

**SUMMARY OF CHANGES FOR  
DRAFT RULE 3.0 TO 4.0  
December 11, 2012**

**\*Note:** “~~Mental Retardation,~~” “~~MR/DD,~~” “~~County Boards of Mental Retardation and Developmental Disabilities~~” language has been updated and changed throughout document. Those changes are not indicated below.

**Rule 3301-51-01 Applicability of requirements and definitions**

1. Add Language: “or provider of the “Jon Peterson Special Needs Scholarship Program” established by section 3310.52 of the Revised Code.

*Page 11 of the Operating Standards, Section 3301-51-01(A)((3)(ii))*

- 1, eval  
Teams*
2. (20) “Evaluation” means procedures used in accordance with rule 3301-51-06 of the Administrative Code for evaluations to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

- (1) (21) “Initial Evaluation team” means the parents and a group of IEP team and other qualified professionals.

- (2) (22) “Evaluation team for children potentially identified with specific learning disabilities” means the parents and a group of qualified professionals, which must include:

(a) The child’s regular teacher; or

(b) If the child does not have a regular education teacher, a regular classroom teacher qualified to teach a child of the child’ age; or

(c) For a child of less than school-age, an individual qualified by the Ohio Department of Education to teach a child of the child’s age; and

(d) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial teacher.

- (3) (23) “Re-evaluation team” means the IEP team and other qualified professionals.

*Page 21 of Operating Standards, Section 3301-51-01(B)(20)*

2. (62) "Transition Services": Insert Language:
  - (a)(ii)(d) The development of competitive employment in which workers are integrated regardless of disability and other post-school adult living objectives; and
  - (e) If assessment data support a need, acquisition of daily living skills and provision of a functional vocational evaluation.
  - (iii) Shall be provided by qualified transition coordinators who have the competencies, experiences, and training required to meet the individual student's transition service needs. Remove the rest of Section (iii).

*Page 39-40 of the Operating Standards, Section 3301-01-51(B)(63)*

**Rule 3301-51-02 Free appropriate public education**

No substantive changes were made to Rule 3301-51-02 Free Appropriate Public Education.

**Rule 3301-51-03 Child find**

No substantive changes were made to Rule 3301-51-03 Child Find.

**Rule 3301-51-04 Confidentiality**

No substantive changes were made to Rule 3301-51-04 Confidentiality.

**Rule 3301-51-05 Procedural safeguards**

1. (4) Additional notice requirements: Remove entire section (c).  
*Page 70 of Operating Standards, Section 3301-51-05(H)(4)(c)*
2. (9) Resolution Process: Remove entire section (a)(iii).  
*Page 83 of Operating Standards, Section 3301-51-05(K)(9)(a)(iii).*
3. (f) Determination that behavior was a manifestation: Remove Language-
4. (i)(a) ~~Start to~~ conduct a functional behavioral assessment ~~within 10 days of the manifestation determination and complete the assessment as soon as practicable~~, unless the school district had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

(b) If a behavioral intervention plan already has been developed, ~~within ten days of the manifestation determination~~, review the behavioral intervention plan and the implementation of the plan, and modify it, as necessary, to address the behavior ~~subject to the disciplinary action~~; and

\*Suggestion to make the FBA OP-1 and BIP OP-2 mandatory and required forms= YES.  
*Page 99 of the Operating Standards, Section 3301-51-05(20)(f)(i)(a) and (b).*

**Rule 3301-51-06 Evaluations.**

1. (D) Reevaluations: Add Language to section (1)(c) When a child, with a developmental delay, transitions from preschool to school-age services.

*Page 110 of Operating Standards, Section 3301-51-06(D)(1)(c)*

*If identified  
1 of 13 categories  
May Not need  
Eval*

2. (F) Additional requirements for evaluations and reevaluations: Remove Language and Replace to Section (1): As part of an initial evaluation, if appropriate, and as part of any reevaluation under this rule.....

*Page 113 of Operating Standards, Section 3301-51-06(F)(1)*

3. (G) Determination of eligibility: Add Language to reflect scholarship notification  
(4) Scholarship Notification

(a) Pursuant to Revised Code Section 3323.052(c), 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, under section 3310.41 of the Revised Code, and the Jon Peterson special needs scholarship program, under sections 3310.51 to 3310.64 of the Revised Code.

(b) The notice shall include the following statement:

(i) "Your child may be eligible for a scholarship under the Autism Scholarship Program or the Jon Peterson Special Needs Scholarship Program to attend a special education program that implements the child's individualized education program and that is operated by an alternative public provider or by a registered private provider"; and

(ii) The notice shall include 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 web site.

*Page 115 of Operating Standards, Section 3301-51-06(G)(1)*

4. Remove Language in section (c)

*Page 117 of Operating Standards, Section 3301-51-06(H)(2)(c)*

5. (J) Additional procedures for identifying children with deafness or hearing impairment:  
Remove and Replace all Language in entire section:

A group of qualified professionals, which shall include a licensed audiologist, and the parents of the child may determine the child has deafness or a hearing impairment if the child exhibits:

(1) ~~An average pure tone hearing loss of fifty decibels or greater, according to the "American Speech-Language-Hearing Association (ASHA) Guidelines for the Audiologic Assessment of Children From Birth to Five Years of Age" (2004) for children from birth to five years of age or according to the "American Speech-Language-Hearing Association (ASHA) Guidelines for Manual Pure-Tone Threshold Audiometry" (2005) for children six through twenty-one years of age, for the frequencies five hundred, one thousand, and two thousand hertz in the better ear; [The guidelines referenced in paragraph (J)(1) of this rule are available at [www.asha.org](http://www.asha.org).]~~ An impairment in hearing, whether permanent or fluctuating, that adversely affects educational performance.

~~(2) An average pure tone hearing loss of twenty-five decibels or greater (ASHA) for the frequencies five hundred, one thousand, and two thousand hertz in the better ear, which has an adverse effect upon the child's educational performance related to documented evidence of:~~ The determination of whether the child has a hearing impairment shall be based on the individual child and cannot be based on audiogram alone.

~~(a) A more severe hearing loss during the developmental years than is currently measured;~~

~~(b) A history of chronic medical problems that have resulted in fluctuating hearing, presently or in the past; or~~

~~(c) A delay in diagnosis, provision of amplification, or initiation of special programming.~~

~~(3) A hearing loss in excess of twenty-five decibels (ASHA) for the frequencies one thousand hertz through eight thousand hertz in the better ear, resulting in such poor auditory discrimination that it has an adverse effect upon the child's educational performance.~~

**Rule 3301-51-07 Individualized education program (IEP).**

1. (H) Definition of individualized education program: Add Language to Section (1)(c)  
A statement of measurable goals- DEFINE 6 CRITICAL ELEMENTS:

(c) **A statement of measurable annual goals**, including academic and functional goals that contain the following six critical elements:

- (i) Who?
- (ii) Will do what?
- (iii) To what level or degree?
- (iv) Under what conditions?
- (v) In what length of time?
- (vi) How will progress be measured?

(d) Benchmarks or short-term objectives designed to:

- (i) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and
- (ii) Meet each of the child's other educational needs that result from the child's disability;

*Page 126 of Operating Standards, Section 3301-51-07(H)(1)(c)*

2. (H) Definition of individualized education program: Remove and Replace Language in Section (2) Transition Services:

(a) ~~For each child with a disability, beginning at age fourteen (or younger, if determined appropriate by the IEP team), the IEP shall include a statement, updated annually, of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced placement courses or a vocational education program).~~

(b)(a) Beginning not later than the first IEP to be in effect when the child turns ~~sixteen~~ fourteen, or younger if determined appropriate by the IEP team, and updated annually, thereafter, the IEP must include:

(i) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, ~~employment and, where appropriate, if assessment data supports the need,~~ independent living skills; and

(ii) Appropriate measureable post-secondary goals based on age-appropriate transition assessments related to employment in a

competitive environment in which workers are integrated regardless of disabilities;

- (iii) The transition services (including courses of study) needed to assist the child in reaching those goals.

(3) Transfer of rights at age of majority

Beginning not later than one year before the child reaches eighteen years of age, which is the age of majority under Ohio law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the IDEA that will transfer to the child on reaching the age of majority, as specified in rule 3301-51-05(D) of the Administrative Code.

*Page 127-128 of Operating Standards, Section 3301-51-07(H)(2)-(3)*

- 3. (I) IEP team: Remove and Replace: then than  
*Page 128 of Operating Standards, Section 3301-51-07(I)(1)(c)*
- 4. (I) IEP team: District Representative- review (i), (ii) and (iii). Possible expansion of language to make criteria more clear as to who can serve as district rep.  
*Page 128 of Operating Standards, Section 3301-51-07(I)(d)(i)-(iii)*
- 5. (K) When IEPs must be in effect: Add Language to section (3)(c):
  - (b) Within three months after a student identified with disabilities begins receiving services for the first time under an individualized education program, the school district in which that student is enrolled shall require the student to undergo a comprehensive eye examination pursuant to Revised Code section 3323.19, unless the student underwent such an examination within the nine-month period immediately prior to being identified with disabilities. However, no student who has not undergone the eye examination required under this section shall be prohibited from initiating, receiving, or continuing to receive services prescribed in the student's individualized education program. (\*Note: this language will be shortened).

*Page 132 of Operating Standards, Section 3301-51-07(K)*

**Rule 3301-51-08 Parentally placed nonpublic school children**

1. Add Language to New Section (S):

(S) Jon Peterson special needs scholarship program considerations

- (1) Children who are participating in the "Jon Peterson Special Needs Scholarship Program," established by section 3310.52 of the Revised Code, and enrolled in a special education program at a registered private provider or alternative public provider are unilaterally privately placed students and not entitled to a free and appropriate public education.
- (2) The school district of residence is required to evaluate students with suspected disabilities, including students who attend private programs within the district. The district will reevaluate the student every three years, unless the parent and district agree that reevaluation is not necessary.
- (3) The school district of residence shall create the initial IEP that is required for these children to participate in the Jon Peterson Special Needs Scholarship Program. The IEP team will review the IEP each year.
  - (a) There is no requirement that the scholarship provider provide all of the services set forth on the IEP.
  - (b) ODE will investigate written complaints at a school district of residence has violated a requirement of IDEA or Ohio Adm. Code, but will not investigate allegations concerning the implementation of the IEP by a provider or whether the child has received FAPE.
  - (c) A parent or student may file a request for due process challenging decisions related to the identification or evaluation of a child, but cannot file a request for due process related to the services provided by the private provider or whether the child has received FAPE while enrolled in the scholarship program.

*Page 157 of Operating Standards- this would be a new section (S).*

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

No substantive changes were made to Rule 3301-51-09 Delivery of Services.

**Rule 3301-51-10 Transportation of children with disabilities**

No substantive changes were made to Rule 3301-51-10 Transportation of children with disabilities.

**Rule 3301-51-11 Preschool students with disabilities**

1. (2) Interagency agreements: Remove and Replace Language in Section (2): Family and children first council agency  
*Page 174 of Draft 2.0*  
*Page 174 of Operating Standards, Section 3301-51-11(B)(2)*
2. (D) Transition from Part C early intervention: Add Language that previous school experience is not a prerequisite to receive ESY.  
*Page 179 of Draft 3.0*  
*Page 178-179 of Operating Standards, Section 3301-51-11(D)(4)*
3. (D) Transition from Part C early intervention: Remove and Replace Language in Section (5)(a): Family and children first council agency  
*Page 179 of Operating Standards, Section 3301-51-11(D)(5)(a)*
4. Minor editing changes for grammar are evident.

**Rule 3301-51-20 Standard for admission, transfer, suspension, and expulsion- the Ohio state school for the blind and the Ohio school for the deaf**

I do not believe this section is up for Revision at this time (last revised 2009).

**Rule 3301-51-21 Rules for providing braille translation computer media for schoolbooks that are listed for sale by publishers with the superintendent of public instruction**

No substantive changes were made to Rule 3301-51-21 Rules for providing braille translation computer media for schoolbooks that are listed for sale by publishers with the superintendent of public instruction.