

The following is a summary of the comments received from members of the public and the Department of Education's (Department) responses. Each commenter is identified at the end of the comment by a number that corresponds to the following list:

1. Mary Ciccone, Director of Policy, Disability Rights New Jersey (DRNJ)
2. Elizabeth Athos, Senior Attorney and Moderator, Education Law Center (ELC) and New Jersey Special Education Practitioners (NJSEP)
3. Diana MTK Autin, Executive Co-Director, and Lauren Agoratus, New Jersey Coordinator - Family Voices, Statewide Parent Advocacy Network (SPAN)
4. Dr. Lawrence Feinsod, Executive Director, New Jersey School Boards Association (NJSBA)
5. Marion Glantz and Barbara Glazewski, Presidents, New Jersey Association of Speech-Language Specialists (NJASLS)
6. Elizabeth Franks, Kathleen Fernandez, Solange Lopes-Murphy, and Sonya Bertini, New Jersey Teachers of English to Speakers of Other Languages/New Jersey Bilingual Educators (NJTESOL/NJBE)
7. School Affairs Committee, New Jersey Speech-Language-Hearing Association (NJSHA)
8. Multicultural Issues Committee, New Jersey Speech-Language-Hearing Association (NJSHA)
9. Liane Allen, School-based Speech-Language pathologist
10. Zuzel Brescher, School-based Speech-Language pathologist
11. William Carosia, School-based Speech-Language pathologist
12. Maureen Carroll, School-based Speech-Language pathologist

13. Kerry Chinigo, School-based Speech-Language pathologist
14. Michelle Frankenthaler, School-based Speech-Language pathologist
15. Katrina Kupski, School-based Speech-Language pathologist
16. Mara Mamroud, School-based Speech-Language pathologist
17. Jennifer Walk, School-based Speech-Language pathologist
18. Francine Pfeffer, Associate Director of Government Relations, New Jersey Education Association (NJEA)
19. Dr. Cynthia Pritchett, Supervisor of Special Projects, Pineland Learning Center
20. Jean Publiee

1. Comment: The commenters recommended an amendment at N.J.A.C. 6A:14-1.2(b)12 to clarify that a student with a disability placed at a school pursuant to N.J.S.A. 18A:46-14, the “Naples Act,” would be at no cost to the student’s parents. (1, 2, and 3)

Response: The Department agrees that N.J.A.C. 6A:14-1.2(b)12 needs to include that a placement of a student with a disability under the Naples Act is provided by the district board of education at no cost to the student’s parents. N.J.S.A. 18A:46-14 allows, in part, a district board of education to place a student with a disability in an accredited nonpublic school that is not specifically approved by the Department as an approved private school for students with disabilities if the nonpublic school’s academic program is the most appropriate placement for the student, the services are nonsectarian, and the placement is approved by the Commissioner or a court order. Therefore, the Department will change N.J.A.C. 6A:14-1.2(b)12, upon adoption, to add “or in schools pursuant to N.J.S.A. 18A:46-14” after “approved private schools for students with disabilities.”

2. Comment: The commenter supported the proposed amendment at N.J.A.C. 6A:14-1.2(b)13 to delete the requirement that all personnel serving students with disabilities must be “highly qualified.” (5)

Response: The Department thanks the commenter for the support of the proposed amendment to align the rule with the Federal Every Student Succeeds Act (ESSA), which removed requirements related to highly qualified teachers. As proposed for amendment, N.J.A.C. 6A:14-1.2(b)13 will still require each district board of education to have policies, procedures, and programs that are approved by the Department and ensure that all personnel serving students with disabilities are appropriately certified and licensed, where a license is required, in accordance with State and Federal law.

3. Comment: The commenter recommended an amendment at N.J.A.C. 6A:14-1.2(b)14 to require all currently certified teachers to participate, as part of their continuing professional development, in in-service programs related to students with disabilities and special education programs. (4)

Response: The Department acknowledges the importance of continuing professional development for certificated staff. N.J.A.C. 6A:14-1.2(b)14 requires each district board of education to have policies, procedures, and programs that are approved by the Department and ensure that professional development needs for professional and paraprofessional staff who provide special education, general education, or related services are identified, and appropriate in-service training is provided. The Department declines to adopt the suggested amendment as it is substantive in nature and extends beyond the scope of readopting the chapter with limited amendments. The Department

will consider the commenter's suggested amendment when more substantive changes are proposed in the near future.

4. Comment: The commenter suggested an amendment at N.J.A.C. 6A:14-1.2(b)14 to specifically include paraprofessionals and related service providers as recipients of professional development programs that include strategies that address student learning and positive behavior supports. (3)

Response: The Department declines to adopt the suggested amendment as it is substantive in nature and extends beyond the scope of readopting the chapter with limited amendments. The Department will consider the commenter's suggested amendment when more substantive changes are proposed in the near future.

5. Comment: The commenters requested clarification as to whether a "kinship legal guardian," as established at N.J.S.A. 3B:12A-2, is considered a "parent" as defined at N.J.A.C. 6A:14-1.3 for the purposes of making education decisions for a minor student with a disability. (1 and 3)

Response: The definition of "parent" at N.J.A.C. 6A:14-1.3 includes "legal guardian," which encompasses "kinship legal guardian." As with any legal guardian, a kinship legal guardian retains all rights under Chapter 14, including the right to act on behalf of a minor student with a disability. Therefore, no additional clarification or amendment is required.

6. Comment: The commenter suggested an amendment at N.J.A.C. 6A:14-1.3 to include a definition for "resource family" because the commenters maintain that the term is not well known. (3)

Response: The Department declines to make the suggested change because “resource family” is now the preferred term over “foster care.” This change in terminology has been updated in other titles of the New Jersey Administrative Code. The Department will update the Parental Rights in Special Education (PRISE) booklet and other materials to reflect the change in the preferred terminology to make clear that resource family care includes the services traditionally known as foster care.

7. Comment: The commenter recommended an amendment at N.J.A.C. 6A:14-1.3 to add renaissance schools to the definition of “district board of education” because renaissance schools are subject to the chapter’s requirements. (4)

Response: The Department agrees with the commenter’s recommendation to include renaissance schools in the definition of “district board of education.” Renaissance school projects are required to provide services to students with disabilities. However, N.J.S.A. 18:A36C-14 states that the fiscal responsibility for any student currently enrolled in, or any renaissance school student determined to require, a private day or residential school remains with the school district of residence. Therefore, the Department will change N.J.A.C. 6A:14-1.3, upon adoption, to add “the renaissance school project board of trustees” after “the charter school board of trustees.”

8. Comment: The commenters recommend an amendment to the definition of “speech-language specialist” at N.J.A.C. 6A:14-1.3 to remove the reference to “speech correctionist.” The commenters also recommended adding “speech language specialist-equivalent” to the definition. (5 and 7)

Response: The Department agrees with the commenters’ recommendation in light of the fact that the Department has proposed to eliminate references to “speech correctionist” in

other parts of the chapter. The Department agrees with the commenters' recommendation to add "speech language specialist-equivalent" to the definition of "speech-language specialist" to include the speech correctionists who were granted the speech language specialist-equivalent endorsement following completion of a Department-approved upgrade program following the elimination of the speech correctionist endorsement in 2015. Therefore, the Department will change N.J.A.C. 6A:14-1.3, upon adoption, to delete "speech correctionist or" and to add "or speech language specialist-equivalent" at the end.

9. Comment: The commenter recommended an amendment at N.J.A.C. 6A:14-2.2 to include a definition for "resource family parent" because the commenter maintains that the term is not well understood by the general public. (2)

Response: The Department declines to make the suggested change because "resource family" is synonymous with "foster care" and found throughout the New Jersey statutes and elsewhere in the New Jersey Administrative Code.

10. Comment: The commenter suggested an amendment at N.J.A.C. 6A:14-2.3(c) to make clear that a parent or guardian of a student with a disability may consent to certain parts of a proposed individualized education program (IEP) while disagreeing with another part of a proposed IEP consistent with the regulations implementing the Individuals with Disabilities Education Act (IDEA) at 34 CFR 300.300(d)(3). (1)

Response: The Department declines to further amend N.J.A.C. 6A:14-2.3(c) because, pursuant to 34 CFR 300.300(b)(1), implementing the IDEA, informed parental consent from the parent of the child with a disability is required before the initial provision of special education and related services. A parent or guardian of a child who has been

determined eligible for special education and related services who disagrees with the proposed initial IEP prior to implementation may seek resolution of the dispute through the special education dispute resolution options, that is, mediation and/or a due process hearing.

11. Comment: The commenter requested an amendment at N.J.A.C. 6A:14-2.3(k)2 to require the presence of a teacher of English as a second language (ESL) or a bilingual specialist to be present at a meeting of the IEP team. (1)

Response: The Department declines to make the suggested change at N.J.A.C. 6A:14-2.3(k)2, which establishes the required participants at a meeting of a student's IEP team. The suggested amendment is substantive in nature and extends beyond the scope of readopting the chapter with limited amendments. The Department will consider the commenter's suggested amendment when more substantive changes are proposed in the near future.

12. Comment: The commenter recommended an amendment at N.J.A.C. 6A:14-2.3(k)8 to replace "audio recording device" with "audio recording device or any other type of recording mechanism." (1)

Response: The Department declines to make the suggested change at N.J.A.C. 6A:14-2.3(k)8, which, as proposed for amendment, allows participants at an IEP meeting to use an audio recording device during the meeting, as long as notice is given to the other participants prior to the start of the meeting. Replacing "audio-tape recorder" with "audio recording device or any other type of recording mechanism" is substantive in nature and extends beyond the scope of readopting the chapter with limited amendments. To avoid any potential confusion and to allow for sufficient time to discuss the issue with all

stakeholders as part of a future rulemaking, the Department is not adopting the proposed amendment to replace “audio-tape recorder” with “audio recording device.”

13. Comment: The commenter requested that the Department not adopt the proposed amendments at N.J.A.C. 6A:14-2.5(b)1iii and, instead, to amend the existing rule to replace “a student with limited English proficiency” with “a student in the earlier stages of second language development” or “a student who is an emergent bilingual.” The commenter stated that the existing rule implies there are specific materials and procedures able to measure the extent to which an emergent bilingual student has a disability, but they do not exist. The commenter also stated that the assessment of emergent learners involves a layered and multi-phased approach that investigates all external factors to contextualize and explain academic struggles. (6)

Response: The Department declines to adopt the suggested amendment because it is substantive in nature, extends beyond the scope of readopting the chapter with limited amendments, and would require amendments to N.J.A.C. 6A:15, Bilingual Education. However, the Department will change N.J.A.C. 6A:14-2.5(b)1iii, upon adoption, to update the terminology to be consistent with N.J.A.C. 6A:15, by replacing “with limited English proficiency” with “who is an English language learner.”

14. Comment: The commenter requested an amendment at N.J.A.C. 6A:14-2.7 and throughout the chapter to insert “or designee” after references to “district of board of education” to clarify that employees may be acting on behalf of the district board of education. (4)

Response: The Department declines to make the suggested change because employees or individuals taking action on matters related to the provision of special education and

related services to students with disabilities are doing so in their official capacities and acting on behalf of the district board of education, which is responsible for carrying out the duties and responsibilities.

15. Comment: The commenter questioned whether the Department's proposed enhancements to the special education dispute resolution system, including proposed guidelines for the conduct of special education due process hearings, should be included at N.J.A.C. 6A:14-2.7. (4)

Response: The Department appreciates the commenter's support of [the proposed enhancements to the special education dispute resolution system](#) and the proposed due process hearing guidelines. However, the Department declines to amend the chapter as part of the readoption to include the proposed enhancements and guidelines because they are not finalized at this point. Furthermore, any related regulatory changes would be substantive in nature and would extend beyond the scope of readopting the chapter with limited amendments.

16. Comment: The commenter requested clarification about N.J.A.C. 6A:14-2.7(o) regarding the need for families to send requests for expedited due process hearings by certified/return receipt mail or if sent electronically a means for the district to confirm receipt of same. (3)

Response: N.J.A.C. 6A:14-2.7 does not require parents to send requests for due process hearings by certified mail or return receipt mail. The only requirement set forth at N.J.A.C. 6A:14-2.7(c) is for the party requesting a due process hearing to send a copy of the request to the other party and to note in its filing with the Department that a copy has been sent to the other party.

17. Comment: The commenters suggested an amendment at N.J.A.C. 6A:14-3.2(a) to afford additional administrative time to speech-language specialists who serve as case managers to students with disabilities. The commenters stated that speech language specialists who serve as case managers need additional preparation time and that is accomplished by specifying additional administrative time in the rules. (5 and 9 through 17)

Response: The Department declines to adopt the suggested amendment at N.J.A.C. 6A:14-3.2(a), which, in part, requires a child study team member, or a speech-language specialist when acting as a member of the child study team, to be designated and serve as the case manager for each student with a disability. The requested changes are substantive in nature and extend beyond the scope of readopting the chapter with limited amendments. The Department will consider the recommendation when more substantive changes are proposed in the near future. Furthermore, existing N.J.A.C. 6A:14-3.2(c)3 requires case managers to have “an apportioned amount of time for case management responsibilities.”

18. Comment: The commenter requested an amendment at N.J.A.C. 6A:14-3.3(e)4 to require the presence of an ESL teacher or bilingual specialist in the IEP meeting to decide whether to evaluate a student and the nature and scope of the evaluation. (6)

Response: The Department declines to adopt the suggested amendment at N.J.A.C. 6A:14-3.3(e)4, which requires the child study team, the parent, a speech-language specialist, and the general education teacher of the student who has knowledge of the student's educational performance, or a teacher who is knowledgeable about the school district's programs if there is no teacher of the student, to participate in the meeting to decide whether to evaluate a student age five to 21 when the suspected disability includes

a language disorder, and the nature and scope of the evaluation. The commenter's suggested change is substantive in nature and extends beyond the scope of the readoption with limited amendments. The Department will consider the recommendation when more substantive changes are proposed in the near future.

19. Comment: The commenter requested an amendment at N.J.A.C. 6A:14-3.4(a) to require the inclusion of an ESL teacher or bilingual specialist in the identification and review of student data to decide whether to evaluate a student to determine if he or she is a student with a disability requiring special education and related services. (6)

Response: The Department declines to adopt the requested amendment at N.J.A.C. 6A:14-3.4(a), which sets forth the responsibilities of the child study team, the parent, and the general education teacher of the student who has knowledge of the student's educational performance or a teacher who is knowledgeable about the school district's programs if there is no teacher of the student. The suggested change is substantive in nature and extends beyond the scope of the readoption with limited amendments. The Department will consider the recommendation when more substantive changes are proposed in the near future.

20. Comment: The commenters suggested an amendment at N.J.A.C. 6A:14-3.4(f)3 to include alternative means of assessment other than standardized test scores, such as functional measures, to be used in determining eligibility for special education and related services. (8 through 17)

Response: The Department declines to make the suggested change. N.J.A.C. 6A:14-3.4(f)3 requires an evaluation to include, where appropriate or required, the use of a standardized test(s) that are individually administered, valid, and reliable, normed on a

representative population, and either standard scores with standard deviation or norm referenced scores with a cutoff score. Therefore, the suggested change is substantive in nature and extends beyond the scope of the readoption with limited amendments. The Department will consider the recommendation when more substantive changes are proposed in the near future.

21. Comment: The commenter recommended an amendment at N.J.A.C. 6A:14-3.4(f)4 and 3.5(b) to replace “limited English proficiency” with “multilingual learner” or “emergent bilingual.” The commenter stated that the suggested terms identify children by their assets rather than by a perceived deficit (that is, learning English). (6)

Response: The Department declines to make the suggested change because it extends beyond the scope of readopting the chapter with limited amendments and would require amendments to N.J.A.C. 6A:15. However, the Department will change N.J.A.C. 6A:14-3.4(f)4, upon adoption, to replace “a child with limited English proficiency” with “a child who is an English language learner” to be consistent with N.J.A.C. 6A:15.

The Department will also change N.J.A.C. 6A:14-3.5(b), upon adoption, to replace “due to limited English proficiency for English language learners (ELLs)” with “if the student is an English language learner (ELL).”

22. Comment: The commenter requested an amendment at N.J.A.C. 6A:14-3.4(f)4 to include as a required element, where appropriate, the assessment in the child’s first language. The commenter also requested an amendment at N.J.A.C. 6A:14-3.4(f)4vi to include as an informal measure, the dynamic language assessments in a child’s first and second languages, if applicable. (6)

Response: The Department declines to make the suggested changes because they are substantive in nature and extend beyond the scope of the readoption with limited amendments. The Department will consider the recommendations when more substantive changes are proposed in the near future.

23. Comment: The commenters thanked the Department for the proposed amendments at N.J.A.C. 6A:14-3.5(c)1 through 14 that utilize person-centered language to describe the categories when determining the eligibility for special education and related services. (3 and 18)

Response: The Department thanks the commenters for the support.

24. Comment: The commenters requested an amendment at N.J.A.C. 6A:14-3.5(c)4 to expressly state that a language disorder may be receptive or expressive. The commenters also recommend adding “phonology” to the definition of “communication impairment.” (7 and 9 through 17)

Response: The Department declines to make the suggested change at N.J.A.C. 6A:14-3.5(c)4, which, as proposed for amendment, establishes “communication impairment” as one of the disabilities for which a student can be eligible for special education and related services under this chapter. The requested change is substantive in nature and extends beyond the scope of the readoption with limited amendments. The Department will consider the recommendation when more substantive changes are proposed in the near future.

25. Comment: The commenters suggested an amendment in the second sentence at N.J.A.C. 6A:14-3.5(c)4, which sets forth the standard for a “communication impairment” to be demonstrated. The commenters requested that “where such tests are appropriate” be

replaced with a “student’s ability to participate in the tests.” The commenters also requested an amendment to explicitly include bilingual and ELLs in this paragraph. (5 and 8)

Response: The Department declines to make the suggested changes at N.J.A.C. 6A:14-3.5(c)4 because they are substantive in nature and extend beyond the scope of the readoption with limited amendments. The Department will consider the recommendations when more substantive changes are proposed in the near future.

26. Comment: The commenter requested an amendment at N.J.A.C. 6A:14-3.5(c)10, the definition of “preschool child with a disability” to explicitly include bilingual students and ELLs. (8)

Response: The Department declines to make the requested change because N.J.A.C. 6A:14-3.5(c)10 covers all students, including bilingual students and students who are English language learners.

27. Comment: The commenter requested an amendment to the definition of “specific learning disability” at N.J.A.C. 6A:14-3.5(c)12 to include a pattern of strengths and weaknesses as a methodology to determine eligibility for special education and related services. (18)

Response: The Department declines to make the requested change at N.J.A.C. 6A:14-3.5(c)12 because it is substantive in nature and extends beyond the scope of the readoption with limited amendments. The Department will consider the recommendation when more substantive changes are proposed in the near future.

28. Comment: The commenter stated that the classification of “specific learning disability” at N.J.A.C. 6A:14-3.5(c)12 needs to be considered carefully in the case of ELLs because

most of the abilities referenced in the rule overlap with struggles of ELLs as they are in the process of acquiring a new language. The commenter also acknowledged that this issue can be addressed in guidance. (6)

Response: The Department thanks the commenter for the input and agrees the issue can be addressed through guidance.

29. Comment: The commenter requested an amendment at N.J.A.C. 6A:14-3.6(b)3 to include a requirement that a child’s medical provider has determined the child has been cleared for a voice evaluation before an eligibility meeting occurs. (5)

Response: The Department declines to make the requested change at N.J.A.C. 6A:14-3.6(b)3, which sets forth the criteria for a voice disorder. The requested change is substantive in nature and extends beyond the scope of the readoption with limited amendments. The Department will consider the recommendation when more substantive changes are proposed in the near future.

30. Comment: The commenter suggested an amendment at N.J.A.C. 6A:14-3.7(c)6 to replace “student with limited English proficiency” with “English learner.” The commenter stated that “language needs” is too broad and needs to be described with greater specificity. The commenter recommended an amendment to replace “consider the language needs of the student as related to the IEP” with “consider one specific area of difficulty in the new language (for example, reading comprehension) and evaluate whether that specific difficulty is also present in the student’s first language.” (6)

Response: The Department declines to make the suggested changes to “language needs” because they are substantive in nature and extend beyond the scope of the readoption with limited amendments. However, the Department agrees with the commenter on the

first suggested amendment and will change N.J.A.C. 6A:14-3.7(c)6, upon adoption, to replace “with limited English proficiency” with “who is an English language learner.”

31. Comment: The commenters requested an amendment at N.J.A.C. 6A:14-3.8 to require the child study team, when speech-language services are no longer warranted under the disabling condition of Communication Impaired, to conduct a reevaluation to determine if the student continues to be a student with a disability under a different disabling condition. (9 through 17)

Response: The Department declines to adopt the requested amendment because it is substantive in nature and extends beyond the scope of the readoption with limited amendments. The Department will consider the recommendation when more substantive changes are proposed in the near future.

32. Comment: The commenters suggested an amendment at N.J.A.C. 6A:14-3.9(a)3 to delete “the student shall meet the eligibility criteria for the classification of ‘eligible for speech-language services’ but shall not be classified as such.” The commenters stated that deletion of the provision will clarify the confusion that exists that students need to meet the eligibility criteria for communication impaired to receive speech-language services when students have another primary disability. (7 and 9 through 17)

Response: The Department declines to adopt the suggested amendment at N.J.A.C. 6A:14-3.9(a)3 because it is substantive in nature and extends beyond the scope of the readoption with limited amendments. The Department will consider the recommendation when more substantive changes are proposed in the near future.

33. Comment: The commenter supported the use of person-first language in the proposed amendments at N.J.A.C. 6A:14-4.2(a)8, that will replace “regular classroom” and

“regular class” with “general education classroom” and “general education classroom,” respectively. (3)

Response: The Department thanks the commenter for the continued advocacy for the use of person-first language.

34. Comment: The commenter stated there is a typographical error at N.J.A.C. 6A:14-4.10(a)1 and recommended replacing “in pursuant to” with “pursuant to.” (2)

Response: The Department thanks the commenter for the close reading of the proposed amendment. However, the second sentence upon adoption will state “Except as provided at (a)2 below, students with disabilities shall participate in Statewide assessments pursuant to N.J.A.C. 6A:8-4.1.” Therefore, the Department declines to make the commenter’s recommended change.

35. Comment: The commenter supported the proposed amendment at N.J.A.C. 6A:14-8.1(e) to require a district board of education to notify an adult student, in addition to the student’s parent, when mandated student records are provided to a New Jersey State agency upon a student’s placement in a State facility. (3)

Response: The Department thanks the commenter for the support.

36. Comment: The commenter expressed support for the amendments to the chapter that recognize some English language speakers may not be able to read or write and some non-English language speakers may be literate in their native language but unable to read or write in the English language. (3)

Response: The Department thanks the commenter for the support.

37. Comment: The commenter questioned whether the current readoption with amendments at N.J.A.C. 6A:14 should include the emergency rules that allow for the delivery of

special education and related services to students with disabilities through the use of remote or other online platforms. (4)

Response: The emergency rules adopted by the State Board of Education on April 1, 2020, are concurrent with Executive Order No. 103 (Murphy) (2020) due to the COVID-19 public health emergency. The [modified rules](#) that expressly allow for the delivery of special education and related services through remote or other online platforms expire when Executive Order No. 103 is rescinded or expires. Therefore, the emergency modifications are not included in the rules readopted with amendments. However, the Department will consider substantive amendments concerning the delivery of special education and related services to students with disabilities through remote or other online platforms when more substantive changes are proposed in the near future.

38. Comment: The commenter requested guidance and clarification concerning the implementation of a new student data system to be used at a specific approved private school for students with disabilities. (19)

Response: The Department will share the commenter's questions with the appropriate office within the Department. However, the commenter's questions are outside the scope of the rulemaking.

39. Comment: The commenter expressed concerns about school buildings being closed during the COVID-19 global pandemic and urged the reopening of school buildings. (20)

Response: The commenter's feedback is outside the scope of the rulemaking.

Federal Standards Statement

The rules readopted with amendments are in compliance with Federal requirements under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400 et seq., and its

implementing regulations, and will continue to advance the mission to ensure the provision of special education services and programs to students with disabilities. The adopted amendments ensure the chapter remains consistent with Federal regulations at 34 CFR 300.300.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 6A:14.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***):

Subchapter 1. General Provisions

6A:14-1.2 District board of education eligibility for assistance under IDEA Part B

- (a) (No change from proposal.)
- (b) Each district board of education shall have policies, procedures, and programs that are approved by the Department of Education, through the county office, that are in effect to ensure the following:
 - 1. – 11. (No change from proposal.)
 - 12. Students with disabilities who are placed in approved private schools for students with disabilities ***or in schools pursuant to N.J.S.A. 18A:46-14*** by the district board of education are provided special education and related services at no cost to their parents;
 - 13. – 19. (No change from proposal.)
- (c) – (h) (No change from proposal.)

6A:14-1.3 Definitions

Words and terms, unless otherwise defined below, when used in this chapter, shall be defined in the same manner as those words and terms are defined and used in the IDEA (20 U.S.C. §§ 1400 et seq.) and its implementing regulations at 34 CFR Part 300, which terms are incorporated by reference herein.

...

"District board of education" means, except as defined otherwise, the school district of residence, the charter school board of trustees, ***the renaissance school project board of trustees,*** the State agency, or other public education agency that acts as the school district of residence for the location, identification, evaluation, determination of eligibility, development of an IEP and the provision of a free, appropriate public education to students with disabilities.

...

"Speech-language specialist" means ***[a speech correctionist or]*** speech-language specialist ***or speech-language specialist-equivalent*.**

...

Subchapter 2. Procedural Safeguards

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

(a) – (j) (No change from proposal.)

(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. – 7. (No change from proposal.)

8. Participants at the IEP meeting shall be allowed to use an *[audio recording device]* ***audio-tape recorder*** during the meeting, provided notice is given to the other participants prior to the start of the meeting that such a device is being utilized.

9. – 10. (No change from proposal.)

(l) – (n) (No change from proposal.)

6A:14-2.5 Protection in evaluation procedures

(a) (No change from proposal.)

(b) Each district board of education shall ensure:

1. That evaluation procedures*,* including, but not limited to, tests and other evaluation materials according to N.J.A.C. 6A:14-3.4:

i. – ii. (No change.)

iii. Measure the extent to which a student *[with limited English proficiency]* ***who is an English language learner*** has a disability and needs special education, rather than measure the student's English language skills;

2. -7. (No change from proposal.)

(c) (No change from proposal.)

Subchapter 3. Services

6A:14-3.4 Evaluation

(a) – (e) (No change from proposal.)

- (f) An initial evaluation shall consist of a multi-disciplinary assessment in all areas of suspected disability. An initial evaluation shall include at least two assessments and shall be conducted by at least two members of the child study team in the areas in which the child study team members have appropriate training or are qualified through their professional licensure or educational certification and other specialists in the area of disability as required or as determined necessary. Each evaluation of the student shall:
1. – 3. (No change from proposal.)
 4. Include a functional assessment of academic performance and, where appropriate, a functional behavioral assessment, an assessment of the language needs of a child **[with limited English proficiency]** ***who is an English language learner***, assessment of the student’s communication needs, and assessment of the need for assistive technology devices and services. Each of the following components shall be completed by at least one evaluator:
 - i. – vi. (No change from proposal.)
 5. (No change.)
- (g) – (j) (No change from proposal.)

6A:14-3.5 Determination of eligibility for special education and related services

- (a) (No change from proposal.)
- (b) In making a determination of eligibility for special education and related services, a student shall not be determined eligible if the determinant factor is due to a lack of instruction in reading, including the essential components of reading instruction, or mathematics, or **[due to limited English proficiency for]** ***if the student is an*** English language **[learners (ELLs)]** ***learner (ELL)***.

(c) (No change from proposal.)

6A:14-3.7 Individualized education program

(a) – (b) (No change from proposal.)

(c) When developing the IEP, the IEP team shall:

1. -5. (No change from proposal.)

6. In the case of a student *[with limited English proficiency]* ***who is an English language learner***, consider the language needs of the student as related to the IEP;

7. -12. (No change from proposal.)

(d) – (m) (No change from proposal.)