

Public Notice

Education

State Board of Education

Notice of Receipt of Petition for Rulemaking

Special Education

Parental Consent, Notice, Participation, and Meetings

N.J.A.C. 6A:14-2.3

Petitioner: David Fishkin.

Take notice that on August 29, 2025, the State Board of Education (State Board) received a petition for rulemaking from the petitioner, requesting that the State Board amend N.J.A.C. 6A:14-2.3 to reduce the age at which a student with a disability is invited to attend, and participate in, the meeting of the individualized education program (IEP) team to discuss transition services for the student.

N.J.A.C. 1:30-4.1(b) and 6A:6-4.1(b) require a petition for rulemaking to state the substance or nature of the rulemaking that is requested, the reasons for the request and the petitioner's interest in the request, and references to the authority of the agency to take the requested action.

The petitioner seeks to amend N.J.A.C. 6A:14-2.3(k)5ii, which establishes the notice requirements for IEP meetings that will discuss transition services for a student with a disability beginning at age 14 or younger, if appropriate. The subparagraph requires the notice to indicate that the meeting's purpose will be the development of the transition services for the student and that the district board of education will invite the student.

The petitioner seeks to reduce the age at which a student with a disability is invited to IEP meetings to "the school year when the student will turn 12." The petition also requests an amendment at N.J.A.C. 6A:14-2.3(k)5ii(2) to indicate that the district board of education will invite the student to attend the meeting; however, it is an existing provision.

The petitioner also requests a new regulation at N.J.A.C. 6A:14-2.3(k)5ii(2)(A) to require, beginning the school year when the student will turn 12, the annual notice provided by the school district to the parent or guardian, pursuant to N.J.A.C. 6A:14-2.3(h), to indicate that the student will be invited to participate.

The petitioner further requests new N.J.A.C. 6A:14-2.3(k)5ii(2)(B) to require the school district to document that the student has acknowledged receipt of the invitation, either through written statement, recorded verbal response, or other age-appropriate method. The requested amendment also would require the school district to retain the student's acknowledgment with the student's IEP records. Furthermore, the requested amendment would require the IEP team to document the attempts and include a written rationale in the student's IEP record if the student fails to provide acknowledgment after two documented attempts, or is determined to lack the capacity to acknowledge the invitation. The petitioner indicates that this would help ensure that students are fully aware of the meeting, understand their rights, and recognize the expectations regarding their participation.

The petitioner states that the existing requirement to include students with disabilities at age 14 is intended to promote student involvement, but student-led participation is often limited by a system that is not structured to fully support their engagement. By delaying mandatory invitations until age 14, the petitioner states that the system misses a critical developmental window, especially because self-determination skills begin to emerge well before adolescence.

The petitioner also states that students who lead or actively participate in their IEP meetings are more likely to understand their disabilities, rights, and available accommodations. The petitioner further states that early involvement provides the time and space for students to build self-advocacy, goal-setting, and communication skills, which are competencies that the petition indicates are essential for academic success and also for a smoother transition to postsecondary life.

The petitioner states that earlier involvement in the IEP process enhances outcomes before high school and fosters more robust collaboration among all parties and is supported by research, as follows:

- Barnard-Brak and Lechtenberger (2010) found a positive correlation between IEP participation and academic achievement among elementary-aged students; and
- Danneker and Bottge (2009) found that student-led IEP meetings – particularly at the elementary level – fostered more collaborative participation among students, parents, and educators compared to traditional meetings.

The petitioner indicates that the existing participation window (ages 14 to 21) does not provide students with enough time to develop the confidence, skills, and self-awareness needed to take ownership of their education. The petitioner, who self-identified as a former student with an IEP, relates personal experience of being placed in a special education curriculum that did not reflect the petitioner’s abilities and resulted in the petitioner being behind academically. The petitioner states that the petitioner likely was considered to be too young to contribute meaningfully when the petitioner’s advisors and parents were making decisions about the petitioner’s high school placement.

The petitioner provided N.J.S.A. 18A:4-15 as the reference to the agency’s authority to take the requested action. The petitioner also indicates that the requested change is allowed pursuant to the Individuals with Disabilities Education Act (IDEA) at 34 CFR 300.321(b)(1), which requires a student to be invited to participate in an IEP meeting when needed transition services are discussed, and 20 U.S.C. § 1414(d)(1)(B)(vii), which stipulates that a student is eligible to participate in the IEP team “whenever appropriate.” The petitioner also states that 20 U.S.C. § 1414(d)(1)(A)(viii) sets the minimum age for such participation as “not later than the first IEP to be in effect when the child is 16.” The petitioner further states that lowering the invitation age to 12 aligns fully with Federal regulations.

The requested amendments are as follows (additions in **bold**; deletions in brackets):

6A:14-2.3 Parental consent, notice, participation, and meetings

(a) – (j) (No change.)

(k) Meetings to determine eligibility and develop an IEP shall be combined, if feasible, as long as the requirements for notice of a meeting according to (g) above and (k)3 through 5 below are met.

1. – 4. (No change.)

5. Notice of meetings shall indicate the purpose, time, location, and participants.

i. (No change.)

ii. When a purpose of an IEP meeting for a student with a disability beginning at [age 14] **the school year when the student will turn 12**, or younger, if appropriate, is a discussion of transition services, the notice of the IEP meeting shall indicate that:

(1) A purpose of the meeting will be the development of the transition services for the student; and

(2) The district board of education will invite the student;

(A) **Beginning the school year when the student will turn 12, the district shall, in its annual notice pursuant to N.J.A.C. 6A:14-2.3(h), provide notification to the parent or guardian that the student shall be invited to participate; and**

(B) **Document that the student has acknowledged receipt of the invitation, either through written statement, recorded verbal response, or other age-appropriate method; and**

- (i) The student's acknowledgment shall be retained with the student's IEP records; and**
- (ii) If the student fails to provide acknowledgment after two documented attempts, or is determined to lack the capacity to acknowledge the invitation, the IEP team shall document the attempts and include a written rationale in the student's IEP record.**

iii. (No change.)

6. – 10. (No change.)

In accordance with N.J.A.C. 1:30-4.2, the Department of Education shall subsequently mail to the petitioner, and file with the Office of Administrative Law, a notice of action on the petition.