

Public Notice

Education

State Board of Education

Notice of Action on 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.

The petitioner sought 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 sought to reduce the age referenced at N.J.A.C. 6A:14-2.3(k)5ii from “14, or younger” to “12 or younger.” The petitioner also requested 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, but that provision already provides the same.

The petitioner also requested a new rule 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. However, the petitioner's characterization of the notice contemplated at N.J.A.C. 6A:14-2.3(h) is not accurately described as an "annual notice" because notice is required and given for various reasons and occasions. (See N.J.A.C. 6A:14-2.3(f))

The petitioner further requested a new rule at 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.

A notice acknowledging receipt of the petition was published in the October 6, 2025 New Jersey Register at 57 N.J.R. 2310(a).

The Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400 et seq., is the Federal law that governs the education of students with disabilities. To receive Federal special education funds, states must develop special education laws and regulations that are consistent with the IDEA and its implementing regulations, 34 CFR Part 300. New Jersey has satisfied this requirement with the adoption of N.J.A.C. 6A:14.

Existing N.J.A.C. 6A:14-2.3 mirrors the requirements at 34 CFR 300.321, related to IEP team meetings, and existing N.J.A.C. 6A:14-2.3(k)5ii is consistent with the IDEA.

N.J.A.C. 6A:14-2.3(k)2 sets forth the required members of an IEP team meeting, which includes the attendance of the student with a disability at an IEP meeting at any age, where appropriate. N.J.A.C. 6A:14-2.3(k)2x and (k)5ii require the student to be invited to attend the IEP meeting if a purpose of the meeting is to consider transition services, regardless of the student's age.

The petitioner's requested amendment to the age that a student is required to be invited to IEP meetings that discuss transition services is not necessary because students are already required to be invited, regardless of age, to any IEP meeting at which a discussion of transition services will occur. Pursuant to N.J.A.C. 6A:14-3.7(e)11, beginning with the IEP that will be in place for the school year when the student will turn age 14, the student's IEP must include provisions related to transition services as defined at N.J.A.C. 6A:14-1.3. N.J.A.C. 6A:14-3.7(e)11 also provides that, if the IEP team deems it appropriate, the discussion or inclusion of transition services in the student's IEP may occur at an age younger than age 14. In the event that there will be a discussion of, or the student's IEP is to include, transition services, N.J.A.C. 6A:14-2.3(k)5ii requires that the student be invited to the IEP meeting, regardless of age. Therefore, the petitioner's requested amendment at N.J.A.C. 6A:14-2.3(k)5ii would have no substantive effect.

To the extent that the petitioner is requesting a new rule that would lower the age requirement for mandatory discussion and inclusion of transition services in IEPs from age 14 to age 12 (see N.J.A.C. 6A:14-3.7(e)11), such a change is not appropriate. In New Jersey, beginning with the student's age 14 school year, transition services, as defined at N.J.A.C. 6A:14-1.3, must be included in the student's IEP. As noted by the petitioner, New Jersey regulations already go beyond the IDEA requirement that transition services be discussed and included in a student's IEP beginning with the student's age 16 school year. 20 U.S.C. § 1414(d)(1)(A)(viii) and 34 CFR 300.321(b).

Transition services, as defined at both N.J.A.C. 6A:14-1.3 and 34 CFR 300.43, involve services that focus on, and help facilitate, a student's movement from school to post-school activities, which includes, but is not limited to, postsecondary education, vocational education, employment, and independent living. The Department of Education has determined age 14 to be the appropriate age for the mandatory inclusion of transition services in student IEPs. For students under age 14, the discussion and inclusion of transition services should be made at the local level and on a case-by-case basis where the IEP team finds it appropriate to do so. The

current regulations already contemplate such an occasion. Therefore, due to the nature of transition services, which involves preparing students for post-school activities, it is not appropriate to place a mandatory requirement for IEPs to include, or for invitations to IEP meetings to discuss, transition services for all students under age 14.

The petitioner's requested new rules pertaining to documenting invitations and responses to notices issued pursuant to N.J.A.C. 6A:14-2.3(k)5ii are similarly not necessary. Pursuant to existing N.J.A.C. 6A:14-2.3(k)5ii(1), the meeting notice must explain that the meeting's purpose includes the development of transition services. Existing N.J.A.C. 6A:14-2.3(k)5ii(2) further requires an invitation to the IEP meeting be provided to the student. To clarify, the petitioner's reference to an "annual notice" pursuant to N.J.A.C. 6A:14-2.3(h) in the requested amendment does not accurately describe the current regulatory scheme. N.J.A.C. 6A:14-2.3(h) does not contain any "annual notice" requirement for district boards of education.

The petitioner's requested changes would place more of a burden on, and require more steps be taken by, a district board of education than the IDEA and New Jersey regulations require when school districts must notify parents of IEP meetings or when obtaining consent from parents to implement an IEP. (See N.J.A.C. 6A:14-2.3(e), (f), and (h)) School districts are required to provide the notice of an IEP meeting to IEP participants; however, requiring school districts to seek an affirmative response from the student on multiple occasions, and engage in additional recordkeeping does not add any meaningful benefit to the current regulatory process that would otherwise outweigh the imposition of additional requirements on school districts. The current level of notification, which is the same notice provided to parents and other members of the IEP team, is sufficient to advise students of their invitation to, and expectations regarding participation at, the planned IEP meeting to discuss and/or include transition services.

For all of the above-mentioned reasons, after due consideration pursuant to law, the petitioner's request is hereby denied.