based on data provided by a multidisciplinary evaluation team, which shall include a full and individual evaluation by~~ **shall include assessments by** both of the following:

- (a) A psychologist or psychiatrist.
- (b) A school social worker.

R 340.1707 ~~Hearing impairment explained; determination~~ **Deaf or hard of hearing.**

Rule 7. (1) The term ~~"hearing impairment" is a generic term which includes both students who are deaf- or and those who are hard of hearing and~~ refers to students with any type or degree of hearing loss that interferes with development or adversely affects educational performance. "Deafness" means a hearing impairment that is so severe that the student is

impaired in processing linguistic information through hearing, with or without amplification. The term “hard of hearing” refers to students with hearing impairment who have permanent or fluctuating hearing loss which is less severe than the hearing loss of students who are deaf and which generally permits the use of the auditory channel as the primary means of developing speech and language skills.

(2) ~~A determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which~~ shall include **assessments by** an audiologist and an otolaryngologist or otologist.

R 340.1708 Visual impairment ~~explained; determination.~~

Rule 8. (1) A visual impairment shall be determined through the manifestation of both of the following:

(a) A visual impairment which, even with correction, interferes with development or which adversely affects educational performance. Visual impairment includes both partial sight and blindness.

(b) One or more of the following:

(i) A central visual acuity for near or far point vision of 20/70 or less in the better eye after routine refractive correction.

(ii) A peripheral field of vision restricted to not more than 20 degrees.

(iii) A diagnosed progressively deteriorating eye condition.

(2) ~~A determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which~~ shall include an **assessment by an** ophthalmologist or optometrist.

(3) If a student cannot be tested accurately for acuity, then functional visual assessments conducted by a teacher certified in visual impairment may be used in addition to the medical evaluation for determination of impairment.

(4) For students with visual impairment who have a visual acuity of 20/200 or less after routine refractive correction, or who have a peripheral field of vision restricted to not more than 20 degrees, an evaluation by an orientation and mobility specialist shall be conducted. ~~The orientation and mobility specialist shall also include in the report~~ **The evaluation shall include documentation of** a set of recommended procedures to be used by a mobility specialist or a teacher of students with visual impairment in conducting orientation and mobility training activities.

R 340.1709 “Physical impairment” ~~defined; determination.~~

Rule 9. (1) “Physical impairment” means severe orthopedic impairment that adversely affects a student’s educational performance.

(2) ~~A determination of disability shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which~~ shall include **an assessment data from at least** 1 of the following persons:

(a) An orthopedic surgeon.

(b) An internist.

(c) A neurologist.

(d) A pediatrician.

(e) A ~~family physician, or any other approved or~~ physician’s, **assistant licensed under article 15 as defined in of 1978 PA 368, MCL 333.440+16101 et seq. to 333.18838.**

R 340.1709a "Other health impairment" ~~defined; determination.~~

Rule 9a. (1) "Other health impairment" means ~~having~~ limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, which results in limited alertness with respect to the educational environment and to which both of the following ~~provisions~~ apply:

(a) **The impairment is** due to chronic or acute health problems ~~such as any of that may include any of~~ the following:

- (i) Asthma.
- (ii) Attention deficit disorder.
- (iii) Attention deficit hyperactivity disorder.
- (iv) Diabetes.
- (v) Epilepsy.
- (vi) A heart condition.
- (vii) Hemophilia.
- (viii) Lead poisoning.
- (ix) Leukemia.
- (x) Nephritis.
- (xi) Rheumatic fever.
- (xii) Sickle cell anemia.

(b) The impairment adversely affects a student's educational performance.

(2) A ~~determination of disability shall be based upon a~~ full and individual evaluation ~~by a multidisciplinary evaluation team, which~~ shall include **an assessment by at least** 1 of the following persons:

- (a) An orthopedic surgeon.
- (b) An internist.
- (c) A neurologist.
- (d) A pediatrician.
- (e) A family physician, or any other approved physician's, **assistant licensed under article 15 of as defined in 1978 PA 368, MCL 333.16101-1101 et seq. to 333.18838.**

R 340.1710 "Speech and language impairment" ~~defined; determination .~~

Rule 10. (1) A "speech and language impairment" means a communication disorder that adversely affects educational performance, ~~such as a~~ **including** language impairment, articulation impairment, fluency impairment, or voice impairment.

(2) A communication disorder shall be determined through the manifestation of 1 or more of the following speech and language impairments that adversely affects educational performance:

(a) A language impairment ~~which that~~ interferes with the student's ability to understand and use language effectively and ~~which that~~ includes 1 or more of the following:

- (i) Phonology.
- (ii) Morphology.
- (iii) Syntax.
- (iv) Semantics.
- (v) Pragmatics.

(b) Articulation impairment, including omissions, substitutions, or distortions of sound, persisting beyond the age at which maturation alone might be expected to correct the deviation.

(c) Fluency impairment, including an abnormal rate of speaking, speech interruptions, and repetition of sounds, words, phrases, or sentences, that interferes with effective communication.

(d) Voice impairment, including inappropriate pitch, loudness, or voice quality.

(3) Any impairment under subrule (2)(a) of this rule shall be evidenced by both of the following:

(a) A spontaneous language sample demonstrating inadequate language functioning.

(b) Test results on not less than 2 standardized assessment instruments or 2 subtests designed to determine language functioning ~~which~~ **that** indicate inappropriate language functioning for the student's age.

~~(4) A student who has a communication disorder, but whose primary disability is other than speech and language may be eligible for speech and language services under R 340.1745(a).~~

~~(4)(5) A determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include~~ **an assessment by a** teacher of students with speech and language impairment under R 340.1796 or a speech and language pathologist qualified under R 340.1792.

R 340.1711 "Early childhood developmental delay" ~~defined; determination.~~

Rule 11. (1) "Early childhood developmental delay" means a child through 7 years of age whose primary delay cannot be differentiated through existing criteria within R 340.1705 to R 340.1710 or R 340.1713 to R 340.1716 and who manifests a delay in 1 or more areas of development equal to or greater than 1/2 of the expected development. This definition does not preclude identification of a child through existing criteria within R 340.1705 to R 340.1710 or R 340.1713 to R 340.1716.

(2) A determination of early childhood developmental delay shall be based upon a full and individual evaluation ~~by a multidisciplinary evaluation team.~~

R 340.1713 Specific learning disability ~~defined; determination.~~

Rule 13. (1) "Specific learning disability" means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including ~~conditions such as~~ perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, ~~of~~ cognitive impairment, ~~of~~ emotional impairment, ~~of~~ autism spectrum disorder, or of environmental, cultural, or economic disadvantage.

(2) In ~~a determination of~~ **an assessment of** whether a student has a learning disability, ~~the state shall~~ **all of the following apply:**

(a) ~~Not require~~ **†**The use of a severe discrepancy between intellectual ability and achievement **is not required.**

(b) ~~Permit~~ **†**The use of a process based on the child's response to scientific, research-based intervention **is permitted.**

(c) ~~Permit~~ **†**The use of other alternative research-based procedures **is permitted.**

~~(3) A determination of learning disability shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include assessments by at least both of the following:~~

(a) The student's general education teacher or, if the student does not have a general education teacher, a general education teacher qualified to teach a student of his or her age or, for a child of less than school age, an individual qualified by the state educational agency to teach a child of his or her age.

(b) At least 1 person qualified to conduct individual diagnostic examinations of children, ~~such as~~ **including** a school psychologist, an authorized provider of speech and language under R 340.1745(d), or a teacher consultant.

R 340.1714 Severe multiple impairment; ~~determination.~~

Rule 14. (1) ~~Students with s~~Severe multiple impairments shall be determined through the manifestation of either of the following:

(a) Development at a rate of 2 to 3 standard deviations below the mean and 2 or more of the following conditions:

(i) A hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills.

(ii) A visual impairment so severe that the visual channel is not sufficient to guide independent mobility.

(iii) A physical impairment so severe that activities of daily living cannot be achieved without assistance.

(iv) A health impairment so severe that the student is medically at risk.

(b) Development at a rate of 3 or more standard deviations below the mean or students for whom evaluation instruments do not provide a valid measure of cognitive ability and 1 or more of the following conditions:

(i) A hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills.

(ii) A visual impairment so severe that the visual channel is not sufficient to guide independent mobility.

(iii) A physical impairment so severe that activities of daily living cannot be achieved without assistance.

(iv) A health impairment so severe that the student is medically at risk.

~~(2) A determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include assessments by a psychologist and, depending upon the disabilities in the physical domain, the multidisciplinary evaluations team participants required in R 340.1707, R 340.1708, or R 340.1709, R 340.1709a, or R 340.1716.~~

R 340.1715 Autism spectrum disorder ~~defined; determination.~~

Rule 15. (1) Autism spectrum disorder is considered a lifelong developmental disability that adversely affects a student's educational performance in 1 or more of the following performance areas:

(a) Academic.

(b) Behavioral.

(c) Social.

(2) Autism spectrum disorder is typically manifested before 36 months of age. A child who first manifests the characteristics after age 3 may also meet criteria. Autism spectrum disorder is characterized by qualitative impairments in reciprocal social interactions, qualitative impairments in communication, ~~and~~ restricted range of interests, ~~and~~ repetitive behavior.

~~(3)(2)~~ **A determination that a student has autism spectrum disorder is based on documentation of** ~~for eligibility shall include~~ all of the following:

(a) Qualitative impairments in reciprocal social interactions including at least 2 of the following areas:

(i) Marked impairment in the use of multiple nonverbal behaviors ~~such as~~ **including** eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction.

(ii) Failure to develop peer relationships appropriate to developmental level.

(iii) Marked impairment in spontaneous seeking to share enjoyment, interests, or achievements with other people, for example, by a lack of showing, bringing, or pointing out objects of interest.

(iv) Marked impairment in the areas of social or emotional reciprocity.

(b) Qualitative impairments in communication including at least 1 of the following:

(i) Delay in, or total lack of, the development of spoken language not accompanied by an attempt to compensate through alternative modes of communication ~~such as~~ **including** gesture or mime.

(ii) Marked impairment in pragmatics or in the ability to initiate, sustain, or engage in reciprocal conversation with others.

(iii) Stereotyped and repetitive use of language or idiosyncratic language.

(iv) Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level.

(c) Restricted, repetitive, and stereotyped behaviors including at least 1 of the following:

(i) Encompassing preoccupation with 1 or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus.

(ii) Apparently inflexible adherence to specific, nonfunctional routines or rituals.

(iii) Stereotyped and repetitive motor mannerisms, for example, hand or finger flapping or twisting, or complex whole-body movements.

(iv) Persistent preoccupation with parts of objects.

~~(4)(3)~~ Determination may include unusual or inconsistent response to sensory stimuli, in combination with ~~subdivisions (a), (b), and (c) of subrule (2) (3) (a), (b), and (c) of this rule.~~

~~(5)(4)~~ ~~While autism spectrum disorder may exist concurrently with other diagnoses or areas of disability, to be eligible under this rule,~~ **To be determined to have autism spectrum disorder under this rule, a student** ~~there shall not be~~ **have** a primary diagnosis of schizophrenia or emotional impairment.

~~(6)(5)~~ ~~A determination of impairment shall be based upon a full and individual evaluation~~ **shall include assessments** ~~by a multidisciplinary evaluation team including, at a minimum,~~ a psychologist or psychiatrist, an authorized provider of speech and language under R 340.1745(d), and a school social worker.

R 340.1716 “Traumatic brain injury” ~~defined; determination.~~

Rule 16. (1) “Traumatic brain injury” means an acquired injury to the brain ~~which that~~ is caused by an external physical force and ~~which that~~ results in total or partial functional

disability or psychosocial impairment, or both, that adversely affects a student's educational performance. The term applies to open or closed head injuries resulting in impairment in 1 or more of the following areas:

- (a) Cognition.
- (b) Language.
- (c) Memory.
- (d) Attention.
- (e) Reasoning.
- (f) Behavior.
- (g) Physical functions.
- (h) Information processing.
- (i) Speech.

(2) ~~The term~~ **“Traumatic brain injury”** does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.

(3) ~~A determination of disability shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include an assessment by from a family physician, or any other approved physician's,~~ **assistant licensed under article 15 as defined in of 1978 PA 368, MCL 333.1101 et seq.16101 to 333.18838.**

R 340.1717 Deaf-blindness ~~defined; determination.~~

Rule 17. (1) **“Deaf-blindness”** means concomitant hearing impairment and visual impairment, the combination of which causes severe communication and other developmental and educational needs that cannot be accommodated in special education programs without additional supports to address the unique needs specific to deaf-blindness. Deaf-blindness also means both of the following:

(a) Documented hearing and visual losses that, if considered individually, may not meet the requirements for visual impairment or hearing impairment, but the combination of ~~which the~~ losses affects educational performance.

(b) ~~Such~~ **The** students functions as if ~~he or she~~ **they** ~~hasve~~ both a hearing and a visual loss, based upon responses to auditory and visual stimuli in the environment, or during vision and hearing evaluations.

(2) ~~A full and individual evaluation determination of the disability shall be based upon data provided by a multidisciplinary evaluation team which shall include assessments by data from~~ all of the following:

(a) Medical specialists **including such as any at least 1** of the following:

- (i) An ophthalmologist.
- (ii) An optometrist.
- (iii) An audiologist.
- (iv) An otolaryngologist.
- (v) An otologist.

(vi) ~~A family physician or any other approved physician's,~~ **assistant licensed under article 15 as defined in of 1978 PA 368, MCL 333.1101 et seq.16101 to 333.18838.**

(b) A teacher of students with visual impairment.

(c) A teacher of students with hearing impairment.

PART 2. ~~INITIAL EVALUATION, TIME LINES, INDIVIDUALIZED EDUCATION PROGRAM, DISTRICT RESPONSIBILITIES, AND DUE PROCESS PROCEDURES~~

R 340.1721 ~~Request for initial evaluation.~~ **Rescinded.**

~~—Rule 21.— Within 10 school days of receipt of a written request for an initial evaluation of a student suspected of having a disability, and before any formal evaluation designed to determine eligibility for special education programs and services, the public agency shall provide the parent with written notice consistent with 34 CFR § 300.503 and, when necessary shall request written consent to evaluate.~~

R 340.1721a ~~Initial evaluation~~ **Special education personnel consultation with general education personnel.**

~~Rule 21a. (1) Each student suspected of having a disability shall be evaluated by a multidisciplinary evaluation team as defined in R 340.1701b(b). In addition to the requirements in R 340.1705 to R 340.1717, the multidisciplinary evaluation team shall do all of the following:~~

~~—(a) Complete a full and individual evaluation.~~

~~—(b) Make a recommendation of eligibility and prepare a written report to be presented to the individualized education program team by the designated multidisciplinary evaluation team member who can explain the instructional implication of evaluation results. The report shall include information needed by the individualized education program team to determine all of the following:~~

~~—(i) Eligibility.~~

~~—(ii) A student's present level of academic achievement and functional performance.~~

~~—(iii) The educational needs of the student.~~

~~—(2) Special education personnel who are authorized to conduct evaluations of students suspected of having a disability may provide consultation to general education personnel.~~

R 340.1721b ~~Time lines.~~

~~Rule 21b. (1) Within 10 school days of receipt of a written request for any evaluation, the public agency shall provide the parent with written notice consistent with 34 CFR § 300.503 and shall request written parental consent to evaluate. The time from receipt of parental consent for an evaluation to the notice of an offer of a free appropriate public education or the determination of ineligibility shall not be more than 30 school days. This time line begins upon receipt of the signed parental consent by the public agency requesting the consent. This time line may be extended if agreed to by the parent and public agency. Any extension to this time line shall be both of the following:~~

~~(a) In writing.~~

~~(b) Measured in school days.~~

~~(2) The parent has 10 school days after receipt of the notice of an initial offer of a free appropriate public education to provide the public agency with written parental consent to provide initial special education programs and services. **Within 30 school days of receipt of parental consent for evaluation, the public agency shall complete an evaluation, determine eligibility, and request parental consent for the initial provision of services.**~~

~~(3) Within 7-10 school days from the receipt of parental consent for the initial provision of services, the public agency shall develop an individualized education program or~~

service plan and date of the individualized education program team meeting, the public agency shall provide the parent with the notice of an offer of a free appropriate public education consistent with 34 CFR § 300.503 or determination of ineligibility. The public agency shall document mode and date of delivery **of notice**. ~~The notice shall identify where the programs and services are to be provided and when the individualized education program begins.~~

~~(4) Unless a parent has filed an appeal under R 340.1724f, the public agency, as defined under 34 CFR § 300.33, shall initiate a proposed special education individualized education program immediately after the notice of provision of a free appropriate public education as soon as possible and not more than 15 school days after the parent's receipt of written notification under R 340.1721b(3), or not more than 15 school days after receipt of written parental consent under R 340.1721b(2). The parties may agree to a later initiation date if the later date is clearly identified in the individualized education program. An initiation date later than 15 school days shall not be used to deny or delay programs or services because they are unavailable and shall not be used for purposes of administrative convenience.~~

~~(4)(5)~~ For students with an individualized education program in effect at a previous public agency who transfer public agencies within the same school year, the new public agency shall immediately provide a free appropriate public education. A decision regarding implementation of an individualized education program ~~in accordance with~~ **pursuant to** 34 CFR § 300.323 shall be made within 30 school days of enrollment.

R 340.1721e Individualized education program.

Rule 21e. (1) An individualized education program shall be developed ~~in accordance with~~ **pursuant to** 34 CFR part 300 and shall include all of the following in writing:

- (a) A statement of measurable annual goals, ~~including measurable short-term objectives.~~
- (b) A statement documenting that extended school year services were considered.
- (c) For ~~a child~~ **children** age 3 through 5, a statement of the child's socialization needs and ability to participate and progress in developmentally appropriate activities.

~~(2) In considering~~ **All of the following apply to a determination of the need for** extended school year services, ~~the individualized education program team shall do all of the following:~~

(a) **The individualized education program team shall** ~~D~~ determine if a student's current annual goals address 1 or more skills that need extended school year services. For any identified annual goal, the individualized education program team shall consider all of the following:

(i) Data that indicate that in the identified annual goal there is a potential for regression of skills beyond a reasonable period of recoupment.

(ii) Data regarding the nature or severity of the disability of the student that indicates that there is a need to provide services in the identified annual goal during breaks in the school year.

(iii) Information that indicates that in the identified annual goal the student is at a critical stage of learning or in a critical area of learning where failure to provide a service beyond the normal school year ~~will~~ **may** severely limit the student's capacity to acquire essential skills.

(b) If the individualized education program team determines that the data or information in any of subrule (2)(a)(i) to (iii) of this rule indicates a need for extended school year services, then extended school year services shall be included in the student's individualized education program.

(c) Determination of the need for extended school year services shall not be based on a formula or policy that prohibits full consideration of the unique educational needs of each student.

(d) Related services, transportation, supplementary aids and services, and instructional programming shall be considered when planning a student's extended school year services.

(e) Consideration of extended school year services shall be accomplished in sufficient time to make plans for the delivery of extended school year services.

~~(3) Any participant in the individualized education program team's deliberations who disagrees, in whole or in part, with the team's determination may indicate the reasons on the team's individualized education program report or may submit a written statement to be attached to the report.~~

~~(3)~~(4) The individualized education program team shall determine the programs and services for a student with a disability ~~in accordance with~~ **pursuant to** 34 CFR part 300. The individualized education program shall not be restricted to the programs and services available.

~~(4)~~(5) The Michigan school for the deaf shall be considered a part of the total continuum of services for students who are deaf or hard of hearing. The resident district shall conduct the individualized education program team meeting that initiates an assignment into the Michigan school for the deaf. Representatives of the intermediate school district of residence and the Michigan school for the deaf shall be invited to participate in the individualized education program team meeting.

~~(5)~~(6) The school district of residence ~~shall is responsible for~~ **conducting** the initial individualized education program team meeting involving a student in its district and shall conduct, or authorize the operating district to conduct, each subsequent individualized education program team meeting at a mutually agreed upon time and place.

~~(6)~~(7) Upon request of the parent, a representative of the school district of residence shall be invited to attend the individualized education program team meeting if the district of residence has authorized the operating district to conduct each subsequent individualized education program team meeting.

R 340.1722 District responsibilities.

Rule 22. (1) The superintendent or his or her designee shall appoint a **qualified** staff person ~~to be responsible for the implementation of~~ the individualized education program, including services provided by other agencies.

(2) The **qualified** staff person responsible for the implementation of the individualized education program shall be either of the following:

(a) The principal of the building where the primary educational program is provided to the student with an individualized education program.

(b) Another **qualified** staff person who is generally accessible to the staff and who ~~will be~~ **working** with the student.

(3) Each public agency shall provide special education and related services to a student in accordance with the student's individualized education program **pursuant to 20 U.S.C. chapter 33, §1400 et seq. and these rules.**

R 340.1724d Mediation.

Rule 24d. ~~(1)~~ A parent or public agency may request a mediation process in which the relief sought consists of a mutually agreeable settlement between the parties of a dispute that might be the subject of a state special education complaint under part 8 of the rules or a due process complaint under ~~R 340.1724~~ or R 340.1724(f).

~~(2) The state board of education shall approve procedures regarding the mediation process.~~

R 340.1724f Due process complaints; procedures.

Rule 24f. ~~(1) This rule applies only to due process complaints filed on or after July 1, 2006.~~

~~(1)(2) Due process complaints under this rule shall be administered by~~ The department of education **shall administer due process complaints under this rule.**

~~(2)(3)~~ A parent, a public agency, or the department of education may initiate a hearing by filing a written due process complaint with the department of education, office of special education, and providing a copy of the complaint to the public agency or other party or parties that are the subject of the due process complaint. A due process complaint shall be all of the following:

(a) In writing.

(b) Signed by the complainant.

(c) Properly filed when the office of special education and the other party or parties that are the subject of the due process complaint have received a due process complaint that meets the requirements of these rules and 34 CFR §300.508(a) and (b)(1) to (4).

(d) Delivered to the office of special education in the following manner:

(i) By mail, by facsimile, or in person.

(ii) With a statement describing the facts of delivery to the party or parties that are the subject of the due process complaint in the following manner:

(A) If by mail, to whom the complaint was addressed and the date it was mailed.

(B) If by facsimile, to whom the complaint was addressed, the date and time it was sent.

(C) If in person, the date and place the complaint was delivered and to whom it was given.

~~(3)(4)~~ Due process time lines begin when the office of special education and the other party that is the subject of the due process complaint have received a due process complaint that meets the requirements of these rules and 34 CFR §300.508.

~~(4)(5)~~ A hearing may be initiated on matters related to any of the following:

(a) Identification.

(b) Evaluation.

(c) Educational Placement.

(d) Provision of a free appropriate public education.

(e) Provision of appropriate services under 34 CFR part 303 to the child or the child's family.

(f) Assignment of financial obligations for services under 34 CFR part 303 to the parents.

(g) Determination that behavior was not a manifestation of the student's disability.

(h) Determination of an appropriate interim alternative educational setting by the individualized education program team.

(i) Placement in an interim alternative setting for not more than 45 school days, because maintaining the current placement is substantially likely to result in injury to the student or others.

~~(5)(6)~~ Upon receipt of a due process complaint that meets the requirements of these rules and 34 CFR §300.508(a) and (b)(1) to (4), the department of education ~~will~~ **shall** refer the

complaint to the Michigan administrative hearing system which ~~will~~ **shall** appoint an administrative law judge to conduct a hearing ~~in accordance with~~ **pursuant to** the individuals with disabilities education act, 20 U.S.C. §1401 et seq., 1976 PA 451, MCL 380.1701 ~~et seq., to~~ **380.1766**, R 340.1883 to R 340.1885, and these rules.

(6) Upon completion of the resolution session pursuant to 34 CFR §§ 300.310 and 300.532, the district shall submit documentation of the outcomes of the resolution session to the department according to 1 of the following time lines:

(a) Within 14 days after the conclusion of the resolution session.

(b) Immediately following the resolution of a due process complaint through mediation or other means.

(c) Within 14 days after the resolution period has expired.

(7) Any party who is aggrieved by the final **administrative law judge** decision in a hearing conducted under this rule may appeal to a court of competent jurisdiction within ~~90-45~~ days after the mailing date of the final **administrative law judge** decision.

(8) The district shall inform the department within 10 days after either party files a civil action with respect to a final administrative law judge decision.

~~(9)~~ Unless otherwise specified in the administrative law judge's decision, the decision shall be implemented by the public agency within 15 school days of the agency's receipt of the decision.

~~(10)~~ ~~(9) When required by an administrative law judge order and decision~~ **T**he public agency shall submit proof of compliance to the department of education, office of special education, documenting that the public agency has implemented the provisions of the final **administrative law judge** decision.

R 340.1724i Reimbursement.

Rule 24i. ~~This rule applies only to due process complaints filed on or after July 1, 2006.~~ For purposes of MCL 380.1752, this rule replaces R 340.1882(4), which was rescinded. The district of residence, **operating district**, or public school academy shall reimburse the ~~S~~state 75% of the costs related to providing the due process hearing. **Payment shall be submitted not later than 30 days from the date of the due process hearing billing letter.**

PART 5. QUALIFICATIONS OF TEACHERS AND OTHER PERSONNEL

R 340.1784 Deaf or hard of hearing education specialist.

Rule 84. (1) A deaf or hard of hearing education specialist for students who are identified as deaf, as hard of hearing, or as having a hearing impairment shall possess a valid Michigan teaching certificate with an endorsement in hearing impairment or an endorsement in deaf and hard of hearing pursuant to R 340.1799c. Such an individual is considered to be fully approved by the department.

(2) A deaf or hard of hearing education specialist may conduct 1 or more of the following as related to students who are deaf or hard of hearing:

(a) Evaluate a student suspected of being a student who is deaf, hard of hearing, or hearing impaired.

(b) Provide assessments for data-driven goal development.

(c) Model instructional techniques and provide consultation in all content areas.

- (d) Collaborate with staff members in developing instructional goals, objectives, and teaching methods.
- (e) Provide consultation and direct services to students from birth to age 26.
- (f) Consult with teachers, parents, administrators, and support staff on behalf of students who are deaf or hard of hearing.
- (g) Assess, coordinate, use, manage, and monitor equipment and materials.
- (h) Understand specialized auditory and visual technologies that enhance educational access and achievement.
- (i) Provide assistance to teachers and professionals regarding appropriate modifications and adaptations necessary to enhance academic achievement.
- (j) Coordinate appropriate services with outside agencies.
- (k) Complete functional assessments and create behavior intervention plans.
- (l) Establish and maintain cooperative relationships with parents.
- (m) Provide consultation and services in secondary education settings to facilitate transition to post-secondary school or work.
- (n) Communicate directly and effectively with students on an instructional level.
- (o) Assist students to learn self-advocacy skills.

R 340.1785 Vision education specialist.

Rule 85. (1) A vision education specialist shall possess a valid Michigan teaching certificate with an endorsement in visual impairment pursuant to R 340.1799b. Such an individual is considered to be fully approved by the department.

(2) A vision education specialist may conduct 1 or more of the following activities related to students with a visual impairment:

- (a) Provide necessary large-type or Braille texts, supplementary materials, educational aids, and equipment in a timely manner to ensure the student's maximum participation in all classroom activities.
- (b) Create and adapt accessible materials.
- (c) Provide Braille instruction and assessment for students.
- (d) Model appropriate techniques for providing effective instructional strategies.
- (e) Conduct functional vision evaluations, learning media assessments, and other vision-related assessments to determine a student's visual function, reading medium, and skill levels.
- (f) Provide written reports based on aggregated assessment data.
- (g) Collaborate with teachers, support staff, parents, paraprofessionals, and students to provide useful technological and vision information.
- (h) Identify and coordinate accommodations and modifications of the school environment for a student to obtain access to general education curriculum.
- (i) Consult regularly with classroom teachers, other general and special education personnel, parents, and others to coordinate programs and services for the visually impaired student.
- (j) Evaluate, select, and maintain appropriate adaptive technology used by students in a school setting.
- (k) Assist teachers and school staff in the use of equipment and adaptations to accommodate students' needs.
- (l) Coordinate appropriate services with outside agencies.

R 340.1799c Teachers of students ~~with hearing impairment~~ **who are deaf or hard of hearing**; special requirements.

Rule 99c. (1) ~~The~~ **A** teacher education program for teachers of students ~~with hearing impairment~~ **who are deaf or hard of hearing** shall include a minimum of 30 semester or equivalent hours, **meet R 340.1782, and satisfy either of the following options:** ~~The teacher education program for teachers of students with hearing impairment shall meet~~

~~(a) The council on education of the deaf standards. or shall, at a minimum, include 30 semester or equivalent hours relating to~~

(b) R 340.1781, including coursework in all of the following areas:

~~(i)(a)~~ Language and linguistics.

~~(ii)(b)~~ Audiology and speech science.

~~(iii)(c)~~ Psychology.

~~(iv)(d)~~ Education.

(2) Students shall complete a program that is designed to develop all of the following competencies:

(a) Knowledge of linguistics, theories of language development, and the various special methods used to assess and develop language competence.

(b) Ability to utilize an individual diagnostic profile of the student's expressive and receptive language skills.

(c) Ability to integrate language development with the teaching of English, mathematics, social studies, science, and other academics.

(d) Ability to use various and combined modes, manual and oral, in both expressive and receptive communication with students **who are deaf or hard of hearing.** ~~with hearing impairment.~~

(e) Knowledge of the anatomy, physiology, and pathology of the organs of speech and hearing.

(f) Knowledge of audiological assessment information and its application to the individualized education program of a student with hearing impairment.

(g) Knowledge of personal and group amplification systems, including their basic maintenance.

(h) Ability to incorporate and teach appropriate procedure to maximize the use of speech, speech reading, and auditory skills.

(i) Ability to use systematic observational techniques for establishing baseline data, evaluating problem areas, and ~~for~~ documenting and assessing progress.

(j) Knowledge of the psychological, **physical**, and sociological impact of severe/~~and~~ profound hearing impairment, including information about the community **and** ~~/~~culture of adult **society on** persons who are deaf **or hard of hearing.**

(k) Ability to identify and use local, state, and national resources in support of students with hearing impairment, their parents, and their educational program.

(l) **Knowledge of the community and culture of persons who are deaf or hard of hearing.**

~~(m)(4)~~ Ability to orient parents, general education school staff, and administrators to the unique needs and learning styles of students ~~with hearing impairment~~ **who are deaf or hard of hearing.**

~~(n)(m)~~ Ability to assess communication, academic, ~~and~~ social/~~and~~ emotional development of students ~~with hearing impairment~~ **who are deaf or hard of hearing.**

~~(o)(n)~~ Ability to relate diagnostic information in functional terms to parents and support service specialists.

~~(p)(o)~~ Ability to design and implement an educational program appropriate to the individual student's communication, academic, prevocational, and social needs.

~~(q)(p)~~ Ability to modify and adapt procedures for teaching reading, math, and other academic subjects to students ~~with hearing impairment~~ **who are deaf or hard of hearing.**

(3) Before assignment to directed student teaching, each student ~~teacher~~ shall spend a minimum of 60 **approved** clock hours in programs **with students who are deaf or hard of hearing** utilizing various communication modes, both manual and oral.

(4) The council on ~~the~~ education of the deaf standards, as cited in subrule (1) of this rule, are adopted by reference in these rules and are available from the Council on Education of the Deaf, Gallaudet University, 800 Florida Avenue, N.E., Washington, D.C. 20002-3695, and also from the Michigan Department of Education, Office of Special Education, **608 W. Allegan St.**, P.O. Box 30008, Lansing, MI, 48909, at no cost ~~for reproduction.~~

PART 7. DEVELOPMENT AND SUBMISSION OF INTERMEDIATE SCHOOL DISTRICTS' PLANS AND MONITORING

R 340.1832 Content areas.

Rule 132. **(1)** An intermediate school district plan for special education, or any modification thereof, shall be an operational plan that sets forth the special education programs and related services to be delivered. The plan shall comply with 1976 PA 451, MCL 380.1 **to 380.1853** ~~et seq.~~ and these rules.

(2) The plan shall ~~ensure also comply with the following format and include, at a minimum,~~ all of the following:

(a) ~~A description of the procedures used by~~ **The intermediate school district has written procedures** to advise and inform students with disabilities, their parents, and other members of the community of the special education opportunities required under the law; the obligations of the local school districts, public school academies, and intermediate school district; and the titles, addresses, and telephone numbers of representatives of those agencies who can provide information about the special education opportunities.

(b) ~~A description of~~ **The intermediate school district has** activities and outreach methods which are used to ensure that all citizens are aware of the availability of special education programs and services.

~~(c) A description of the type of diagnostic and related services that are available, either directly or as a purchased service, within the intermediate school district or its constituent local school districts or public school academies.~~

~~(c)(d) A description of the~~ **Special education programs and services are** designed to meet the educational needs of students with disabilities **and are in compliance with these rules.**

(d) The intermediate school district and all constituent school districts and public school academies review education caseloads and referrals on an annual basis to determine staffing needs.

~~(e) The intermediate school district plan shall either describe special education programs and services under part 3 of these rules or shall propose alternative special education programs and services.~~ **All copies of contracts or service agreements under section**

1751(1)(b) of 1976 PA 451, MCL 380.1751(1)(b) are on file at the intermediate school district.

~~(f) Provide an assurance statement that a~~Any personally identifiable data, information, and records of students with disabilities are collected, used, ~~or~~ **and** maintained in compliance with 34 C.F.R. §§300.610 through 300.626.

~~(g) The identity of the full or part time constituent local school district or public school academy administrator who, by position, is responsible for the implementation of special education programs and services.~~

~~(g)(h) All description of the qualifications of paraprofessional personnel~~ **have a high school diploma.**

~~(i) A description of the transportation necessary to provide the special education programs and services described in subdivisions (c), (d), and (e) of this subrule.~~

~~(j) A description of the method of distribution of funds under R 340.1811(5).~~

~~(h)(k) A description of how~~ **The intermediate school district will has written procedures regarding the parent advisory committee that include the following:**

(i) The appointment process for the parent advisory committee members under R 340.1838(1) and (2).

~~(ii)(l) A description of~~ **The** role and responsibilities of the parent advisory committee, including how it shall participate in the cooperative development of the intermediate school district plan, formulate objections ~~thereto~~, if any, and other related matters.

~~(iii)(m) A description of~~ **The** role and relationship of administrative and other school personnel, as well as representatives of other agencies, in assisting the parent advisory committee in its responsibilities.

~~(iv)(n) A description of the fiscal and staff resources that shall be secured or allocated to the parent advisory committee by the intermediate school district to make it efficient and effective in operation.~~

(3) The plan shall describe the diagnostic services, programs, and related services that are available within the intermediate school district and its constituent local school districts and public school academies.

(4) The plan shall describe the delivery system for the programs and services within the intermediate school district and its constituent local school districts and public school academies designed to meet the individual educational needs of students with disabilities.

(5) The plan shall describe the method of distribution of funds under R 340.1811(5).

~~(6)(o) The plan shall be approved by the superintendent of public instruction before implementation under R 340.1831(1). The plan is~~ **shall be** developed and approved under R 340.1833 and R 340.1835 to R 340.1837.