

HUMAN SERVICES

COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

Blindness Education Program of the Commission for the Blind and Visually Impaired

Readoption: N.J.A.C. 10:92

Proposed: April 18, 2016, at 48 N.J.R. 627(a).

Adopted: August 18, 2016, by Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Filed: September 8, 2016, as R.2016 d.123, **without change**.

Authority: N.J.S.A. 30:6-1 et seq., and P.L. 2007, c. 111.

Effective Date: September 8, 2016.

Expiration Date: September 8, 2023.

Summary of Public Comments and Agency Responses:

The Commission received comments from the following individuals:

Carol Castellano

Nancy D. Miller

Elisa Dahill

Gerald Miller

Denise Lanchantin Dwyer, Esq. on behalf of New Jersey Special Education Practitioners

1. COMMENT: Members of the general public expressed concern that the current school contract system and levels of service impose limitations on the Teach of the Visually Impaired (TVI) services that students can receive, and inhibit individualization of these services.

RESPONSE: The Commission for the Blind and Visually Impaired (CBVI) agrees that the current school contract system under the existing N.J.A.C. 10:92 appears to place limitations on

services provided to blind or vision impaired students. However, removing the levels of service is too substantive a change to be made upon adoption. However, amendments are forthcoming in the near future that will address these concerns.

2. COMMENT: Members of the general public expressed concern that CBVI teachers' participation in the individualized education program (IEP) process has been minimal, at best, and decisions regarding learning media for blind or vision impaired students have traditionally been made without the consent of the full IEP team.

RESPONSE: The Commission agrees that CBVI teachers should participate in the IEP process for blind and vision impaired students. As discussed in the Response to Comment 1, the pending amendments will address these concerns.

3. COMMENT: Members of the general public expressed concern that student access to CBVI services that are not part of the Blindness Education Unit, therefore, not part of the contractual arrangement with local school districts, is limited and not sufficient to foster students' access to services, such as Orientation and Mobility, Daily Living, Assistive Technology, and Transition/Vocational Rehabilitation.

RESPONSE: As noted in Comments 1 and 2, and the corresponding responses, Orientation and Mobility Services, Daily Living Services, and Technology Services, are not part of the contract system, and generally speaking, these instructors have not participated in the IEP process.

Students are, however, referred for these services as needed. Further, these professionals are now being encouraged, as a matter of agency policy, to participate in student IEPs when possible, or to develop recommendations that Commission Teachers of the Visually Impaired (TVIs) may

bring with them to these meetings. Additionally, there are currently five CBVI technology specialists who are dedicated solely to the provision of technology services to students. CBVI Transition Counselors are fully certified Vocational Rehabilitation Counselors and service all CBVI students ages 14 and above. Finally, CBVI is in the midst of the implementation of a three- to five-year strategic plan. One of the initiatives in this strategic plan is to make more accessible to students, the array of services that are not currently part of our Blindness Education Unit through the establishment of a formalized interdisciplinary team approach to service delivery. As the agency moves closer to this interdisciplinary team approach, Orientation and Mobility (O&M) and other Daily Living instructors will become part of each student's team, for which the primary gatekeepers will be the CBVI teacher.

4. COMMENT: Members of the general public expressed concern that N.J.A.C. 10:92 is not in alignment with Federal and State education laws, particularly in regards to students' right to a free and appropriate public education (FAPE), and the perception exists that their families cannot invoke procedural safeguards because of the absence of blindness education services provided by CBVI in students' IEPs.

RESPONSE: As discussed in the Responses to Comments, 1, 2, and 3, the Commission will soon propose amendments to address these concerns.

5. COMMENT: The members of the general public have expressed concern that blind or vision impaired students are being denied blindness education services if their medical eye reports are not updated every three years.

RESPONSE: The provision in the existing N.J.A.C. 10:92-2.1 that requires that students receiving Blindness Education Services from CBVI must have an eye exam within a three-year period of time in order to remain eligible for these services is recognized by CBVI to be highly problematic. As discussed in the responses to prior comments, amendments are forthcoming that will address this issue.

6. COMMENT: Members of the general public have expressed concern that CBVI teachers and other blindness professionals providing service to blind and vision impaired students are not appropriately credentialed in their respective disciplines.

RESPONSE: CBVI agrees that credentialing is important. As discussed in the responses to prior comments, amendments are forthcoming that will address this issue.

7. COMMENT: Members of the general public have expressed concern that blind and vision impaired students whose local school districts do not contract with CBVI for blindness education services, and students who are educated in non-traditional school settings, such as within the juvenile justice system; parent-placed private schools; and home school settings are not able to receive accessible books and materials.

RESPONSE: It is the practice of CBVI to serve eligible students who are served within the juvenile justice system and others served within Department of Children and Families school programs, as well as those who attend parent-placed private schools. Children who are educated in home school settings have posed a challenge to CBVI in terms of locating these children and identifying the providers of Child Study Team services with whom to engage for purposes of planning and collaborating, as well as developing a provider service agreement. It is important

to note that CBVI instructors serve students in non-traditional school settings and are often key participants in helping others who work with the students in these settings understand the important issues surrounding the education of a non-traditional student who is blind or vision impaired.

Federal Standards Statement

The readopted rules do not contain any standards or requirements that are subject to Federal requirements or standards. As a result, an analysis of the rules pursuant to Executive Order No. 27 (1994) is not required.

Full text of the readopted rules can be found in the New Jersey Administrative code at N.J.A.C. 10:92.