Section 226.130 Additional Procedures for Students Suspected of or Having a Specific Learning Disability

[Note: This version displays the new version recommended for adoption. Following this is a version displaying the recommended changes against the version adopted by the Board on December 14, 2006.]

a) In addition to the requirements set forth in Sections 226.110 and 226.120 of this Part, the district shall adhere to the procedures set forth at 34 CFR 300.307, 300.308, 300.309, 300.310, and 300.311 when evaluating a student who is suspected of, or who has previously been identified as having, a specific learning disability as described in 34 CFR 300.8.

b) Provided that the requirements of this subsection (b) are met, each district shall, no later than the beginning of the 2010-11 school year, implement the use of a process that determines how the child responds to scientific, research-based interventions as part of the evaluation procedure described in 34 CFR 300.304.

1) No later than January 1, 2008, the State Superintendent of Education shall, in consultation with the statewide teacher organizations, statewide school management organizations, and State Advisory Council on Education of Students with Disabilities, prepare and disseminate a plan outlining the nature and scope of the professional development that is necessary to permit implementation of a process of this type and describing any additional activities or resources that the Superintendent finds to be essential.

2) The plan shall quantify the estimated cost of the professional development and other necessary resources and shall identify sources of funding that are or may become available to the State Superintendent for these purposes.

3) The plan shall include:

   A) a method of identifying school districts that are less able than others to implement a process of the required type without technical or financial assistance from the State;
B) a timeframe for the provision of training, other technical assistance and materials, or financial resources for related purposes that demonstrates the State Superintendent’s best efforts to secure and provide relevant support to districts; and

C) a method of allocating resources that affords first consideration to districts that may otherwise be unable to implement a process of the required type without diverting necessary support from other aspects of the educational program.

c) No later than January 1, 2009, each district shall develop a plan for the transition to the use of a process that determines how the child responds to scientific, research-based interventions as part of the evaluation procedure described in 34 CFR 300.304. Each district’s plan shall identify the resources the district will devote to this purpose and include an outline of the types of State-level assistance the district expects to need, with particular reference to the professional development necessary for its affected staff members to implement this process. The transition plan developed pursuant to this subsection (c) may be incorporated into a district’s district improvement plan (see 23 Ill. Adm. Code 1.85(b)) if one exists.

d) In addition to using an identification process of the type required by subsection (b) of this Section, a district may use a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability.

(Source: Amended at 31 Ill. Reg. _____, effective _____________)

Section 226.130 Additional Procedures for Students Suspected of or Having a Specific Learning Disability

[This is the version that displays the recommended changes against the December version.]

a) In addition to the requirements set forth in Sections 226.110 and 226.120 of this Part, the district shall adhere to the procedures set forth at 34 CFR 300.307, 300.308, 300.309, 300.310, and 300.311 when evaluating a student who is suspected of, or who has previously been identified as having, a specific learning disability as described in 34 CFR 300.8. By the beginning of the 2008-09 school year, each district shall implement the use of a process that determines whether
the child responds to scientific, research-based intervention as part of the evaluation procedures described in 34 CFR 300.304. The scientific, research-based interventions may be used to determine whether a student has a specific learning disability. In addition, a district may use a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability.

b) Provided that the requirements of this subsection (b) are met, each district shall, no later than the beginning of the 2010-11 school year, implement the use of a process that determines how the child responds to scientific, research-based interventions as part of the evaluation procedure described in 34 CFR 300.304.

1) No later than January 1, 2008, the State Superintendent of Education shall, in consultation with the statewide teacher organizations, statewide school management organizations, and State Advisory Council on Education of Students with Disabilities, prepare and disseminate a plan outlining the nature and scope of the professional development that is necessary to permit implementation of a process of this type and describing any additional activities or resources that the Superintendent finds to be essential.

2) The plan shall quantify the estimated cost of the professional development and other necessary resources and shall identify sources of funding that are or may become available to the State Superintendent for these purposes.

3) The plan shall include:

   A) a method of identifying school districts that are less able than others to implement a process of the required type without technical or financial assistance from the State;

   B) a timeframe for the provision of training, other technical assistance and materials, or financial resources for related purposes that demonstrates the State Superintendent’s best efforts to secure and provide relevant support to districts; and
C) A method of allocating resources that affords first consideration to districts that may otherwise be unable to implement a process of the required type without diverting necessary support from other aspects of the educational program.

c) No later than January 1, 2009, each district shall develop a plan for the transition to the use of a process that determines how the child responds to scientific, research-based interventions as part of the evaluation procedure described in 34 CFR 300.304. Each district’s plan shall identify the resources the district will devote to this purpose and include an outline of the types of State-level assistance the district expects to need, with particular reference to the professional development necessary for its affected staff members to implement this process. The transition plan developed pursuant to this subsection (c) may be incorporated into a district’s district improvement plan (see 23 Ill. Adm. Code 1.85(b)) if one exists.

d) In addition to using an identification process of the type required by subsection (b) of this Section, a district may use a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability.

(Source: Amended at 31 Ill. Reg. _____, effective _____________)
Section 226.730  Class Size for 2009-10 and Beyond

[This version displays the new language recommended for adoption. Following this is a version displaying the recommended changes against the version adopted by the Board on December 14, 2006.]

a) When a student’s IEP calls for services in a general education classroom, the student must be served in a class that is composed of students of whom at least 70 percent are without IEPs, that utilizes the general curriculum, that is taught by an instructor certified for general education, and that is not designated as a general remedial classroom.

b) Class size means the total number of students an educator serves during any class. As used in this subsection (b), “class” means any circumstance where at least one special education teacher is assigned and provides instruction and/or therapy exclusively to students with IEPs. In the formation of special education classes, consideration shall be given to the age of the students, the nature and severity of their disabilities, the educational needs of the students, and the degree of intervention necessary, subject to the limitations of this subsection (b).

1) Except as provided in subsection (b)(5) of this Section, classes in which all the students are removed from the regular education classroom for less than 20 percent of the school day shall have at least one qualified teacher for each 15 students in attendance during any given class. However, the district may increase the class size by a maximum of two students when a paraprofessional is provided for the entire class.

2) Except as provided in subsection (b)(5) of this Section, each class in which any student is removed from the regular education classroom for 20-60 percent of the school day shall have at least one qualified teacher for each ten students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class.

3) Except as provided in subsection (b)(5) of this Section, each class in which any student is removed from the regular education classroom for more than 60 percent of the school day shall have at least one qualified teacher for each eight students in attendance during that class. However,
the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class.

4) Each class for children ages three through five shall have at least one qualified teacher for each five students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class.

5) For any school year in which the amount of State reimbursement for teachers identified in Section 14-13.01 of the School Code [105 ILCS 5/14-13.01] exceeds the amount in effect on January 1, 2007, by at least 100 percent and no corresponding reduction has been made in other State sources of support for special education:

A) The maximum class size stated in subsection (b)(1) of this Section shall be 13 rather than 15;

B) The maximum class size stated in subsection (b)(2) of this Section shall be eight rather than 10; and

C) The maximum class size stated in subsection (b)(3) of this Section shall be six rather than eight.

6) The provisions of subsections (b)(1)-(5) of this Section notwithstanding, class size shall be limited according to the needs of the students for individualized instruction and services.

c) The maximum class sizes set forth in subsection (b) of this Section shall, if necessary, be further restricted at the local level to account for the activities and services in which the affected educators participate in order to provide students with IEPs the free, appropriate public education to which they are entitled.

(Source: Amended at 31 Ill. Reg. _____, effective _____________)

Section 226.730 Class Size for 2009-10 2008-09 and Beyond
[This is the version that displays the recommended changes against the December version.]
a) When a student’s IEP calls for services in a general education classroom, the student must be served in a class that is composed of students of whom at least 70 percent are without IEPs, that utilizes the general curriculum, that is taught by an instructor certified for general education, and that is not designated as a general remedial classroom.

b) Class size means the total number of students an educator serves during any class. As used in this subsection (b), “class” means any circumstance where at least one special education teacher is assigned and provides instruction and/or therapy exclusively to students with IEPs. In the formation of special education classes, consideration shall be given to the age of the students, the nature and severity of their disabilities, the educational needs of the students, and the degree of intervention necessary, subject to the limitations of this subsection (b).

1) Except as provided in subsection (b)(5) of this Section, classes in which all the students are removed from the regular education classroom for less than 20 percent of the school day shall have at least one qualified teacher for each 15 students in attendance during any given class. However, the district may increase the class size by a maximum of two students when a paraprofessional is provided for the entire class.

2) Except as provided in subsection (b)(5) of this Section, each class in which any student is removed from the regular education classroom for 20-60 percent of the school day shall have at least one qualified teacher for each ten students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class.

3) Except as provided in subsection (b)(5) of this Section, each class in which any student is removed from the regular education classroom for more than 60 percent of the school day shall have at least one qualified teacher for each eight students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class.

4) Each class for children ages three through five shall have at least one qualified teacher for each five students in attendance during that class.
However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class.

5) For any school year in which the amount of State reimbursement for teachers identified in Section 14-13.01 of the School Code [105 ILCS 5/14-13.01] exceeds the amount in effect on January 1, 2007, by at least 100 percent and no corresponding reduction has been made in other State sources of support for special education:

A) The maximum class size stated in subsection (b)(1) of this Section shall be 13 rather than 15;

B) The maximum class size stated in subsection (b)(2) of this Section shall be eight rather than 10; and

C) The maximum class size stated in subsection (b)(3) of this Section shall be six rather than eight.

6) The provisions of subsections (b)(1)-(5) of this Section notwithstanding, class size shall be limited according to the needs of the students for individualized instruction and services.

c) The maximum class sizes set forth in subsection (b) of this Section shall, if necessary, be further restricted at the local level to account for the activities and services in which the affected educators participate in order to provide students with IEPs the free, appropriate public education to which they are entitled. Each entity subject to this Part shall, in cooperation with its affected employees or their exclusive representative, adopt and place into effect, no later than the beginning of the 2007-08 school year, a policy stating how staffing decisions will be made so that all services required under students’ IEPs, as well as all needed ancillary and support services, can be provided at the requisite level of intensity. Each policy shall encompass, but need not be limited to:

1) individualized instruction;

2) consultative services and other collaboration among staff members;

3) attendance at IEP meetings and other staff conferences; and
4) paperwork and reporting.

(Source: Amended at 31 Ill. Reg. _____, effective _____________)
CHANGE RECOMMENDED FOR ADOPTION
Part 226
May 16-17, 2007

RELATED PROVISIONS

Section 226.731 Class Size Provisions for 2007-08 and 2008-09
[The “holdover” provisions will remain in effect for two school years instead of one. No changes are recommended in the text, which is provided simply for ease of reference.]

a) When a student’s IEP calls for services in a general education classroom, the student must be served in a class that is composed of students of whom at least 70 percent are without IEPs, that utilizes the general curriculum, that is taught by an instructor certified for general education, and that is not designated as a general remedial classroom.

b) A student shall be considered to require “instructional” classes when he or she receives special education instruction for 50 percent of the school day or more. Classes for such students shall be subject to the limitations of this subsection (b).

1) Early childhood instructional classes shall have a maximum ratio of one qualified teacher to five students in attendance at any given time; total enrollment shall be limited according to the needs of the students for individualized programming.

2) Instructional classes for students who have either a severe/profound disability or multiple disabilities shall have a maximum enrollment of five students.

3) Instructional classes for children whose primary disability is a severe visual, auditory, physical, speech or language impairment, autism, traumatic brain injury, or an emotional disability or behavioral disorder shall have a maximum enrollment of eight students.

4) Instructional classes for children whose primary disability is a specific learning disability or that serve children who have different disabilities shall have a maximum enrollment of ten students. Instructional programs that group students who have different disabilities shall be formulated only under the following circumstances:

A) The students are grouped in relation to a common educational need; or
B) The program can be completely individualized and the teacher is qualified to plan and provide an appropriate educational program for each student in the group.

5) Instructional classes designed for children whose primary disability is moderate visual or auditory impairment shall have a maximum enrollment of 12 students.

6) Instructional classes for children whose primary disability is mild/moderate cognitive disability shall have a maximum enrollment of 12 students at the primary level and 15 students at the intermediate, middle, junior high, and secondary levels.

7) A school district may increase the enrollment in an instructional class by a maximum of two students in response to unique circumstances that occur during the school year. Such additions may be made only when the educational needs of all students who would be enrolled in the expanded program can be adequately and appropriately met. Alternatively, the district may increase the enrollment in an instructional class by a maximum of five students when a full-time, noncertified assistant is provided.

c) A student shall be considered to require “resource” classes when he or she receives special education instruction for less than 50 percent of the school day. Classes for such students shall be subject to the limitations of this subsection (c).

1) Enrollment shall be limited to the number of students who can effectively and appropriately receive assistance, up to a maximum of 20 students.

2) The teacher shall participate in determining the appropriate enrollment.

d) The caseload/class size for any service provider includes each student who receives direct or indirect service, such as consultation services, as delineated in an IEP.

(Source: Added at 31 Ill. Reg. _____, effective ______________)
Section 226.735  Work Load for Special Educators  Case Load for Speech-Language Pathologists

In order to provide students with IEPs the free, appropriate education to which they are entitled, each entity subject to this Part shall adopt a plan specifying limits on the workload of its special educators so that all services required under students’ IEPs, as well as all needed ancillary and support services, can be provided at the requisite level of intensity.

a) Each plan shall be developed in cooperation with the entity’s affected employees and, where there is an exclusive representative, in accordance with the Illinois Educational Labor Relations Act (IELRA) [115 ILCS 5]. Each plan shall take effect for the 2009-10 school year, or as soon as possible after that date, if a later date is necessary to comply with an agreement under the IELRA in effect at the beginning of that school year.

b) Each plan shall be based on an analysis of the activities for which the entity’s special educators are responsible and shall encompass, but need not be limited to:

1) individualized instruction;

2) consultative services and other collaboration among staff members;

3) attendance at IEP meetings and other staff conferences; and

4) paperwork and reporting.

c) The number of children served by a speech-language pathologist shall be based on the speech-language needs of each child. The other provisions of this Section notwithstanding, at no time shall a speech-language pathologist be responsible for serving more than 60 students.

(Source: Added at 31 Ill. Reg. _____, effective _____________)