

**Education Alert**  
**March 18, 2024**

**Statutory Regulations Released for Interagency Review of Complex Cases**

On March 1, 2024, EOHHS and DESE released the long-awaited, final adoption of the regulations governing the Interagency Review of Complex Cases (published as 101 CMR 27.00). These regulations had been anticipated since the Massachusetts Legislature passed “An Act Addressing Barriers to Care for Mental Health” in August, 2022.

The purpose of the law is the establishment of a team that will collaborate on complex cases where there is an urgent need to address a lack of consensus between state agencies about the service needs or placement of an individual. This replaces what was known as the Unified Planning Team, or “UPT”.

The co-chairs of the IRT will be the secretary (or a designee) from EOHHS and the commissioner (or a designee) of DESE.

“**Individual**” is defined within this regulation as: A person under the age of 22, who is disabled or has complex behavioral health or special needs, and who qualifies or may qualify for services from one or more state agencies, or for special education services through their school district.

A “**complex case**” is one involving an individual where there is a lack of consensus between state agencies as to that individual’s current service needs or placement, and the individual is also waiting in a hospital emergency department, medical bed, at home or other location and is in urgent need of placement or identifying the entity responsible for payment of services.

A complex case will not include an individual who is determined to meet a hospital level of care, not only inpatient, but also any DMH facilities such as adolescent continuing care units (CCU) or intensive residential treatment programs (IRTP).

Anyone seeking to refer an individual’s case to the IRT must submit the following:

- 1) An IRT referral form.
- 2) Consent from the individual’s parent or legal guardian, or from the individual if over 18 years old, authorizing release of information.
- 3) Documentation of and any other descriptions that would support that the individual presents with a complex case.
- 4) HIPAA authorizations.
- 5) The reason why the case is being referred.

**Eligibility Requirements for IRT:** The individual presents a complex case as defined in 101 CMR 27.03; the case was referred by a party who may refer such cases; documents and information required has been submitted, and the individual is domiciled in the Commonwealth of Massachusetts.

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**Note:** A case is NOT eligible for IRT review if the individual has an appeal pending with an EOHHS agency, a mediation or a hearing pending with the BSEA, or a court case, and the subject of the appeal/court case is substantially related to the reason for referral to the IRT.

The IRT may order expedited eligibility determinations by a state agency and evaluations, if necessary, to determine an individual's current service needs.

After collecting and reviewing all necessary information, as well as meeting to discuss the complex case, the IRT will be responsible for issuing a consensus determining the services in place for an individual, additional services that are needed, which agencies will provide the services and which agencies will pay for such services. The state agencies represented on the IRT must then work to implement any services or coordination authorized by the IRT within a reasonable amount of time.

**Important school district takeaways:**

School districts can refer a case to the IRT.

A representative from the school district(s) responsible for any aspect of the individual's education will be included as a team member on the IRT. The representative should have authorization to make decisions on behalf of their district.

The IRT does not have the authority to plan or determine special education services that an individual may be entitled to under the IDEA and does not affect DESE's regulations/policies regarding assigning programmatic or fiscal responsibility for individual student's special education programs.

It is our understanding that the Interagency Review Team is not yet ready to accept cases. We have reached out to one of the co-chairs for a timeline and further information and have not heard back prior to the release of this client alert. We will update with this information as soon as it is received.

*This Client Alert was prepared by Stacey Dedian and was reviewed by Felicia Vasudevan, Mary Ellen Sowyrda and Kevin Bresnahan. If you have any questions about this issue, please contact the attorney responsible for your account, or call (617) 479-5000.*

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