



April 24, 2020

Please note that the advice and analysis provided on Individuals with Disabilities Education Act (IDEA) Part B public participation are specific, and limited, to the facts presented and to the statutory and regulatory structure, and relevant requirements, of Part B of the IDEA. It is intended to be consistent with the U.S. Department of Education's (Department's) current understanding of the Center for Disease Control and Prevention's COVID-19 guidance, and guidance of available flexibilities issued by the Office of Management and Budget, regarding this national emergency. Use of this advice is limited to the period of this national emergency. Also, because this situation is fluid, the Department reserves the right to alter or reverse this advice or analysis during this period.

PUBLIC PARTICIPATION — IDEA PART B

Relevant Requirements:

- The public participation requirements relevant to Part B are set forth in the [Part B regulations at 34 C.F.R. § 300.165](#) as follows:
 - Prior to the adoption of any policies and procedures needed to comply with Part B (including any amendments to those policies and procedures), the State must ensure 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
 - Before submitting a State plan under this part, a State must comply with the public participation requirements in the paragraph above and those in 20 U.S.C. 1232d(b)(7).¹

¹ (7) that the State will provide reasonable opportunities for the participation by local agencies, representatives of the class of individuals affected by each program and other interested institutions, organizations, and individuals in the planning for and operation of each program, including the following:

(A) the State will consult with relevant advisory committees, local agencies, interest groups, and experienced professionals in the development of program plans required by statute;

(B) the State will publish each proposed plan, in a manner that will ensure circulation throughout the State, at least sixty days prior to the date on which the plan is submitted to the Secretary or on which the plan becomes effective, whichever occurs earlier, with an opportunity for public comments on such plan to be accepted for at least thirty days;

(C) the State will hold public hearings on the proposed plans if required by the Secretary by regulation; and

Options for Flexibility:

- Because of the exigent circumstances surrounding this pandemic that have resulted in school closures and State imposed restrictions on public gatherings, the Department would like to highlight the following flexibility with regards to hearings in meeting the public participation requirements under Part B of IDEA:
 - The use of virtual hearings to satisfy the IDEA public participation requirement is not prohibited by the IDEA; however, States should consult with their attorneys prior to conducting virtual hearings for this purpose to ensure that this practice is not prohibited under State law.
 - Virtual hearings must be accessible consistent with federal civil rights laws, to ensure that individuals with disabilities have ample opportunities to participate.
 - After the COVID-19 emergency has ended and it is again possible to hold in person hearings, we recommend holding hearings in person to the greatest extent possible to ensure that individuals with limited access to technology also can participate.

TECHNICAL ASSISTANCE RESOURCES

- [National Center for Systemic Improvement](#) (NCSI) is a multiyear cooperative agreement funded by the U.S. Department of Education, Office of Special Education Programs (OSEP) (2019-2024). NCSI plays a major role in helping states achieve a national vision of Results-Driven Accountability (RDA) for special education programs.
- Parent Training and Information Centers (PTIs) and Community Parent Resource Centers (CPRCs) work with families of children with youth with disabilities, birth to 26 and help parents participate effectively in their children's education and development. To locate the Parent Center that serves your area, visit: <https://www.parentcenterhub.org/find-your-center/>.

(D) the State will provide an opportunity for interested agencies, organizations, and individuals to suggest improvements in the administration of the program and to allege that there has been a failure by any entity to comply with applicable statutes and regulations.