

OMB NO. 1820-0030

Expires: 1/31/2023

**ANNUAL STATE APPLICATION UNDER PART B OF THE  
INDIVIDUALS WITH DISABILITIES EDUCATION ACT AS AMENDED IN 2004  
FOR FEDERAL FISCAL YEAR 2020**

CFDA No. 84.027A and 84.173A

ED FORM No. 9055

**UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION PROGRAMS**

Washington, DC 20202-2600

**Public Burden Statement**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a currently valid OMB control number. The valid OMB control number for this collection is 1820-0030. Public reporting burden for this collection of information is estimated to average 14 hours per responses, and an average of 25 additional hours for responses reporting data related to significant disproportionality in a given year, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain or retain a benefit under 20 U.S.C. 1411 and 1419. If you have comments or concerns regarding the status of your individual submission of this form, please contact Jennifer Simpson at [Jennifer.Simpson@ed.gov](mailto:Jennifer.Simpson@ed.gov) or at the Office of Special Education and Rehabilitative Services US Department of Education, 400 Maryland Avenue SW, Washington, DC 20202.

Respondents are required to submit information for Sections I-IV of the Annual State Application in order to receive a grant under Section(s) 611 and/or 619 of the Individuals with Disabilities Education Act. Respondents are required to provide the data in Section V pursuant to IDEA section 618(a)(3), which provides the Secretary authority to collect annual data on any information that may be required by the Secretary and 34 CFR §300.647(b)(7), which requires States to report all risk ratio thresholds, minimum cell sizes, minimum n-sizes, standards for measuring reasonable progress if the State uses the "reasonable progress" flexibility in 34 CFR §300.647(d)(2), and the rationales for each, to the Department.

## Section I

### A. Submission Statement for Part B of IDEA

Please select 1 or 2 below. Check 3 if appropriate.

1. The State provides assurances that it has in effect policies and procedures to meet all eligibility requirements of Part B of the Act as found in PL 108-446, the Individuals with Disabilities Education Act and applicable regulations (IDEA). The State is able to meet all assurances found in Section II.A of this Application.
2. The State cannot provide assurances for all eligibility requirements of Part B of the Act as found in PL 108-446. The State has determined that it is unable to make the assurances that are checked as 'No' in Section II.A. However, the State assures that throughout the period of this grant award the State will operate consistent with all requirements of IDEA in PL 108-446 and applicable regulations. The State will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2022. The State has included the date by which it expects to complete necessary changes associated with assurances marked 'No'. (Refer to Assurances found in Section II.A.)

Optional:

3. The State is submitting modifications to State policies and procedures previously submitted to the Department. These modifications are: (1) deemed necessary by the State, for example when the State revises applicable State law or regulations; (2) required by the Secretary because there is a new interpretation of the Act or regulations by a Federal court or the State's highest court; and/or (3) because of an official finding of noncompliance with Federal law or regulations.

### B. Conditional Approval for Current Grant Year

If the State received conditional approval for the current grant year, check the appropriate statement(s) below:

#### 1. Conditional Approval Related to Assurances in Section II.A:

- a. Section II.A provides documentation of completion of all issues identified in the FFY 2020 conditional approval letter.
- b. As noted in Section II.A, the State has not completed all issues identified in the FFY 2020 conditional approval letter.

#### 2. Conditional Approval Related to Other Issues:

- a. The State previously submitted documentation of completion of all issues identified in the FFY 2020 conditional approval letter.
- b. The State is attaching documentation of completion of all issues identified in the FFY 2020 conditional approval letter. *(Attach documentation showing completion of all issues.)*
- c. The State has not completed all issues identified in the FFY 2020 conditional approval letter. *(Attach documentation showing completion of any issues and a list of items not yet completed.)*

## Section II

### A. Assurances Related to Policies and Procedures

The State makes the following assurances that it has policies and procedures in place as required by Part B of the Individuals with Disabilities Education Act. (20 U.S.C. 1411-1419; 34 CFR §§300.100-300.174)

<b>Yes</b> <i>(Assurance is given.)</i>	<b>No</b> <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i>  <i>Check and enter date(s) as applicable</i>	<b>Assurances Related to Policies and Procedures</b>
X		1. A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1); 34 CFR §§300.101-300.108.
X		2. The State has established a goal of providing a full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. (20 U.S.C. 1412(a)(2); 34 CFR §§300.109-300.110)
X		3. All children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with 20 U.S.C. 1412(a)(3); 34 CFR §300.111.
X		4. An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with 34 CFR §§300.320 through 300.324, except as provided in §§300.300(b)(3) and 300.300(b)(4). (20 U.S.C. 1412(a)(4); 34 CFR §300.112)
X		5. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be

		achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B); 34 CFR §§300.114-300.120.
X		6. Children with disabilities and their parents are afforded the procedural safeguards required by 34 CFR §§300.500 through 300.536 and in accordance with 20 U.S.C. 1412(a)(6); 34 CFR §300.121.
X		7. Children with disabilities are evaluated in accordance with 34 CFR §§300.300 through 300.311. (20 U.S.C. 1412(a)(7); 34 CFR §300.122)
X		8. Agencies in the State comply with 34 CFR §§300.610 through 300.626 (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8); 34 CFR §300.123)
X		9. Children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 34 CFR §300.323(b) and section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10). (20 U.S.C. 1412(a)(9); 34 CFR §300.124)
X		10. Agencies in the State, and the SEA if applicable, comply with the requirements of 34 CFR §§300.130 through 300.148 (relating to responsibilities for children in private schools), including that to the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 34 CFR §§300.130 through 300.148 unless the Secretary has arranged for services to those children under subsection (f) [By pass]. (20 U.S.C. 1412(a)(10); 34 CFR §§300.129-300.148)
X		11. The State educational agency is responsible for ensuring that the requirements of Part B are met including the requirements of 34 CFR §§300.113, 300.149, 300.150 through 300.153, and 300.175 and 300.176 and that the State monitors and enforces the requirements of Part B in accordance with 34 CFR §§300.600-300.602 and 300.606-300.608. (20 U.S.C. 1412(a)(11); 34 CFR §300.149)
X		12. The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (b) of 34 CFR §300.154 and the State educational agency, in order to ensure that all services described in paragraph (b)(1)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during

		the pendency of any dispute under §300.154(a)(3). Such agreement or mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154.
X		13. The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing. (20 U.S.C. 1412(a)(13); 34 CFR §300.155)
X		14. The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E), as amended by the Every Student Succeeds Act; 34 CFR §300.156.
X		15. The State has established goals for the performance of children with disabilities in the State that meet the requirements found in 20 U.S.C. 1412(a)(15)(A)-(C), as amended by the Every Student Succeeds Act; 34 CFR §300.157.
X		16. All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E); as amended by the Every Student Succeeds Act; 34 CFR §300.160.
X		17. Funds paid to a State under this part will be expended in accordance with all the provisions of Part B including 20 U.S.C. 1412(a)(17)(A)-(C); 34 CFR §300.162.
X		18. The State will not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year, unless a waiver is granted, in accordance with 20 U.S.C. 1412(a)(18)(A)-(D); 34 CFR §§300.163 through 300.164.
X		19. Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. (20 U.S.C. 1412(a)(19); 34 CFR §300.165)
X		20. In complying with 34 CFR §§300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation. (20 U.S.C. 1412(a)(20); 34 CFR §300.166)

X		21. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D); 34 CFR §§300.167-300.169.
X		22. The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities in accordance with 20 U.S.C. 1412(a)(22)(A)-(B); 34 CFR §300.170.
X		23a. The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility Standard in the Federal Register in accordance with 20 U.S.C. 1412(a)(23)(A) and (D); 34 CFR §300.172.
		23b. <i>(Note: Check either "23b.1" or "23b.2" whichever applies.</i>
X		23b.1 The State educational agency coordinates with the National Instructional Materials Access Center and not later than 12/03/06 the SEA as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials enters into a written contract with the publisher of the print instructional materials to: <ul style="list-style-type: none"> <li>• require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or</li> <li>• purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. (20 U.S.C. 1412(a)(23)(C); 34 CFR §300.172)</li> </ul>
		23b.2 The State educational agency has chosen not to coordinate with the National Instructional Materials Access Center but assures that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. (20 U.S.C. 1412(a)(23)(B); 34 CFR §300.172)
X		24. The State has in effect, consistent with the purposes of the IDEA and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 34 CFR §300.8. (20 U.S.C 1412(a)(24); 34 CFR §300.173)
X		25. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school, receiving an evaluation under

		34 CFR §§300.300 through 300.311, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B); 34 CFR §300.174.
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## B. Other Assurances

The State also makes the following assurances:

Yes	Other Assurances
X	1. The State shall distribute any funds the State does not reserve under 20 U.S.C. 1411(e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part as provided for in 20 U.S.C. 1411(f)(1)-(3); 34 CFR §300.705.
X	2. The State shall provide data to the Secretary on any information that may be required by the Secretary. (20 U.S.C. 1418(a)(3); 34 CFR §§300.640-300.645.)
X	3. The State, local educational agencies, and educational service agencies shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702)
X	4. As applicable, the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.

## C. Certifications

The State is providing the following certifications:

Yes	Certifications
X	<p>1. The State certifies that ED Form 80-0013, <i>Certification Regarding Lobbying</i>, is on file with the Secretary of Education.</p> <p>With respect to the <i>Certification Regarding Lobbying</i>, the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.</p>
X	2. The State certifies that certification in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §76.104 relating to State eligibility, authority and approval to submit and carry out the provisions of its State application, and consistency of that application with State law are in place within the State.
X	3. The State certifies that the arrangements to establish responsibility for services pursuant to 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154 (or 20 U.S.C. 1412(a)(12)(A)); 34 CFR §300.154(a) are current. This certification must be received prior to the expenditure of any funds reserved by the State under 20 U.S.C. 1411(e)(1); 34 CFR §300.171.



**D. Statement**

I certify that the State of Ohio can make the assurances checked as 'yes' in Section II.A and II.B and the certifications required in Section II.C of this application. These provisions meet the requirements of the Part B of the Individuals with Disabilities Education Act as found in PL 108-446. The State will operate its Part B program in accordance with all of the required assurances and certifications.

If any assurances have been checked 'no', I certify that the State will operate throughout the period of this grant award consistent with the requirements of the IDEA, as found in PL 108-446 and any applicable regulations, and will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2022. (34 CFR § 76.104)

I, the undersigned authorized official of the

Ohio Department of Education \_\_\_\_\_,  
(Name of State and official name of State agency)

am designated by the Governor of this State to submit this application for FFY 2021 funds under Part B of the Individuals with Disabilities Education Act (IDEA).

Printed/Typed Name of Authorized Representative of the State:  Paolo DeMaria
Title of Authorized Representative of the State:  Superintendent of Public Instruction
Signature:
Date:

### Section III

#### Description of Use of Funds Under Part B of the Individuals with Disabilities Education Act—20 U.S.C. 1411(e)(5); 34 CFR § 300.171

States must provide the Description of Use of Funds by completing and submitting the Excel Interactive Spreadsheet with the FFY 2021 Application.

Describe how the amount retained by the State educational agency under 20 U.S.C. 1411(e)(1) will be used to meet the following activities under Part B. (20 U.S.C. 1411(e)(1)-(3), (6) and (7)) The Department annually identifies for States the maximum amounts that a State may retain under Section 1411(e)(1) and (2).<sup>1</sup> The dollar amounts **listed in the Excel Interactive Spreadsheet** by the State for administration and for other State activities should add up to less or equal to the dollar amount provided to the State by the Department for each of these activities.

**Enter whole dollar amounts (do not enter cents) in appropriate cells on the State's Excel Interactive Worksheet. The Excel Interactive Spreadsheet must be submitted as part of the State's application.**

Describe the process used to get input from LEAs regarding the distribution of amounts among activities described in the Excel Interactive Spreadsheet to meet State priorities. (20 U.S.C. 1411(e)(5)(B); 34 CFR § 300.704)

The State Director for the Ohio Department of Education Office for Exceptional Children (OEC) meets regularly with external stakeholders, who include but are not limited to the Ohio Association of Pupil Services Administrators, the Ohio Educational Service Center Association, the Buckeye Association of School Administrators, the Ohio Elementary School Administrators, and the Ohio Secondary School Administrators to obtain feedback regarding policies and funding priorities.

In addition, the Office for Exceptional Children meets regularly with its State Advisory Panel for Exceptional Children (SAPEC) comprised of parents of students with disabilities, Ohio school district representatives, state agency representatives, and other stakeholders. State Advisory Panel for Exceptional Children advises Office for Exceptional Children on policy needs, strategies, and funding priorities, and provides feedback on key initiatives.

The Office for Exceptional Children also works directly with sixteen regional state support teams. These state support teams provide technical support and assistance to school districts, parents and other stakeholders and advise the Office for Exceptional Children on regional needs and priorities throughout the state of Ohio.

Additionally, the Office for Exceptional Children coordinates a multitude of grants and projects in which the office collaborates with other agencies and stakeholders. Feedback from these activities assists the Office for Exceptional Children in targeting resources to specific areas in need of support.

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<sup>1</sup>Each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under this section for fiscal year 2004 or \$800,000 (adjusted in accordance with 20 U.S.C. 1411(e)(1)(B)), whichever is greater; and each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under 20 U.S.C. 1411(b)(1) for the fiscal year or \$35,000, whichever is greater.

For each fiscal year beginning with fiscal year 2005, the Secretary shall cumulatively adjust: 1) the maximum amount the State was eligible to reserve for State administration under this part for fiscal year 2004; and 2) \$800,000, by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

## Section IV

### State Administration

Section 608(a) of the IDEA requires each State that receives funds under this title to:

- (1) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title;
- (2) identify in writing to local educational agencies located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by this title and Federal regulations; and
- (3) minimize the number of rules, regulations, and policies to which the local educational agencies and schools located in the State are subject under this title.

States must attach to this application a list identifying any rule, regulation, or policy that is State-imposed (not required by IDEA or Federal regulations). If there are no such State-imposed rules, regulations, or policies, please so indicate. In addition, the State is required to inform local educational agencies in writing of such State-imposed rules, regulations or policies. (20 U.S.C. 1407(a); 34 CFR § 300.199)

#### **LIST OF STATE-IMPOSED RULES, REGULATIONS, AND POLICIES NOT REQUIRED BY IDEA OR FEDERAL REGULATIONS**

This document is a summary of state-imposed rules, regulations, and policies not required by IDEA or federal regulations. This document does not include all provisions of the state rules referenced below. For the complete text of both state requirements and federal IDEA requirements contained in the rules, refer to the Ohio Administrative Code or contact the Ohio Department of Education. The rules referenced below became effective July 1, 2014 (unless otherwise noted) and are currently under review and may be amended by the Ohio Board of Education.

#### **Rule 3301-51-01 Definitions**

- School district of residence: The child's school district of residence is responsible, in all instances, for ensuring that the requirements for making FAPE available are met for every eligible child in its jurisdiction, regardless of whether services are provided by another school district or other entity. [(A)(2)(a)]
- Plan: Each school district, county board of DD, or other educational agency, in providing for the education of children with disabilities within its jurisdiction, must have in effect a plan, written policies and procedures, and programs that are consistent with the state's policies and procedures related to the implementation of Part B of the IDEA. [(A)(5)]
- Document and Information: The superintendent of public instruction may require an state agency, school district, county board of DD, or other educational agency to provide documentation that special education and related services for children with disabilities provided by the public agency are provided in compliance with the requirements specified in this rule. [(A)(6)]
- "Child with a disability" is defined to include children aged three through five years who are experiencing developmental delays (as the term is defined in Rule 3301-51-11 and as measured by

appropriate diagnostic instruments and procedures); and who, by reason thereof, need special education and related services. This election has been made as authorized by 34 CFR 300.8(b). [(B)(10)(c)]

- "Traumatic brain injury" is defined to include an acquired injury to the brain caused by other medical conditions besides an external physical force, including but not limited to, stroke, anoxia, infectious disease, aneurysm, brain tumors, and neurological insults resulting from medical or surgical treatments. [(B)(10)(d)(xii)]
- "Visual Impairment" is defined to not include a disorder in one or more of the basic psychological processes, such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. [(B)(10)(d)(xiii)]
- "Paraprofessional services" is defined to include services provided by a school, county board of DD, and other educational agency employees who are adequately trained to assist in the provision of special education to children with disabilities. Paraprofessionals work under the supervision of teachers, intervention specialists, and/or related service providers. Other titles used to identify these service providers include teacher assistants, educational aides, school psychology aides, occupational therapy assistants, physical therapist assistants, and job coaches. [(B)(43)]
- "Parent" is defined to exclude a foster parent of a child as authorized by 34 CFR 300.30(a)(2). [(B)(44)(a)]
- "Qualified personnel" is defined to mean personnel who have met Ohio department of education-approved or Ohio department of education-recognized certification, licensing, or other comparable requirements that apply to the area in which the individuals are providing special education or related services. [(B)(52)]
- "Referral" is defined to mean the date the public school district or community school receives a parent's, school districts, or other educational agency's request for an initial evaluation or reevaluation. [(B)(53)]
- "Special education" is defined so that any other related service is included in the definition of special education if the IEP team considers the service special education rather than a related service under state standards and if the service otherwise meets the requirements for specially designed instruction. This election has been made as authorized by 34 CFR 300.8(a)(2)(ii) [(B)(60)]
- "Transition services" is defined to include The development of employment in an integrated competitive environment and other post-school adult living objectives; and When assessment data supports a need, If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation and require that transition services shall be provided by individuals who have the competencies, experiences, and training required to meet the individual student's transition service needs. Individuals coordinating transition shall either Obtain the Transition to Work endorsement; or possess the skills and knowledge to:
  - (a) Facilitate a planning process among multiple agencies, students and families to support a student's secondary transition process;
  - (b) Plan for the collection, sharing and utilization of student's transition data that is relevant to the student's post school outcomes, environment and support needs;

- (c) Communicate a student's individual transition plan to students, families, educators and agencies;
- (d) Coordinate the implementation research based practices that lead to effective postsecondary transition services and outcomes;
- (e) Utilize methods to engage students and families in the secondary transition process;
- (f) Assist in the coordination of referral process from school to adult services systems;
- (g) Link appropriate course of study and instruction strategies to secondary transition related goals; and
- (h) Create strategies that support the career development pathways of students with disabilities leading to career and college readiness. [(B)(65)]

#### **Rule 3301-51-02 Free Appropriate Public Education**

1. Extended School Year Services: Additionally, the school district shall consider the following when determining if extended school year services should be provided:
  - Whether extended school year services are necessary to prevent significant regression of skills or knowledge retained by the child so as to seriously impede the child's progress toward the child's educational goals; and
  - Whether extended school year services are necessary to avoid something more than adequately recoupable regression. [(G)]

[The above language is the language used by the United States Court of Appeals, Sixth Circuit, in interpreting the federal extended school year requirements. Although the Sixth Circuit decisions were issued prior to IDEA 2004 and the 2006 federal regulations, the October 13, 2006 ESY regulation carried over unchanged the March 12, 1999 ESY regulation.]

#### **Rule 3301-51-03 Child Find**

2. Developmental Delay: The Ohio Department of Education has adopted a definition of developmental delay, as authorized by 34 CFR 300.111(b), but a school district is not required to adopt and use the term for any children within its jurisdiction. If a school district uses the term developmental delay, the school district must conform to both the state's definition of that term in Rule 3301-51-11 and to the age range of three through five years of age which is the age-range subset adopted by the Ohio Department of Education. [(B)(2)]

#### **Rule 3301-51-04 Confidentiality**

3. Disciplinary Information: A school district, county board of developmental disabilities, and other educational agency shall include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of nondisabled children. When a child transfers from one school, county board of DD, or other educational agency to another, the transmission of any of the child's records must include both the child's current IEP and any statement of current or previous disciplinary action that has been taken against the child. [(Q); 34 CFR 99.36]

#### **Rule 3301-51-05 Procedural Safeguards**

4. Change of Placement: A change of placement means a change from one option on the continuum of alternative placements to another. Informed parental consent must be obtained before making a change of placement of a child with a disability unless the district of residence can demonstrate

that it made reasonable efforts to obtain consent and the parent has failed to respond or the change of placement is the result of a disciplinary action. [(C)(5)(a)-(c)(ii)]

5. **Surrogate Parents:** A surrogate parent shall be assigned as soon as possible (but, per the federal regulation, no later than 30 days of the date that it is determined that the child needs a surrogate parent).[(E)(4)(a)] The school district of residence maintains the ultimate responsibility for the assignment of a surrogate parent.[(E) (4)(b)] All surrogate parents must have successfully completed the training prescribed by the Ohio Department of Education prior to acting on behalf of the child.[(E)(3)] and (4)(c)(iv)] Pursuant to Revised Code Section 3323. 051, neither the surrogate parent nor the authority that assigned the surrogate parent shall be liable in civil damages for acts of the surrogate parent unless such acts constitute willful or wanton misconduct.[(E)(6)] A child who has reached the age of majority may request a surrogate parent.[(E)(8)]
6. **Additional Prior Written Notice Requirements:** Prior written notice shall be provided to the parents of a child with a suspected or confirmed disability within thirty days of the date of referral. Prior written notice shall be provided to the parents of a child with a suspected or confirmed disability prior to a change of placement that is a result of a disciplinary action. [(H)(4)]
7. **Administrative Reviews:** The child's parent or educational agency other than the school district may request an opportunity to present complaints to the superintendent. Administrative reviews are recommended but cannot be used to delay or deny an impartial due process hearing that has been requested in writing or to deny any other rights afforded to parents under IDEA. [(K)(1)]
8. **Mediation:** If the mediation requires changes in the IEP, the IEP team shall be convened to incorporate changes into the IEP within twenty school days following the mediation agreement or as agreed to in the mediation agreement. No part of the mediation discussion or sessions may be electronically recorded. [(K)(3)(b)(ix) and (x)]
9. **Sufficiency of Due Process Complaint:** If the hearing officer receives a notification challenging the sufficiency of a due process complaint, the hearing officer shall make a determination within the five-day period specified in the federal regulation and shall notify all parties in writing of that determination on the same date the determination is made. If the hearing officer determines that the complaint is insufficient, the determination shall include the reasons for the determination, a statement in clear language that the case has not been dismissed, and a notice of resources to assist parents without counsel in completing due process complaints and in correcting deficiencies. [(K)(8)(e)(iii)(b) and (c)]
10. **Due Process Hearing Officer.**
  - A due process hearing officer must be trained in accordance with the requirements set forth by the Office for Exceptional Children.
  - A due process hearing officer must be an attorney licensed to practice law in Ohio who has successfully completed all training required by the Ohio Department of Education.
  - The Ohio Department of Education may require any and all current hearing or state level review officers to reapply for eligibility to remain on the list of persons who serve as hearing officers.
  - Training sessions are a mandatory requirement to remain eligible for appointments.

Being on the list of possible hearing or state level review officers should not be considered a guarantee or expectation of appointment.

- The due process hearing officer is responsible for notifying all parties of the date, time, and location of the hearing; arranging a disclosure conference; issuing a subpoena when relevant; ruling on procedural issues; and arriving at a written decision based solely on evidence and testimony presented at the hearing and mailing the decision. [(K)(10) and (12)]
11. Appeal of Due Process Decision:
- As specified in Revised Code Section 3323.05(H), any party aggrieved by the findings and decision in the hearing may appeal the findings and decision in writing to the Ohio Department of Education within forty-five days of receipt of the hearing decision, and the department shall appoint a state level review officer who will conduct the review. [(K)(14)(b)]
  - Any party aggrieved by the findings and decision of the state level review officer may appeal the final order by filing a civil action within forty-five days of notification of the decision in the common pleas court of the county of the child's district of residence as provided by Revised Code Section 3323.05(H) (or within 90 days from the date of the decision in the district court of the United States as provided in the federal regulation, 34CFR 300.516). [(K)(17)(b)]
12. Cost of Hearing: Subject to certain stated exceptions, most costs incurred in a hearing requested by the parent, including the cost of the hearing officer, shall be assumed by the school district of the child's residence. If another public agency providing services to the child requests a hearing, that agency and the school district of residence will share the hearing costs, subject to the stated exceptions. The Ohio Department of Education compensates state level review officers. Hearing officers and state level review officers are paid as specified in the rule. [(K)(16)]
13. Procedures for Expedited due Process Hearings: As authorized by 34 CFR 300.532(c)(5), the Ohio Department of Education has established procedures for expedited due process hearings. Times frames are established for the district to notify the department of an expedited request, for the district to notify the parents if the district is requesting the hearing, and for the department to appoint a hearing officer. The hearing officer and state level review officer shall not grant any extensions of time. [(K)(22)(d)]
14. Availability of Scholarship Notification: Each time a district completes an evaluation for a child with a disability or undertakes the development, review or revision of the child's IEP, the district shall notify the child's parent, by letter or electronic means, about both the "Autism Scholarship Program" (ASP), established by section 3310.41 of the Revised Code, and the "Jon Peterson Special Needs Scholarship Program" (JPSN), established by section 3310.52 of the Revised Code, in accordance with Revised Code section 3323.052(c). For a preschool-aged child, notice only of the ASP is required when the district completes an evaluation for a child with a disability or undertakes the development, review or revision of the child's IEP. The notice shall include the following:
- Information that the child may be eligible for a scholarship under either the ASP or the JPSN that implements the child's IEP and that is operated by an alternative public provider or by a registered private provider; and
  - The telephone number of the office of the department responsible for administering the scholarship programs and the specific location of scholarship information on the department's website. [(L)(1) - (3)]

**Rule 3301-51-06 Evaluations**

15. Interventions: Each school district shall provide interventions to resolve concerns for any preschool or school-age child who is performing below grade-level standards. A school district may not use interventions to delay unnecessarily a child's being evaluated to determine eligibility for special education services. If such interventions have not been implemented prior to referral for evaluation, appropriate interventions should be implemented during the same sixty-day time frame during which the school district conducts a full and individual evaluation. [(A)(2)-(4)]
16. Request for Evaluation: A school district will, within thirty days of receipt of a request for an evaluation, either obtain parental consent for an initial evaluation or provide to the parents prior written notice stating that the school district does not suspect a disability and will not be conducting an evaluation. [(B)(3)]
17. Reevaluation: In addition to the times when the child must be reevaluated under the federal regulation at 34 CFR 300.303, the child must be reevaluated when a child, who has met the eligibility criteria for a developmental delay, transitions from preschool to school-age services; and in order to make a change in disability category. [(D)(1)(c) and (d) ]
18. Evaluation Procedures: Medical consultation shall be encouraged for a preschool or school-age child on a continuing basis. For preschool children, as appropriate, the evaluation shall include listed specialized assessments. [(E)(3)(h) and (i)]
19. Evaluation Plan and Evaluation Team Report: As part of an initial evaluation, and as part of any reevaluation, the evaluation team shall develop an evaluation plan that will provide for the evaluation or reevaluation and will be summarized in an evaluation team report. [(F)(1)]
20. Review of Existing Evaluation Data: The review of existing evaluation data on the child shall include data about the child's progress in the general curriculum or, for the preschool-age child, data pertaining to the child's growth and development, data from previous interventions, and any relevant trend data beyond the past twelve months, including the review of current and previous IEPs. [(F)(1)(a)(iv)-(vi)]
21. Written Evaluation Team Report: The written evaluation team report shall include:
  - A summary of information obtained during the evaluation process; and
  - The names, titles, and signatures of each team member, including the parent, and an indication of whether or not they are in agreement with the eligibility determination. Any team member who is not in agreement with the team's determination of disability shall submit a statement of disagreement.
  - The school district must provide a copy of the evaluation team report and the documentation of determination of eligibility or continued eligibility to the parents prior to the next IEP meeting and in no case later than fourteen days from the date of eligibility determination. [(G)(1)(b)]
22. Criteria for Determining Specific Learning Disability: As required by federal regulation 34 CFR 300.307, the state has adopted in this rule criteria for determining whether a child has a specific learning disability. The criteria permit the use of a process based on the child's response to scientific, research-based intervention and the use of alternative research-based procedures and do not require the use of a severe discrepancy between intellectual ability and achievement. [(H)(1) and (3)(d)]



23. Additional Procedures for Identifying Children with Multiple Disabilities: A group of qualified professionals and the parents of the child may determine the child has multiple disabilities if the child exhibits a combination of two or more areas of disability, except for a combination that includes a specific learning disability; and a severe or profound deficit in communication or adaptive behavior documented through the use of individually administered standardized instruments as specified in the rule. [(I)]

#### **Rule 3301-51-07 Individualized Education Program (IEP)**

24. Definition of Individualized Education Program (IEP): The IEP must include a statement that discusses the child's future and a statement of measurable annual goals, including academic and functional goals and benchmarks or short-term objectives. Benchmarks or short-term objectives shall be included for all children with disabilities and not for only children with disabilities who take alternate assessments aligned to alternative achievement standards. [(H)(1)(a) and (c)]
25. Transition Services: For each child with a disability, beginning no later than the first IEP to be in effect when the child turns fourteen (or younger, if determined appropriate by the IEP team), and updated annually, thereafter, the IEP must include independent living skills, in assessment data supports the need; and appropriate measurable post-secondary goals based on age-appropriate transition assessments related to integrated employment in a competitive environment. [(H)(2)(a) and (b)]
26. Notice to Parent of IEP Meeting: For a child with a disability, beginning not later than the first IEP to be in effect when the child turns fourteen, or younger if determined appropriate by the IEP team, the notice also must indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the child, as well as the consideration of the postsecondary goals and transition services for the child in accordance with (H)(2)(b) of this rule; and indicate that the school district will invite the child. The notice must also identify any other agency that will be invited to send a representative. [(J)(2)(b) and (c)]
27. Parent Copy of Child's IEP: Within thirty calendar days after the IEP meeting, the school district must give the parent a copy of the child's IEP at no cost to the parent. [(J)(6)]
28. Development of initial IEP: The initial IEP must be developed within whichever of the following time periods is the shortest:
- Within thirty calendar days of the determination that the child needs special education and related services;
  - Within ninety calendar days of receiving parental consent for an evaluation; or
  - Within one hundred twenty calendar days of the receipt of a request for an evaluation from a parent or school district. [(K)(2)(a)-(c)]
29. Initial IEP; Provision of Services: Once a child begins receiving services for the first time under an IEP, the school district in which the child is enrolled shall notify parents that the child is required to undergo a comprehensive eye exam within three months in accordance with Revised Code section 3323.19. [(K)(3)(c)]
30. Development of IEP: In developing each child's IEP, the IEP team must consider the results of the child's performance on any state or district-wide assessment programs, as appropriate. In the case of a child who is blind or visually impaired, the IEP team must ensure that the requirements

for IEPs for children with visual impairments are implemented as provided in Revised Code Section 3323.011. ((L)(1)(a)(iv) and (b)(iii)(b))

31. Amendment of IEP: If the IEP team amends or modifies the child's current IEP, the annual review date for the amended or modified IEP does not change. The annual review date will change upon a complete review and revision of the child's IEP. When an IEP is amended, the school district shall send a copy of the amended IEP to the parent within thirty days of the date the IEP was amended. ((L)(1)(d) and (f))

#### **Rule 3301-51-08 Parentally Placed Nonpublic School Children**

32. Students Eligible for a Scholarship: The district where the chartered or non-chartered nonpublic school is located is responsible for additional child find activities regarding children who are enrolled in either the "Autism Scholarship Program," established by section 3310.41 of the Revised Code or the "Jon Peterson Special Needs Scholarship Program," established by section 3310.052 of the Revised Code, as well as a determination of whether or not these children will receive services through a services plan, as outlined in paragraphs (C) and (J) of this rule. ((B)(6))
33. Written Affirmation: If a nonpublic school chooses not to participate, the parent may contact the school district in which the nonpublic school is located to request equitable services for the child. ((G)(2))
34. Development of the Services Plan and Location of Services: The school district where the nonpublic school is located convenes the services plan meeting, conference call, or video conference for each eligible child who will receive special education and related services. The school district where the nonpublic school is located is required to and is responsible for conducting a meeting, conference call, or video conference at least annually to review and revise, if appropriate, each child's services plan. The school district where the nonpublic school is located will determine where services will be provided. ((J)(3))
35. Autism Scholarship and Jon Peterson Special Needs Scholarship Program Considerations: Children who are participating in the "Autism Scholarship Program," established by section 3310.41 of the Revised Code or the "Jon Peterson Scholarship Program," established by section 3310.52 of the Revised Code (the "scholarship programs"), and attending either a chartered or non-chartered nonpublic school may be eligible to receive services funded through IDEA private school proportional share funds if the children meet the eligibility requirements pursuant to rules 3301-103 and 3301-101 of the Administrative Code. Children who are participating in the Autism Scholarship Program and attending either a chartered or non-chartered nonpublic school may be eligible to participate in the early childhood requirements as outlined in rule 3301-103 of the Administrative Code.
- Evaluations and re-evaluations shall be conducted in accordance with rules 3301-51-06, 3301-103 and 3301-101 of the Administrative Code.
  - The school district of residence shall create the IEP that is required for children to participate in the scholarship programs.
  - The district of residence is not required to make FAPE available to a child with a disability who resides in the district and is participating in either scholarship program, however, the parent of a child participating in either scholarship program has a right to file a written complaint or a request for a due process hearing as provided by rule 3301-51-05 of the Administrative Code. A complaint or request for a due process hearing may allege that the district of residence violated a

requirement of IDEA but may not allege a violation of any requirements involving the implementation of the IEP and whether the child has received FAPE. [(R)(1) and (3)]

**Rule 3301-51-09 Delivery of Services**

36. Service Providers: This rule addresses the role of preschool and school-age service providers; establishes workload requirements for the delivery of services to children with disabilities; and specifies requirements for housing, facilities, materials, and equipment and supplies for preschool and school-age programs.

**Rule 3301-51-10 Transportation of Children with Disabilities (effective July 25, 2013)**

37. Specialized Equipment: Transportation means specialized equipment such as adapted vehicles, lifts, and ramps, if required to provide special transportation for a child with disabilities, fitting and/or retrofitting vehicles with specialized equipment, such as car seats, securement systems, and safety vest, employment of transportation aides for particular special education vehicles if deemed necessary by the child's individual education program team, alternative pick-up and drop-off locations, such as the curb, driveway, or front door of the child's home, if determined to be appropriate based upon the individual needs of the child, and other travel that may be arranged by the school district with no reimbursement from the state. [(A)(3)(b)-(f)]

**Rule 3301-51-21 providing instructional materials to children with visual impairments and others with print disabilities that are listed for sale by publishers with the superintendent of public instruction**

38. Electronic textbooks (e-books): If an electronic textbook (e-book) is not fully accessible on current computer platforms, or is not available as a print instructional material, then the publisher must provide NIMAS file sets to the NIMAC. [(D)]

**Section 427 Statement:**

The Ohio Department of Education (ODE) will ensure to the fullest extent possible equitable access to, and participation in, activities conducted under Part B of the Individuals with Disabilities Education Act. Federally funded projects, programs and activities will be accessible to all teachers, students, and other program beneficiaries and all entities who receive funding from ODE shall not discriminate on the basis of gender, race, color, national origin, disability or age in its sponsored programs, or its services and activities. ODE will require that when designing their projects/programs, all grant applicants must address the equity concerns that could affect the ability of students, teachers, and other program beneficiaries to participate fully in the proposed project. ODE will ensure that all information required by Section 427 of GEPA is included, when applicable, in each application that the department funds. All applicants will be required to satisfy this provision in order to receive funding.

Due to the size and diverse populations within Ohio, a barrier often exists in outreach to particular economically disadvantaged regions of the state. ODE will focus efforts and emphasize outreach on these areas of the state and ensure that these populations are represented in federally funded projects, programs and activities with which ODE is involved.

## Section V

### A. Maintenance of State Financial Support

Pursuant to the authority established in IDEA section 618(a)(3), each applicant for funds under section 611 must provide the following State fiscal data with a certification of its accuracy by the State budget office or an authorized representative thereof. Amounts should be shown in whole dollars and are for the State fiscal year (SFY). States may meet the maintenance of State financial support (MFS) requirement in IDEA section 612(a)(18) and 34 CFR § 300.163 on either a total or per capita basis. In order to complete Section V.A of the Application, States must provide in whole dollars the total amount of State financial support made available for special education and related services for children with disabilities during SFYs 2019 and 2020. However, if a State met the MFS requirement on a per capita basis, it **must** complete the first chart and then may also complete the second chart by providing, in whole dollars, the amount of State financial support made available for special education and related services per child with a disability during SFYs 2019 and 2020.

#### Total Amount of State Financial Support Made Available for Special Education and Related Services for Children with Disabilities

<b>SFY 2019</b>	\$1,193,367,455.00
<b>SFY 2020</b>	\$1,196,254,884.00

#### Per capita amount of State Financial Support Made Available for Special Education and Related Services for Children with Disabilities

<b>SFY 2019</b>	
<b>SFY 2020</b>	

\_\_\_\_\_  
State Budget Officer or Authorized Representative (Printed Name)

\_\_\_\_\_  
Signature of State Budget Officer or Authorized Representative

\_\_\_\_\_  
Date

## B. Significant Disproportionality<sup>2</sup>

In accordance with 34 CFR § 300.647(b)(7), each State must report all risk ratio thresholds, minimum cell sizes, minimum n-sizes, standards for measuring reasonable progress if the State uses the “reasonable progress” flexibility in 34 CFR § 300.647(d)(2), and the rationales for each, to the Department. Under § 300.647(b)(7), rationales for minimum cell sizes that exceed 10 and minimum n-sizes that exceed 30 must include a detailed explanation of why the numbers chosen are reasonable and how they ensure that the State is appropriately analyzing and identifying LEAs with significant disproportionality based on race and ethnicity, in the identification, placement, or discipline of children with disabilities. Additionally, pursuant to the authority established in IDEA section 618(a)(3), each applicant must also provide the number of years of data it uses in making annual determinations of significant disproportionality. Each applicant must provide this information by completing and submitting the Significant Disproportionality Reporting Form.

All States completed and submitted the **Significant Disproportionality Reporting** Form with their FFY 2020 IDEA Part B application. After the initial submission of the Form, a State will only be required to submit the Form with any future annual IDEA Part B State applications if the State modifies its risk ratio thresholds, minimum cell sizes, minimum n-sizes, standards for measuring reasonable progress, and rationales for each, or the number of years of data used in making annual determinations of significant disproportionality.

If your State has revised its Significant Disproportionality procedures or has any questions regarding Section V. B. of the grant application, please contact your OSEP State Lead before the Application due date.

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<sup>2</sup> This collection is not intended to replace or duplicate the information collected through the Significant Disproportionality State Survey (Docket No. ED-2019-ICCD-0065; 1820-NEW). That survey will collect information that the Department will use to support States and LEAs in their efforts to comply with the statutory requirement at section 618(d) of the IDEA.