

TO BE RESCINDED

3301-103-04 **Requirements to provide a free appropriate public education.**

- (A) If a child has been determined eligible for special education and/or related services under the category of autism pursuant to IDEA by their school district of residence, and:
- (1) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship is first sought; or
 - (2) Was eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship is first sought; and
 - (3) Has received their special education and related services from the district; or has received special education and related services from a provider or providers in addition to the special education and related services provided by their district, as per the child's IEP; and
 - (4) Whose parent has elected to have their child's IEP implemented by a provider other than the school district of residence, then the school district of residence is no longer obligated to provide the child a free appropriate public education (FAPE) for as long as the parent of the child continues to receive funds from the autism scholarship program;
- (B) If, at any time, the parent of a child decides to no longer accept funds under the autism scholarship program and the child returns to their district of residence for special education and/or related services then the district of residence will be required to provide that child FAPE.
- (C) Under both paragraphs (A) and (B) of this rule, the district is required to provide the initial evaluation and all subsequent reevaluations, in a timely manner, required for eligibility under IDEA. The district is also required to provide the child with an annual IEP that has the potential of conferring FAPE.
- (D) Under paragraphs (A) and (B) of this rule, the child, although not entitled to FAPE by the district of residence, does retain the right to file a complaint or to file for a due process hearing against the district of residence for all violations of IDEA except those dealing with the implementation of the IEP and the conferring of FAPE.
- (E) Children participating in the autism scholarship program, who will have their IEP implemented by either another school district or a chartered nonpublic school, will

participate in state assessments pursuant to the rules established regarding participation in assessments. For those children in grades three through eight the IEP team will address the issue of achievement and diagnostic testing prior to the child participating in the scholarship program and those decisions will be recorded on the child's current IEP. For those children who are in grades nine through twelve the issue of earning credits towards graduation as well as the issuance of a diploma will be addressed prior to the child participating in the scholarship program and those decisions will be documented on the child's current IEP.

Effective: 07/01/2009

R.C. 119.032 review dates: 01/05/2009

CERTIFIED ELECTRONICALLY

Certification

03/13/2009

Date

Promulgated Under: 119.03
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