

	<p align="center">Proposed Amendments to 603 CMR 28.00</p>	<p align="center">Rationale</p>
<p align="center">PROPOSED AMENDMENTS TO COMPLY WITH FEDERAL LAW</p>		
<p align="center">1</p>	<p><u>28.07(1): Parent Consent</u> Through 28.07(1)(a)(3) – unchanged</p> <p><u>4. A parent may discontinue special education and related services provided to his or her child by notifying the school district in writing that the parent revokes consent to the continued provision of all special education and related services to the child. The school district shall respond promptly by sending notice to the parent of the district’s intention to discontinue all special education and related services to the student 10 school days from the date of the school district’s notice based on the parent’s revocation of consent. The school district may not challenge the parent’s decision through the dispute resolution processes provided under 603 CMR 28.08. Nothing in this regulation shall prevent a school district and a parent from meeting to discuss discontinuation of all special education and related services provided the parent’s participation is voluntary.</u></p> <p>(b) If, subsequent to initial evaluation and initial placement, ... after consideration, the school district determines that the parent’s failure or refusal to consent will result in a denial of a free appropriate public education to the student, it shall seek resolution of the dispute through the procedures provided in 603 CMR 28.08. . . . <u>This provision shall not apply if the parent has revoked consent to all special education and related services as provided in 603 CMR 28.07(1)(a)(4).</u></p> <p>(c) When the participation or consent of the parent is required and the parent fails or refuses to participate, the school district shall make and</p>	<p><u>28.07(1): Parent Consent (New, Revisions, and Deletion)</u></p> <ul style="list-style-type: none"> • <u>28.07(a)(1)(4)(new):</u> Adds new paragraph to reflect the right of the parent to revoke consent to all special education and related services, consistent with IDEA regulations, 34 CFR 300.300(b)(4) and 34 CFR 300.9. • <u>28.07(1)(b)&(c) (Revisions):</u> Sentence added to the end of each of these sections clarifying that the provisions do not apply if the parent has revoked consent to all special education and related services.

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	<p>document multiple efforts to contact the parent. . . . If the above efforts are attempted and documented and the district is unable to secure parental consent to a reevaluation or placement subsequent to the initial placement in a special education program, the school district shall proceed in accordance with 603 CMR 28.07(1)(b). <u>This provision shall not apply if the parent has revoked consent to all special education and related services as provided in 603 CMR 28.07(1)(a)(4).</u></p> <p>(d) Nothing in 603 CMR 28.07(1) shall prevent a school district from making a court referral for appropriate action.</p>	<ul style="list-style-type: none"> • <u>28.07(1)(d)(Deletion):</u> Deletes subsection (d) to eliminate suggestion that a school may file a court action under the IDEA or G.L. c. 71B to challenge a parent’s decision to revoke consent to all special education and related services.
<p align="center">2</p>	<p><u>28.08(3) Bureau of Special Education Appeals: Jurisdiction</u> In order to provide for the resolution of differences of opinion among school districts, private schools, parents, and state agencies, the Bureau of Special Education Appeals, pursuant to G.L. c.71B, §2A located with the Department, shall conduct mediations and hearings to resolve such disputes. The jurisdiction of the Bureau of Special Education Appeals over state agencies, however, shall be exercised consistent with 34 CFR §300.154(a). The hearing officer may determine, in accordance with the rules, regulations and policies of the respective agencies, that services shall be provided by the Department of <u>Children and Families Social Services</u>, the Department of <u>Developmental Disabilities Mental Retardation</u>, the Department of Mental Health, the Department of Public Health, or any other state agency or program, in addition to the IEP services provided by the school district.</p> <p align="center">...</p> <p>(c) A school district may not request a</p>	<p><u>28.08(3): Bureau of Special Education Appeals: Jurisdiction (Revisions)</u></p> <ul style="list-style-type: none"> • <u>28.08(3):</u> Deletes language stating the BSEA is located within the Department and replaces it with language referencing G.L. c. 71B, §2A, which states that the Bureau of Special Ed. Appeals is a subdivision of the Division of Administrative Law Appeals (DALA). The federal Office of Special Education Policy required revision of the current language so as to be consistent with the BSEA’s administrative transfer to DALA. <p>Technical changes here and throughout 28.00 to reflect new state agency names, including DESE.</p>

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	<p>hearing on a parent’s failure or refusal to consent to initial evaluation or initial placement of a student in a special education program, <u>or on a parent’s decision to revoke consent to the continued provision of all special education and related services to his or her child under 603 CMR 28.07(1)(a)(4).</u></p>	<ul style="list-style-type: none"> • 28.08(3)(c): Adds language that a school district may not request a hearing to challenge a parent’s decision to revoke consent to the provision of all special education and related services, consistent with 34 CFR 300.300(b)(4)(ii) and proposed 28.07(1)(a)(4).
<p align="center">PROPOSED AMENDMENTS CONSISTENT WITH ESTABLISHED POLICY</p>		
<p>3</p>	<p>(18) <i>Related services</i> shall have the meaning set forth in federal special education law at 34 CFR §300.34. <u>Individuals providing interpreting services for students who are deaf or hard of hearing shall be registered with the Massachusetts Commission for the Deaf and Hard of Hearing.</u></p>	<p>28.02(18) Related Services (Revision): Adds language to the definition of related services to include the requirement that individuals providing interpreting services must be registered with the MA Commission for the Deaf and Hard of Hearing. This revision is consistent with established policy and an interagency agreement with the MA Commission for the Deaf and Hard of Hearing.</p>
<p align="center">PROPOSED AMENDMENT FOR CLARITY</p>		
<p>4</p>	<p><u>28.04(5)(d) Independent Education Evaluations</u></p> <p>(d) If the parent is requesting an independent education evaluation in an area not assessed by the school district . . . the school district shall respond in accordance with the requirements of federal law. <u>Within five school days,</u> the district shall either agree to pay for the independent education evaluation or within five school days, proceed to the Bureau of Special Education Appeals to show that its evaluation was comprehensive and appropriate. . .</p>	<p><u>28.04(5)(d) Independent Education Evaluations</u></p> <p>(Revision): Clarifies the timeline for responding to a request for an independent educational evaluation by moving the language to the beginning of the sentence.</p>

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<p align="center">PROPOSED AMENDMENTS FOR CONTINUITY OF RESPONSIBILITY FOR CERTAIN STUDENTS</p>		
<p align="center">5</p>	<p><u>28.06(9): Educational Services in Institutional Settings. . . .</u></p> <p>(a) <u>Decisions about admission to and discharge from institutional facilities are within the authority of institution administrators, not the school district. However, Public-school districts are not relieved of their obligations to students in such settings. Although admission and discharge decisions in such facilities are not within the jurisdiction of the public school district, students in institutional settings remain the responsibility of the school district where the father, mother or legal guardian resides and School districts are responsible for students in institutional settings in accordance with 603 CMR 28.10. Such students have the same rights for referral, evaluation, and the provision of special education in accordance with state and federal law as students in public schools.</u></p> <p>(b) No changes proposed.</p> <p>(c) Where a student's IEP requires a type or amount of service that the facility does not provide, it shall remain the responsibility of the school district where the father, mother or legal guardian resides, <u>except as provided in 603 CMR 28.10(3)(c)(1 & 2), to implement the student's IEP by arranging and paying for the provision of such services.</u></p> <p>(d) The <u>responsible school district where the father, mother or legal guardian resides shall be responsible to coordinate with the Department and to ensure that the student receives an evaluation, an annual review, and special education services as identified by the Team at a Team meeting convened by the responsible parent's school district. The Department shall participate in Team meetings for any student receiving special education services in an institutional setting. To the extent that special</u></p>	<p><u>28.06(9) Educational Services in Institutional Settings. (Revisions)</u></p> <ul style="list-style-type: none"> • <u>28.06(9)(a)(c) & (d):</u> Move clause to beginning of paragraph(a) for clarity. <p>Delete existing language to allow responsibility according to new language in 28.10.</p> <p>Revise (c) to reference 28.10.</p> <p>Revision provides more continuity for students in institutional settings such that districts that are knowledgeable about the student continue to be involved with the student while he/she is in an institutional setting.</p> <p>Currently, upon admission, responsibility for any student in an institutional setting is with the parent(s) district of residence which may result in a district assuming responsibility only for a short period and then another district assuming responsibility after the student leaves the institutional setting. See also the new language proposed for 603 CMR 28.10(3).</p>

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	<p>education services are provided by the Department in such facilities, the Department will make every effort to provide services consistent with the student’s IEP and available resources.</p>	
<p>6</p>	<p><u>28.10(3): School district responsibility based on residence of parent(s) or legal guardian</u></p> <p>(c) When a student lives and receives educational services in an <u>institutional residential</u> facility operated by or, through contract, authorized by the Department of Mental Health, the Department of Public Health, the Department of Youth Services, or the Department of Correction or County House of Correction, <u>the school district where the parent(s) or legal guardian resides shall have both programmatic and financial responsibility except as provided below. In certain of these facilities, the Department of Education may provide special education services, subject to appropriation and resource availability. The responsible school district shall coordinate with the Department to ensure that the student receives an evaluation, an annual review, and special education services as identified by the Team at a Team meeting convened by the school district. The responsible school district is not relieved of its obligations under state and federal special education law because the student is being served by the Department of Education or any other state agency.</u></p> <p>1. <u>If an eligible student requiring in-district services had been placed or resided in a Department of Children and Families foster home for at least three months before entering the institutional facility, the school district where the foster home is located shall remain programmatically responsible and the school district where the parents reside shall be financially responsible.</u></p>	<p><u>28.10(3): School district responsibility based on residence of parent(s) or legal guardian (Revision and New)</u></p> <p>Refers to institutional rather than residential facility to avoid confusing with rule governing students placed in residential schools (see 28.10(b)). Also deletes parenthetical reference to residential schools and group homes because they are addressed in 28.10(b) and (d), respectively.</p> <ul style="list-style-type: none"> • <u>28.10(3)(c)</u> Removes current unnecessary language that restated in full 28.06(9) and adds new exceptions 28.10(3)(c)(1 & 2.). Under new 28.10(3)(c)(1), a school district that is responsible for a student living in a foster home for at least three months, continues to have programmatic (but not financial) responsibility for the student when he or she enters an institutional setting. In (c)2 a student who is 18 or older and has established his or her own residence continues to be the responsibility of the school district in which he was residing prior to entering an institutional setting. The rationale for these proposed

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<p align="center">7</p>	<p>2. <u>If a student is 18 years of age or older and has established his or her own residence as an adult, the school district where the student resided prior to entering the institutional facility shall remain programmatically and financially responsible.</u></p> <p>(d) When a student whose IEP requires in-district services is placed by the Department of Social Services <u>Children and Families</u> in an approved residential school. . . .</p>	<p>provisions is that the district responsible for the student prior to entering the institutional setting will have more current information about the student's programmatic needs than the district where the student's parents reside (which is responsible under current regulations). For the adult-age student who has established his or her own residence, the district of his or her own residence should continue to have financial responsibility.</p> <ul style="list-style-type: none"> • <u>28.10(3)(d)</u> makes technical revision to reflect change in the name of the Department of Social Services to the Department of Children and Families.

	Proposed Amendments to 603 CMR 7.00	Rationale
PROPOSED AMENDMENTS TO LICENSURE REGULATIONS DUE TO STATE LAW		
1	<p><u>7.02 Definitions:</u></p> <p>As used in 603 CMR 7.00, the following terms shall have the following meanings:</p> <p style="padding-left: 40px;"><u>Augmentative and alternative communication:</u> <u>Methods of communication other than oral speech that enhance or replace conventional forms of expressive and receptive communication to facilitate interaction by and with persons with disabilities who are nonverbal or have limited speech, including, but not limited to: specialized gestures and signs; communication aids such as charts, symbol systems, visual supports, and language boards; mouth sticks; facilitated communication; and electronic communication devices such as switches, head pointers, eye tracking, dynamic displays, auditory scanning, and voice output devices.</u></p> <p style="padding-left: 40px;"><u>Assistive Technology:</u> <u>Assistive technology devices and services as defined under the Individual with Disabilities Education Act, 20 USC §§1401(1),1401(2); 34 CFR §§300.5, 300.6.</u></p>	<p><u>7.02 Definitions (New):</u></p> <p>Adds new provisions defining terms used in 7.06(25) and 7.06(26).</p>
2	<p>7.03: Educator Preparation Program Approval</p> <p>(7) Implementation</p> <p>...</p> <p style="padding-left: 40px;"><u>(d) Approved Programs leading to the following licenses must address the requirements set forth in 7.06(25)(d)(4) and 7.06(26)(b)12 by August 31, 2011: Teachers of Students with Moderate and Teachers of Students with Severe Disabilities.</u></p>	<p><u>7.03 Educator Preparation Program Approval (New):</u></p> <p>A new provision is added requiring programs to include the instructional requirements set out in 7.06(25)(d)(4) and 7.06(26)(b)12 by August 31, 2011.</p>

<p>3</p>	<p><u>7.06(25) Teacher of Students with Moderate Disabilities (Levels: PreK-8; 5-12)</u> . . .</p> <p>(d) The following topics shall be included in an approved program but will not be addressed on a test of subject matter knowledge:</p> <ol style="list-style-type: none"> 1. Educational terminology for students with mild to moderate disabilities. 2. Preparation, implementation, and evaluation of Individualized Education Programs (IEPs). 3. Design or modification of curriculum, instructional materials, and general education classroom environments for students with moderate disabilities. 4. <u>Instruction on the appropriate use of augmentative and alternative communication and other assistive technologies.</u> 5. . . . 	<p><u>7.06(25)(d) Teacher of Students with Moderate Disabilities (Levels: PreK-8; 5-12); (New):</u> A new requirement is inserted as #4 (this results in renumbering 4-8 as 5-9). This provision regarding instruction on augmentative and alternative communication is required by Chapter 299 of the Acts of 2010, An Act Relative to Augmentative and Alternative Communication Opportunities for Children, signed into law on August 10, 2010.</p>
<p>4</p>	<p><u>7.06(26) Teacher of Students with Severe Disabilities (Levels; All)</u> . . .</p> <p>(b) The following topics shall be included in an approved program but will not be addressed on a test of subject matter knowledge:</p> <p>...</p> <ol style="list-style-type: none"> 12. <u>Instruction on the appropriate use of augmentative and alternative communication and other assistive technologies.</u> 	<p><u>7.06(26)(b)(12) Teacher of Students with Severe Disabilities (Levels; All) (Revised):</u> This provision is revised as required by Chapter 299 of the Acts of 2010.</p>
<p>5</p>	<p>7.14 General Provisions</p> <p>(14) Implementation</p> <p>...</p> <p><u>(h) Individuals who apply and complete all requirements for initial or preliminary licensure as a Teacher of Students with Moderate Disabilities prior to August 31, 2012, may qualify for an initial or preliminary license by meeting the</u></p>	<p><u>7.14 General Provisions (New):</u> New provisions establish that the new criteria for initial or preliminary licensure as a teacher of students with moderate disabilities or severe disabilities apply to applicants as of August 31, 2012.</p>

December 2010 Proposed Amendments to Regulations (Educator Licensure)

	<p><u>requirements under 603 CMR 7.06 (25) in effect prior to July 1, 2011.</u></p> <p><u>(i) Individuals who apply and complete all requirements for initial or preliminary licensure as a Teacher of Students with Severe Disabilities prior to August 31, 2012, may qualify for an initial or preliminary license by meeting the requirements under 603 CMR 7.06 (26) in effect prior to July 1, 2011.</u></p>	
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