

<p><b>TUCSON UNIFIED</b> SCHOOL DISTRICT</p> <p><b>POLICY REGULATION</b></p>	<p>REGULATION TITLE: Exceptional Education Instructional Programs</p>
	<p>CODE: IHB-R</p>

This detailed administrative regulation is issued to:

- Accomplish the requirements of the Governing Board set out in policy IHB - Special Instructional Programs.
- Assure District compliance with the requirements of applicable federal and state laws and the lawful regulations of the State Board of Education.
- Aid District personnel in fulfilling their duties relating to the topic by presenting the procedural information in a format that aligns with the Arizona Department of Education/Exceptional Student Services (ADE/ESS) compliance checklists.

Citations from the following sources are annotated to the material to assist in conducting research and for clarification:

- Arizona Revised Statutes (A.R.S.)
- Arizona Administrative Code (A.A.C.) Title 7, Chapter 2, State Board of Education Rules.
- Regulations of the Family Educational Rights and Privacy Act as published in Part 99 of Title 34 of the Code of Federal Regulations (CFR)
- Regulations to the Individuals with Disabilities Education Act (IDEA) as published in Title 34 of the CFR, Part 300.

Whenever the term "District" is used in this regulation, it is to be interpreted contextually to mean the School District, the respective local school site, a representative of the District or a representative of the local school site, as is applicable to the circumstance.

**Applicability**

To accommodate the necessity to present procedural information in a format that aligns with the Arizona Department of Education/Exceptional Student Services (ADE/ESS) compliance checklists, this generic regulation contains procedural requirements for covered individuals of all ages. However, any statement in this regulation that addresses a provision that is not applicable to the grade levels and age ranges included in the student membership of the District is to be considered for the purposes of compliance to be not applicable.

**Free Appropriate Public Education (FAPE)**

The District must ensure that all children with disabilities aged three (3) through twenty-one (21) have the right to a free appropriate public education (FAPE).

For the purposes of the IDEA, the term "free appropriate public education" or FAPE means special education and related services that:

- Are provided at public expense, under public supervision and direction, and without charge.
- Meet the standards of the State Board of Education;
- Include preschool, elementary school, or secondary school education; and
- Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§300.340-300.350.

To discharge these obligations, administrative, professional, and support staff personnel are expected to competently execute any applicable responsibilities of their positions to help assure that:

- FAPE is made available to each child with a disability who is in need of special education and related services even though the child is advancing from grade to grade. [§§300.121 (a) and 300.121(e)(1)]. The determination of a child's eligibility for special education will be made on an individual basis by the District-designated group responsible for making those determinations.
- Services in accordance with §300.121 are made available for a child with a disability who has been removed from his or her current educational placement for disciplinary reasons for more than ten (10) school days.
- FAPE is available to students who have graduated, but have not been awarded a regular high school diploma. [§300.122].

## **Child Find**

As a further duty, the District must define and pursue efforts to see that:

- All children with disabilities, including those attending private schools who are in need of special education and related services are identified, located and evaluated. [§300.125]
- A practical method is developed and implemented to determine which children are currently receiving needed special education and related services. [§300.125]
- The program also applies to highly mobile children with disabilities and children that are suspected of being a child with a disability under §300.7 and in need of special education, even though they are advancing from grade to grade. [§300.125]

To carry out these duties assigned District personnel will:

- Maintain documentation of the public awareness efforts to inform the public and parents within their jurisdiction, including private and religious schools, of the availability of special education services. [§300.125, A.A.C. R7-2-401]

- Implement screening activities for all newly enrolled students and those transferring in without sufficient records.
- Complete the screening activities within forty-five (45) days of a student's enrollment.
- Include in the screening consideration of academic or cognitive, vision, hearing, communication, emotional and psychomotor domains. [A.A.C. R7-2-401(c)]
- Maintain documentation and annually report the number of children with disabilities within each disability category that have been identified, located and evaluated. [§300.125] The collection and use of data to meet these requirements are subject to the confidentiality requirements of §§300.560 and 300.577.
- Consult annually with private or religious schools in the District to determine the number of students enrolled in those schools who are identified as eligible for special education and related services regardless to whether they are receiving services. [§300.454]

Whenever there are children participating in early intervention services who are expected to participate in preschool programs for children with disabilities, a smooth and effective transition is to be accomplished through application of the following provisions:

- Transition conferences will be arranged for children between the ages of two (2) years, six (6) months and two (2) years, nine (9) months;
- An IEP or IFSP will be developed and implemented by a child's third (3rd) birthday to ensure FAPE. [§300.132]; and
- For a child who turns three (3) years of age during the summer, the IEP team will determine the date for initiation of services including eligibility for extended school year services; and [§300.121 and A.A.C. R7-2-401(c)]
- Children, aged birth through two (2) years, and suspected of having a disability will be referred to the Arizona Early Intervention Program for evaluation and, if appropriate, services.

## **Evaluation and Eligibility Determination**

To comply with the requirements concerning the evaluation and determination of whether or not a child has a disability, the process assures that:

- A full individual initial evaluation is conducted for each child before the initial provision of special education and related services to a child or youth with a disability. [300.531]
- The determination of whether the child is a “child with a disability” is made in accord with §300.7, §300.531 and A.R.S. 15-761.
- The educational needs of the child have been determined, and
- The procedures have been established to conduct the evaluations in accordance with the requirements described in §§300.532-300.536 and A.R.S. 15-766.
- The child's multidisciplinary evaluation team (MET)/individualized education program team and other qualified professionals review the existing evaluation

data, collect additional data if necessary, and use the results of the evaluation to determine category of eligibility and the need for special education and related services. [§§300.7, 300-534, 300-535, A.R.S. 15-761 and A.R.S. 15-766]

- The MET/IEP team uses the results of the evaluation to develop the initial IEP or to review and revise an existing IEP. [§§300.340, 300.350 and A.R.S. 15-761]
- A reevaluation of each child is conducted at least every three (3) years in accordance with §§300.532, 300.534 through 300.536.

The procedures to be followed for the initial evaluation, in accord with §§300.531 and 300.532, are:

- Tests and other evaluation materials used to assess a child are to be:
  - Selected and administered so as to be racially and culturally nondiscriminatory; and
  - Provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so.
- Materials and procedures used to assess a child with limited English proficiency are to be selected and administered to measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.
- A variety of assessment tools and strategies will be used to gather relevant functional and developmental information about the child, including information provided by the parent.
- Information related to enabling the child to be involved in and progress in the general curriculum, or for a preschool child, to participate in appropriate activities are to be included.
- The information gathered is used to assist in determining:
  - Whether the child is a child with a disability; and
  - In the development of the child's IEP.
- Any standardized tests to be given to a child must have been:
  - Validated for the specific purpose for which they are used; and
  - Are to be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.
- If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions must be included in the evaluation report.
- Tests and other evaluation materials will be selected to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
- The tests selected and administered to a child with impaired sensory, manual, or speaking skills are to accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills, unless those skills are the factors that the test purports to measure.

- No single procedure is the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.
- The child will be assessed in all areas related to the suspected disability, including, when appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities and the need for assistive technology.
- The evaluation will be sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not they are commonly linked to the disability category in which the child has been classified.
- Technically sound instruments are to be used that may assess the cognitive and behavioral factors, in addition to physical or developmental factors.
- The assessment tools and strategies that are used must provide relevant information that directly assists persons in determining the educational needs of the child.

Reevaluation of exceptional students, in accord with §§300.334, 300.536, and 300.5543, is:

- Conducted at least once every three (3) years, or sooner:
  - If conditions warrant an earlier reevaluation;
  - If the child's parent or teacher requests a reevaluation; or
  - Prior to determining that the child is no longer a child with a disability.
- Not required:
  - Before the termination of a student's eligibility due to graduation with a regular high school diploma; or
  - When a student exceeds the age eligibility for FAPE under the State law.

As specified at §300.533 and in A.R.S. 15-766, the MET/IEP team and other qualified professionals, as appropriate, review existing data on the child including:

- Evaluations and information provided by the parents of the child;
- Current classroom-based assessments and observations; and
- Observations by teachers and related services providers.

On the basis of the review, and input from the child's parents, the MET/IEP team and other qualified professionals identify what additional data, if any, are needed to determine eligibility.

If the determination is that no additional data are needed:

- The appointed employee will notify the child's parents:
  - Of that determination and the reasons for it; and
  - Of the right of the parents to request an assessment to determine whether the child continues to be a child with a disability.
- No assessment is required unless requested by the child's parents to determine continuing eligibility.

- The MET/IEP team provides a copy of the evaluation report and documentation of eligibility to the parents.

If the determination is that additional data are needed:

- The MET/IEP team provides the parents with the procedural safeguards notice, with the prior written notice, and obtains their informed consent.
- Tests and other evaluation materials are administered as needed to determine if the child is a child with a disability under §300.7 and A.R.S. 15-761.

Determinations of eligibility are to be based upon the criteria specified in §§300.533, 300.536 and A.R.S. 15-761 outlined as follows:

- The MET/IEP team and other qualified professionals and the parents of the child determine whether the child has a disability, or continues to be a child with a disability, as defined in §300.7 and A.R.S. 15-761.
- Based on the review of data, and input from the child's parents, the MET/IEP team determines:
  - If the child has a category of disability, or in the case of a reevaluation, if the child continues to have a disability;
  - If the child needs special education and related services, and in the case of a reevaluation, if the child continues to need special education and related services;
  - The present levels of performance and other educational needs of the child; and
  - Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals listed in the IEP and to participate in the general curriculum, as appropriate.
- In interpreting evaluation data for the purpose of determining if a child is a child with a disability, the MET/IEP draws upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and considers and documents all information obtained from all of these sources.
- A child will not be determined to be eligible:
  - If the determinant factor for the eligibility determination is
    - Lack of instruction in reading or math; or
    - Limited English proficiency; and
  - The child does not otherwise meet the eligibility criteria under §§300.7, 300.543 and A.R.S. 15-761.
- For a child suspected of having a specific learning disability, the documentation of the team's determination of eligibility will include:
  - Whether the child has a specific learning disability;
  - The basis for making the determination;
  - The relevant behavior noted during the observation of the child;

- The relationship of that behavior to the child's academic functioning;
- The educationally relevant medical findings, if any;
- Whether there is severe discrepancy between achievement and ability that is not correctable without special education and related services; and
- The determination of the team concerning the effects of environment, cultural or economic disadvantage.
- Written certification by each team member as to whether the report reflects his/her conclusion, and if it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusions.

An evaluation report must be prepared and disseminated as follows:

- The MET/IEP team and other qualified professionals including the parents of the child will determine whether the child is a child with a category of disability or, in the case of a reevaluation, if the child continues to be a child with a disability, as defined in §300.7 and A.R.S. 15-761.
- The evaluation report will include:
  - A review of current evaluations, including types of tests and results of those tests.
  - The educational history including the reason for referral, current classroom-based assessments, and observations by teachers and related service providers.
  - Information provided by the parents, including medical and developmental history/
  - A determination of whether the child's educational problems are related to or resulting from reason of educational disadvantage.
- The MET/IEP team will provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.
- The evaluation report will also include general information pertaining to:
  - Whether the child has a category of disability or, in the case of reevaluation if the child continues to be a child with a category of disability;
  - The present levels of performance and educational needs;
  - Whether the child needs special education and related services or continues to need special education and related services; and
  - Whether any additions and modifications to special education and related services are needed to meet the measurable annual goals established in the IEP and to participate, as appropriate, in the general curriculum.

### **Individualized Education Programs (IEP)**

The general conditions to be applied for all individualized education programs (IEP) are:

- An IEP shall be in effect for each child with a disability at the beginning of each school year. [§300.342]
- Meetings shall be initiated and conducted for the purpose of developing, reviewing, and revising the IEP of a child with a disability. [§§300.343, 300.344, 300.346, 300.349 and 300.311]
- An IEP shall be developed and implemented for each eligible child served by the District and each eligible child placed in or referred to a private school or facility by the District. [§§300.342, 300.346, 300.347, and 300.349]
- One or both parents of a child with a disability will be invited to each IEP meeting and will be afforded the opportunity to participate. [§§300.344 and 300-345]

The specific requirements listed below must be observed when developing and implementing an IEP. [§300.342 and §300.343]

- An IEP must be in effect before special education and related services are provided to an eligible child under §300.342.
- The IEP will be implemented as soon as possible following the IEP meeting.
- The child's IEP will be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation.
- Each teacher and provider will be informed of:
  - His or her specific responsibilities related to implementing the child's IEP; and
  - The specific accommodations, modifications, and supports that will be provided for the child in accordance with the IEP. [§300.342]
- A meeting to develop an IEP for the child with a disability is to be conducted within thirty (30) days of a determination that the child needs special education and related services.
- In the case of a child with a disability aged three (3) through five (5), an IFSP developed in accordance with §§300.341, 300.346 and 300.349-300.350 may serve as the IEP of the child when the use of an IFSP has been agreed to by the District and the child's parent.
- The child's parents are to be provided a detailed explanation of the differences between an IFSP and an IEP; and if the parents choose an IFSP, written informed consent must be obtained from the parents.

The following steps are to be taken for the review and revision of a child's IEP: [§300.343(c)]

- The IEP team will review the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved.
- The IEP team will revise the IEP as appropriate to address:



- Any lack of expected progress toward the annual goals described in §300.347(a) and in the general curriculum;
- The results of any reevaluation conducted under §300.536;
- Information about the child provided to, or by, the parents, as described in §300.533(a)(1);
- The child's anticipated needs; or
- Other matters.

IEP teams shall be organized in accord with §300.344.

- The IEP team for each child with a disability will include:
  - The parents of the child;
  - At least one (1) regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
  - At least one (1) special education teacher of the child, or if appropriate, at least one (1) special education provider of the child;
  - A representative of the District who:
    - Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
    - Is knowledgeable about the general curriculum;
    - Is knowledgeable about the availability of resources of the District.
  - An individual who can interpret the instructional implications of evaluation results;
  - Other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate. The determination of whether an individual has knowledge or special expertise shall be made by the party (parent or School District) who invited the individual to be a member of the team; and
  - The child, if appropriate.

When transition services are being considered at an IEP meeting, the following arrangements for participation will be made: [§300.344]

- A child of any age may be invited to his or her IEP meeting if the purpose will be consideration of transition services needs or transition services [§300.347(b)(1-2)]
  - If the child does not attend the IEP meeting, the District will take other steps to ensure that the child's preferences and interests are considered.
- In implementing the requirements of §300.347(b)(2):
  - The District also will invite a representative of any other agency that is likely to be responsible for providing or paying for transition services.
  - When an agency invited to send a representative to a meeting does not attend the meeting, the District will take other steps to obtain participation of the other agency in the planning of any transition services.

Every reasonable effort shall be made to affect parental participation as required by §300.345:

- Parents will be present or afforded the opportunity to participate in each IEP meeting. Efforts by the District are to include:
  - Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
  - Scheduling the meeting at a mutually agreed on time and place.
- The meeting notice will:
  - Indicate the purpose, time, and location of the meeting and who will be in attendance; and
  - Inform the parents of the provisions in §300.344(a)(6) and (c) relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child.
- For a child with a disability beginning at age fourteen (14) (or younger, if appropriate) the notice will also:
  - Indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the child required in §300.347(b)(1); and
  - Indicate that the agency will invite the child.
- For a child with a disability beginning at age sixteen (16) (or younger, if appropriate) the notice will:
  - Indicate that a purpose of the meeting is the consideration of needed transition services for the child required in [§300.347(b)(2)];
  - Indicate that the agency will invite the child; and
  - Identify any other agency that will be invited to send a representative.
- If neither parent can attend, the District will use other methods to ensure parent participation, including individual or conference telephone calls.
- A meeting may be conducted without a parent in attendance if the District is unable to convince the parents that they should attend. In this case the District will create and retain a record of its attempts to arrange a mutually agreed on time and place, including such items as:
  - Detailed records of telephone calls made or attempted and the results of those calls;
  - Copies of correspondence sent to the parents and any responses received; and
  - Detailed records of visits made to the parent's home or place of employment and the results of those visits.
- The District will take whatever action is necessary to help the parent understand the proceedings at the IEP meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.
- The District will give the parent a copy of the child's IEP at no cost to the parent.

Further steps are to be taken during the development, review, and revision of an IEP. [§300.346]

- In developing each child's IEP, the IEP team will consider:
  - The strengths of the child and the concerns of the parents for enhancing the education of their child;
  - The results of the initial or most recent evaluation of the child; and
  - The results of the child's performance on any general State or district-wide assessment programs, as appropriate.
- In consideration of special factors, the IEP team also will:
  - In the case of a child whose behavior impedes his or her learning or that of others, consider strategies (including positive behavioral interventions, strategies, and supports) to address that behavior;
  - In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
  - In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille) that instruction in Braille or the use of Braille is not appropriate for the child;
  - Consider the communication needs of the child;
  - In the case of a child who is deaf or hard of hearing, consider:
    - The child's language and communication needs;
    - Opportunities for direct communications with peers and professional personnel in the child's language and communication mode; and
    - Academic level and full range of needs, including opportunities for direct instruction in the child's language and communication mode.
  - Consider whether the child requires assistive technology devices and services;
  - The District will ensure that the method used to assess a child's needs for assistive technology devices or services complies with the requirements of the IDEA, including compliance with any relevant timelines and scope of devices and services contemplated by the IDEA.
  - If the IEP team, in considering the special factors, determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive FAPE, the IEP team must include a statement to that effect in the child's IEP.
- The regular education teacher of a child with a disability, as a member of the IEP team, will to the extent appropriate, participate in the development, review, and revision of the child's IEP, including assisting in the determination of:

- Appropriate positive behavioral interventions and strategies for the child; and
- Supplementary aids and services, program modifications, or supports for school personnel that will be provided for the child, consistent with §300.347(a)(3).

The IEP team will see that contents of the IEP meet at least the following criteria: [§300.347]

- The IEP for each child with a disability will include:
  - A statement of the child's present levels of educational performance, including
    - How the child's disability affects the child's involvement and progress in the general curriculum; and
    - For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;
  - A statement of measurable annual goals (statement of amount of progress expected), including benchmarks (major milestones), or short-term objectives (measurable intermediate steps), related to:
    - Meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum (i.e., the same curriculum as for nondisabled children);
    - For preschool children, as appropriate, to enable the child to participate in appropriate activities; and
    - Meeting each of the child's other educational needs that result from the child's disability.
  - A statement of the special education and related services to be provided;
  - A statement of supplementary aids and services to be provided to the child or on behalf of the child (services provided to the parents or teachers of the child to help them more effectively work with the child);
  - A statement of the program modifications or supports for school personnel that will be provided for the child to:
    - Advance appropriately toward attaining the annual goals;
    - Be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities [LRE]; and
    - Be educated and participate with other children with disabilities and nondisabled children in extracurricular and other nonacademic activities [LRE].
  - An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and other nonacademic activities [LRE].
  - A statement of any individual accommodations and modifications in the administration of State or district-wide assessments of child achievement

that are needed in order for the child to participate in the assessment [LRE].

- If the IEP team determines that the child will not participate in a particular State or district-wide assessment of student achievement (or part of an assessment), a statement of:
  - Why that assessment is not appropriate for the child; and
  - How the child will be assessed.
- The projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications; and
- A statement of:
  - How the child's progress toward the annual goals will be measured;
  - How the child's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of:
    - Their child's progress toward the annual goals; and
    - The extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.
- The IEP will include transition service planning as follows:
  - For each child with a disability beginning at age fourteen (14) (or younger), a statement of the transition service needs of the child under the applicable components of the student's ISP that focus on the child's courses of study (such as participation in advanced-placement courses or a vocational education program).
  - The statement of transition service needs will be updated annually.
  - For each student beginning at age sixteen (16) (or younger), a statement of needed transition services for the child.
  - A statement of the interagency responsibilities or any needed linkages will be included, if appropriate.
- Beginning at least one (1) year before a student reaches the age of eighteen (18), the student's IEP will include a statement that the parents and the student have been informed of the rights, if any, that will transfer to the student on reaching the age of eighteen (18) (majority), consistent with §300.517.
- If a participating agency, other than the District, fails to provide the transition services described in the IEP, the District will reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.
- The IEP team may modify the IEP and placement of a student with a disability who is convicted as an adult under State law and incarcerated in an adult prison, if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.
- The IEP for a child who requires residential placement will include exit criteria that indicate when the educational placement of the child will be reviewed to determine if the child can move to a less restrictive placement. [A.R.S. 15-765(k)]

The District will demonstrate the IEP accountability required by §300.350, by:

- Providing special education and related services to a child with a disability in accordance with the child's IEP.
- Making a good faith effort to assist the child to achieve the goals and objectives or benchmarks listed in the IEP.

### **Least Restrictive Environment (LRE)**

In the planning and provision of services for the students with disabilities, the District will:

- To the maximum extent appropriate, educate the students with disabilities with students who are not disabled, including those who may have been placed in public or private institutions or other care facilities. [§300.550]
- Educate the students in special classes, school them separately, or otherwise remove them from the regular environment only when the nature or severity of the disability is such that education in regular classes, even with the use of supplementary aids and services, cannot be achieved satisfactorily. [§300.550 and A.A.C. R7-2-401]

Supplementary aids and services as used above means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable the children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §300.550 and 300.554.

To further assure that the education of students with disabilities is in the least restrictive environment appropriate for each individual, the following procedures will be followed:

- The continuum of alternative placements for kindergarten (K) through grade twelve (12) special education and related services will include: [§300.551]
  - Regular classes with supplementary aids and services;
  - Regular classes with resource or itinerant support;
  - Special classes;
  - Special schools;
  - Home instruction;
  - Instruction in hospitals; and
  - Instruction in institutions.
- The continuum of alternative placements for preschool special education will include: [§300.551]
  - Instruction in hospitals; and
  - Instruction in institutions.
- The continuum of alternative placements for preschool special education will include: [§300.551]

- Early childhood setting;
- Early childhood special education setting;
- Home
- Part-time early childhood/part-time early childhood special education;
- Residential facility
- Separate school;
- Itinerant service outside of the home (optional); and
- Reverse mainstream setting (optional).
- The special education placement decision for a child with a disability, including a preschool child with a disability, will be made by a group of persons that includes: [§300.552 and A.A.C. R7-2-401(G)]
  - The parent(s);
  - Persons who are knowledgeable about the child;
  - Persons who are knowledgeable of evaluation data; and
  - Persons who are knowledgeable of placement options.
- Special education placements will be:
  - Determined at least annually;
  - Based on the child's IEP; and
  - As close as possible to the children's home.
- The child will be educated in the school that he or she would attend if not disabled unless the IEP requires some other arrangement.
- The District will document consideration of any potential harmful effects of the placement on the child or the quality of services.
- A child with a disability will not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.
- Children with disabilities will participate with non-disabled children in non-academic and extracurricular services and activities which may include meals, recess periods, and the services and activities to the maximum extent appropriate to the needs of that child. [§§300.553 and 300.306]
- The children with disabilities will have available to them the variety of educational programs and services available to non-disabled children in the areas served by the District in nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities. [§300.305]
- Students with disabilities will participate with non-disabled students in non-academic and extracurricular services and activities which may include: counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to agencies that provide assistance to individuals with disabilities and employment of students, including both employment by the District and assistance in making outside employment available.

## **Procedural Safeguards**

The District has committed to providing the requisite procedural safeguards as follows:

- Children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education. [§300.500(a)]
- The parents of a child with a disability shall be given an opportunity to inspect and review all education records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child. [§300.501(a)(1)]
- The parents of each child with a disability are members of any group that makes decisions on the educational placement of their child. [§300.501(c)]
- The parents of a child with a disability have the right to obtain an independent educational evaluation of their child. [§300.502(a)(1)]
- A copy of the procedural safeguards notice shall be given to the parent, at a minimum, upon initial referral for evaluation, each notification of an IEP meeting, reevaluation of the child, and receipt of a request for due process under §§300.507 and 300.504(a).
- Parental consent will be obtained if after a review of existing information additional data are needed for an initial evaluation or reevaluation, and before initial provision of special education and related services. [§300.505(a)(1)]
- A parent or the District may initiate a due process hearing on any of the matters described in §300.503(a)(1) and relating to the identification, evaluation, educational placement of a child with a disability, and provision of FAPE. [§300.507(a)(2)]
- The District ensures that the rights of a child are protected by the assignment of an individual to act as a surrogate for the parents if:
  - No parent, as defined in §300.20, can be identified.
  - The District, after reasonable efforts, cannot discover the whereabouts of a parent, after having made three (3) documented and reasonable attempts.
  - The child is a ward of the State under the laws of the State. [§300.515(a) and A.R.S. 15-763.01]

For the purposes of applying procedural safeguards, the following are the operational definitions to be used:

- Consent means
  - The parent is fully informed of all information relevant to the activity for which consent is sought, in his or her native language or other mode of communication;
  - The parent understands and agrees in writing to the activity for which consent is sought;
  - The consent describes the activity;
  - The consent lists the records, if any, that will be released and to whom;and



- The parent understands that the consent is voluntary and may be revoked at any time.
- If a parent revokes consent, that the revocation is not retroactive, meaning that the revocation does not negate an action that has occurred after the consent was given and before the consent was revoked. [§300.500(b)(1)]
- Parental consent for initial evaluation will not be construed as consent for initial placement. [§300.505(2)]
- Evaluation means procedures used in accordance with §§300.530 through 300.536 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. [§ 300.500(b)]
- Personally identifiable means that the information includes:
  - The name of the child, the child's parent, or other family member;
  - The address of the child;
  - A personal identifier, such as the child's social security number or student number;
  - A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty. [§300.500(b)(3)]
- Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the District [§ 300.502(a)(3)]
- Public expense means that the District either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with FAPE. §§ 300.502(a)(3) and 300.301]

The procedures below are to be implemented to assure appropriate participation of the parents in meetings and placement decision making:

- The District takes steps to ensure that one (1) or both of the parents are present at each meeting or are given the opportunity to participate by:
  - Notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend; and
  - Scheduling the meeting at a mutually agreed time and place. [§300.345(a)]
- The meeting notice will:
  - Indicate the purpose, time, and location of the meeting;
  - Indicate who will be in attendance;
  - Inform the parents of the provisions in §300.344(a)(c) relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child. [§300.345(b)(1) and (2)]
- The District will make reasonable efforts to ensure that the parents understand, and are able to participate in, any group discussions relating to the educational placement of their child, including arranging for an interpreter for parents with deafness, or whose native language is other than English. [§300.501(c)(5)]
- If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the District will use other

methods to ensure their participation, such as individual or conference telephone calls, or video conferencing. [§300.501(c)(3)]

- If the District is unable to obtain the parent's participation in the placement decision, the District will have a record of its attempt to ensure their involvement. [§300.345(d) and 300.501(c)(4)]

The parameters for the performance of an independent educational evaluation are: [§300.501]

- If a parent requests an independent educational evaluation at District expense, the District will, without unnecessary delay, either:
  - Initiate a due process hearing under §300.507 to show that the District's evaluation is appropriate; or
  - Ensure that an independent educational evaluation is provided at District expense, unless the District demonstrates in a due process hearing under §300.507 that the evaluation obtained by the parent did not meet District criteria. [§300.502(b)(2)(i) and (ii)]
- Upon request for an independent educational evaluation, the District will provide to parents:
  - Information about where an independent educational evaluation may be obtained; and
  - The District criteria. [§300.502(a)(2)]
- If the parent obtains an independent educational evaluation at private expense, the results of the evaluation:
  - Will be considered by the District in any decision made with respect to the provision of FAPE to the child; and
  - May be presented as evidence at a hearing regarding the child. [§300.502(c)(1) and (2)]
- Cost of the independent educational evaluation will be at District expense if requested by a hearing officer. [§300.502(d)]

The District's criteria relative to an independent evaluation are: [§300.502]

- If an independent educational evaluation is at District expense:
  - The criteria under which the evaluation is obtained will be the same as the criteria the District uses when it initiates an evaluation, including the location of the evaluation and the qualifications of the examiner;
  - The criteria will be consistent with the parent's right to an independent educational evaluation; and [§300.502(e)(1)]
  - The District may establish a range of payment for independent educational evaluations.
- The District will not impose other conditions or timelines related to obtaining an independent educational evaluation at public expense. [§300.502(e)(2)]

The District will provide prior notice under the following circumstances: [§300.503]

- Prior written notice will be given to parents a reasonable time before the District proposes or refuses to initiate or change the:
  - Identification;
  - Evaluation;
  - Educational placement of a child with a disability; and
  - Provision of FAPE. [§300.503(a)(1)]
- Prior written notice will be given to the parent at the same time the District requests parental consent, if the prior written notice relates to an action proposed by the District that also requires parental consent. [§300.503(a)(2)]
- The prior written notice will contain:
  - A description of the action proposed or refused by the District;
  - An explanation of why the District proposes or refuses to take the action;
  - A description of any other options that the District considered and the reasons why those options were rejected;
  - A description of each evaluation procedure, test, record, or report the District used as a basis for the proposed or refused action;
  - A description of any other factors that are relevant to the District's proposal or refusal;
  - A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
  - Sources for parents to contact to obtain assistance in understanding these provisions. [§300.503(b)(1-7)]
- The prior written notice will be written in language understandable to the general public. [§300.503(c)(1)(i)]
- The prior written notice will be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. [§300.503(c)(1)(ii)]
- If the native language or other mode of communication of the parent is not a written language, the District will take steps to ensure that:
  - The prior written notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
  - The parent understands the content of the prior written notice;
  - There is written evidence that the requirements of the preceding items have been met. [§300.503(c)(2)(i-iii)]

The procedural safeguards notice must satisfy the following conditions: [§300.504]

- A copy of the procedural safeguards notice will be given to the parent, at a minimum:
  - Upon initial referral for evaluation;
  - Upon each notification of an IEP meeting;
  - Upon reevaluation of the child; and

- Upon receipt of a request for due process under §§300.507 and 300.504(a)(1-4).
- The procedural safeguards notice will include a full explanation of all of the procedural safeguards available under the law, relating to:
  - Independent educational evaluation;
  - Prior written notice;
  - Parental consent;
  - Access to educational records;
  - Opportunity to present complaints to initiate due process hearings;
  - The child’s placement while due process proceeding are pending;
  - Procedures for students who are subject to placement in an interim alternative educational setting;
  - Requirements for unilateral placement by parents of children in private schools at public expense;
  - Mediation;
  - Due process hearings, including requirements for disclosure of evaluation results and recommendations;
  - State-level appeals, if applicable;
  - Civil Actions;
  - Attorney’s fees; and
  - The State complaint procedures under §§300.660-300.662, including a description of how to file a complaint and the timelines under those procedures. [§300.504(b)(1-14)]
- The procedural safeguards notice will be written in language understandable to the general public. [§300.504(c)]
- The procedural safeguards notice will be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. [§300.504(c)]
- If the native language or other mode of communication of the parent is not a written language, the District will take steps to ensure that:
  - The procedural safeguards notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
  - The parent understands the content of the procedural safeguards notice; and
  - There is written evidence that the requirements of the above items have been met. [§300.504(c)]

Parental consent is to be obtained in accord with the following provisions: [§300.505]

- Parental consent will be obtained if, after a review of existing data, additional data are needed for an initial evaluation or reevaluation, and before initial provision of special education and related services. [§300.505(a)(1)] Parental consent is not required before reviewing existing data as part of an evaluation or before administering a test or other evaluation that is administered to all children unless such consent is required from the parents of all children.

- If the parents refuse consent for initial evaluation or reevaluation, the District may pursue those evaluations by using:
  - Due process procedures under §§300.507 and 300.509; and
  - Mediation procedures under §§300.506 and 300.505(b).
- Informed parental consent need not be obtained for the gathering of additional data for reevaluation when the District can demonstrate that it has taken reasonable measures to obtain that consent, and the child's parent has failed to respond. [§300.505(c)]
- The reasonable measures taken by the District to obtain informed parental consent for a reevaluation will include:
  - Detailed records of telephone calls made or attempted and the results of those calls;
  - Copies of correspondence sent to the parents and any responses received; and
  - Detailed records of visits made to the parent's home or place of employment and the results of those visits. [§300.505(c)(2)]
- The District will not use a parent's refusal to consent to one service or activity under this section to deny the parent or child any other service, benefit, or activity of the District, except as required by this part. [§300.505(e)]

Whenever necessary, the District will make the following accommodation for mediation: [§300.506]

- The District will ensure that the mediation process:
  - Is voluntary on the part of the parties;
  - Is not used to deny or delay a parent's right to a due process hearing under §300.507, or to deny any other rights afforded under Part B of the IDEA.
  - Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques. [§300.506(b)(1)(i)-(iii)] Impartiality means that the mediator is not an employee of the District or a State agency per §300.194 or the State Education Agency that is providing direct services to a child who is a subject of the mediation process. The mediator must not have a personal or professional conflict of interest. A person is not an employee of the District or the State solely because he or she is paid by the District to serve as a mediator.
- Either the District or the parent may contact the Arizona Department of Education/Exceptional Student Services to request mediation.
- Discussions that occur during the mediation process:
  - Will be confidential; and
  - May not be used as evidence in any subsequent due process hearings or civil proceedings. [§300.506(b)(6)]
- The parties to the mediation process may have to sign a confidentiality pledge prior to the commencement of the process. [§300.506(b)(6)]

The requirements for parental notice of an impartial due process hearing are: [§300.507 and A.A.C. R7-2-405]

- When a due process hearing is initiated under §300.503(a)(1), the District will inform the parents of the availability of mediation described in §§300.506 and 300.507(a)(2).
- The District will inform the parent of any free or low-cost legal and other relevant services available in the area if:
  - The parent requests the information; and
  - The parent or the District initiates a due process hearing under this section. [§300.507(a)(3)(i) and (ii)]
- The District will notify the Arizona Department of Education/ Exceptional Student Services when a written request for due process is received [A.A.C. R7-2-405).
- The District will notify the Arizona Department of Education/ Exceptional Student Services when a written request for due process is received [A.A.C. R7-2-405).
- At least five (5) business days prior to a due process hearing conducted pursuant to this section, the District will disclose to all parties:
  - All evaluations completed by that date; and
  - Recommendations based on the respective offering party's evaluations that the respective party intends to use at the hearing. [§300.509(b)(1)]
- Parents involved in due process hearings have the right to:
  - Have the child who is the subject of the hearing present; and
  - Open the hearing to the public. [§300.509(c)(1)(i) and (ii)]
- The record of the due process hearing and the findings of fact and decisions will be provided at no cost to the parents. [§300.509(c)(2)]

The following provisions are made pertinent to the finality of the decision, an appeal, and an impartial review. [§300.510]

- A decision made in a due process hearing conducted pursuant to §§300.507, 300.520 and 300.528 is final, except that any party involved in the hearing may appeal the decision under the provisions of §§300.510, 300.512 and 300.510(a).
- The decision made by the reviewing official is final unless a party brings a civil action under §§300.512.and 300.510(d).

When a due process hearing is requested, the following timelines are to be implemented for the convenience of hearings and reviews: [§300.511]

- The District will ensure that not later than forty-five (45) calendar days after the receipt of a request for a due process hearing:
  - A final decision will be reached in the hearing, unless the hearing officer grants specific extensions of time at the request of either party; and
  - A copy of the decision will be mailed to each of the parties. [§300.511(a)(1) and (2)]

- Each due process hearing and each impartial review involving oral arguments will be conducted at a time and place that is reasonably convenient to the parents and child involved. [§300.511(d)]

In regards to attorneys' fees, the following considerations are applicable: [§300.513]

- The procedural safeguards notice will include a full explanation of all of the procedural safeguards relating to attorneys' fees. [§300.504(b)(13)]
- Funds under Part B of the Act will not be used to pay attorneys' fees or costs of a party related to an action or proceeding under section 615 of the Act and subpart E. [§300.513(b)(1)]

During the due process proceedings the status of the subject child is to be as follows: [§300.514]

- Except as provided in §300.526, during the pendency of any administrative or judicial proceeding regarding a due process complaint under §300.507, unless the State or the District and the parents of the child agree otherwise, the child involved in the due process complaint will remain in his or her current educational placement. [§300.514(a)]
- If the due process complaint involves an application for initial admission to public school, the child, with the consent of the parents, will be placed in the public school until the completion of all the proceedings. [§300.514(b)]
- If the decision of a hearing officer in a due process hearing conducted by the Arizona Department of Education or a State review official in an administrative appeal agrees with the child's parents that a change of placement is appropriate, that placement will be treated as an agreement between the State or the District and the parents for purposes of §§300.514(a) and 300.514(c).

The District will apply the following conditions for the appointment of surrogate parents. [§300.515 and A.R.S. 15-763.01]

- It is the duty of the District to pursue the assignment of an individual to act as a surrogate for the parents. This will include a method for:
  - Determining whether a child needs a surrogate parent; and
  - Assigning a surrogate parent to the child. [§300.515(b)(1) and (2)]
- A petition for the appointment of a surrogate parent will be made to a court of competent jurisdiction. [§A.R.S. 15-763.01(A)]
- Except as provided in §300.515(c)(3), the District will ensure that a person selected as a surrogate:
  - Is not an employee of the Arizona Department of Education, the District, or any other agency that is involved in the education or care of the child;
  - Has no interest that conflicts with the interest of the child he or she represents; and
  - Has knowledge and skills that ensure adequate representation of the child. [§§300.515(c)(2)(i-iii) and A.R.S. 15-763.01(B)]
- The surrogate may represent the child in all matters relating to:

- Identification;
- Evaluation;
- Educational placement of a child with a disability; and
- Provision of FAPE. [§300.515(e)(1) and (2)]

The District applies the following criteria to a student with a disability who reaches the age of majority, defined as "eligible" under FERPA: (§300.517)

- When a student with a disability reaches the age of majority, except for a student with a disability that has been determined to be incompetent under State law.
  - The District will provide any notice required by this part to both the individual and the parents.
  - All other rights accorded to parents under Part B of the Act transfer to the student. [§300.517(a)(1)(i) and (ii)]

### **Confidentiality of Information**

To comply with the confidentiality requirements specified in the IDEA and its implementing regulations [§§300.560 and 300.576], and by the Family Educational Rights and Privacy Act (FERPA), all District personnel are to exercise the utmost caution in collecting, using, and permitting access to student information.

District personnel are to observe and comply with steps below to assure appropriate management of confidential student information, particularly as it pertains to students with disabilities:

Parental access to their child's records is to comply with §300.562:

- Responses to reasonable requests for explanations and interpretation of educational records will be provided to parents.
- Parents will be given copies of records if failure to provide copies would prevent the parent from inspecting and reviewing records.
- A parent's representative will be given an opportunity to inspect and review the educational records.
- The District may presume a parent has authority to inspect and review records relating to his or her child unless the District has been advised that the parent does not have the authority under applicable State law (e.g., guardianship, separation, divorce). [§300.562)(c), A.R.S. 15-761(21), A.A.C. R7-2-405(8), and R7-2-401(22)]
- Records will be provided upon parental request without unnecessary delay, before any meeting regarding an IEP or any hearing, and in no case more than forty-five (45) days after the request.



Notification will be given to parents and eligible students concerning their right of access to records: [§300.561]

- Notice will be distributed in the native languages of the various population groups in the District. [§300.561(a)(4)]
- The District will inform parents by publishing a notice or an announcement in newspapers or through other media, or both, with circulation adequate to notify local parents before any major identification, location, or evaluation activity. The notice will contain a description of all of the rights of parents and children under the Family Educational Rights and Privacy Act of 1974 and the implementing regulations. [§300.561(b)]
- The Annual Notice will contain the following components:
  - Parents and eligible students have the right to inspect and review the student's education record; [§§99.7 and 300.564]
  - The procedure for exercising the right to inspect and review the student's education record [§99.7) within forty-five (45) days; [§§99.10, 300.521, and 300.528]
  - Parents and eligible students have the right to seek amendment of the student's education record that is believed to be inaccurate, misleading, or in violation of the student's privacy rights; [§§99.7 and 300.567]
  - The procedure for requesting amendment of the record; [§99.7)
  - Parents and eligible students have the right to give consent before the release of personally identifiable information, except to the extent that the Act and §99.31 authorize disclosure without consent. [§99.7]
  - If, under §99.31(a), the District discloses information in the optional situations without prior consent, the notice must also include specification of criteria for determining who constitutes a school official; and
  - What constitutes a legitimate educational interest; [§99.7(a)]
  - Notice that rights regarding records transfer at age eighteen (18). [§§99.5(a) and 300.574(b)]
  - A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the District intends to use in gathering the information, including the sources from whom information is gathered, and the uses to be made of the information;
  - A summary of the procedures that the District will follow in the storage, disclosure to third parties, retention, and destruction of personally identifiable information, and
  - The process by which a parent or student can exercise the right to file a complaint concerning alleged failures by the District to comply with FERPA.

Designated District personnel must maintain a list on the type and location of records that are collected, as well as a record of access to each student's records, and will follow

steps to permit only acceptable access when a record contains information on more than one (1) student:

- The District will keep records of parties obtaining access to records, collected, maintained and used including name, access date, and purpose for access. [§300.563]
- If a record has information on more than one child, parents have a right to inspect and review only the information relating to their child, or be informed of that specific information. [§300.564]
- The District will maintain a list of types and locations of educational records that are collected, maintained, or used and provide a copy of the list upon request. [§300.565]

Copies of records and fees are to be administered as follows:

- The District will provide copies of records to the parent if failure to do so prevents the parent from inspecting or reviewing the records. [§300.562)(b)(2)]
- The District may charge for copies if the fee does not prevent inspection or review of the record. [§300.566)(a)]
- The District will not charge a fee to search or retrieve information. [§300.566)(b)]

The following criteria are to be applied to a parental request for an amendment of records, a request for a hearing, and post-hearing actions:

- A parent may request amendment of records if he/she believes that information in an education record is inaccurate, misleading, or otherwise in violation of student privacy or other rights. [§§99.7 and 300.567)(a)]
- A decision whether to amend the information will be made within a reasonable period of time after the receipt of the request. [§§99.7 and 300.567)(a)]
- If the determination is a refusal to amend the record, the parents will be informed of the refusal and of the right to a hearing. [§300.567]
- If the parent requests a hearing, the District will provide an opportunity for a hearing to challenge information in the records. The hearing for this purpose will be conducted according to the procedures under §34 CFR 99.22. [§300.568]
- After the hearing, the District will inform the parents in writing of a decision to amend an education record believed to be inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child. [§300.569)(a)]
- If the District decision is to not amend an education record, the parents will be informed of their right to place within the record a statement commenting on the information or setting forth any reasons for disagreeing with the decisions of the District. [§300.569)(b)]
  - The District will maintain the statement with the record or the contested portion; and
  - If the records are disclosed, the explanation will also be disclosed. [§300.569]

District personnel will take proactive measures to safeguard personally identifiable student information as outlined below.

- Each District employee will protect the confidentiality of personally identifiable information at collection, storage, disclosure to third parties, retention, and destruction stages. [§300.572)(a)]
- The principal of the school has the responsibility to ensure the confidentiality of any personally identifiable information. [§300.572)(b)]
- All persons collecting or using personally identifiable information will receive training or instruction regarding policies and procedures under §300.127 and 34 CFR Part 99.
- A current list for public inspection will be maintained of the names and positions of District employees who may have access to personally identifiable information. [§300.572)(d)]

The following procedures apply to the destruction of information: [§300.573]

- The District will inform the parent when personally identifiable information that has been collected, maintained or used is no longer needed to provide educational services to the child.
- The District will destroy the information at the request of the parent. However, permanent record of name, address, phone number, grades, attendance record, and classes attended, grade level completed, and year completed may be maintained without time limitation.

The District shall observe children's rights, and the transfer of parental rights, as specified below:

- Children may be afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the student and the type or severity of disability. [§300.574]
- If the rights accorded to parents are transferred to a student with a disability who reaches the age of majority, the rights regarding educational records will be transferred to the student. [§99.5(a)]
- In accordance with the Family Educational Rights and Privacy Act, the rights of parents regarding education records are transferred to the student at age eighteen (18). The District must provide any notice required under section 615 of IDEA to the student and the parents.

The disciplinary information of a student with a disability is to be treated as follows: [§300.576]

- The District will include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child.
- The disciplinary information on students with disabilities will be transmitted to the same extent that disciplinary information is transmitted on non-disabled students.

- The disciplinary statement may include a description of any behavior engaged in by the student, description of the disciplinary action taken, and any other information that is relevant to the safety of the student and other individuals.
- If a student transfers from one school to another, the transmission of any of the student's records will include the current IEP, current evaluation and any statement of current or previous disciplinary action that has been taken against the student.
- If a student transfers from one school to another, the transmission of any of the student's records to the receiving school will occur within the timeframe specified in State statutes and will not require the consent of the parent(s). [A.R.S. 15-828(F) and (G)]

### **Extended School Year (ESY) Services**

The District complies with the requirements for extended school year services as set in the IDEA regulations.

- Extended school year services will be available as necessary, to provide FAPE to a child with a disability. [§300.309]
- Extended school year services will be provided in accordance with §§300.340, 300.350, and A.R.S. 15-881.
- Extended school year services will be provided only if a child's IEP team determines, on an individual basis, that the services are necessary for the provision of FAPE to the child with a disability. [§§300.309, 300.342, and 300.346]
- Procedures will be established to implement ESY services for children with disabilities aged three (3) through twenty-one (21). [§300.309 and A.R.S. 15-881]

The following definitions are applicable to the determination and provision of ESY services:

- As used in this section, the term extended school year services means special education and related services that: are provided to a child with a disability:
  - Beyond the normal school year of the District;
  - In accordance with the child's IEP; and
  - At no cost to the parents of the child with a disability.
- As used in this section recoupment means the amount of time required to relearn skills included in the child's IEP following an extended break in instruction.
- The term regression means the reversion to a lower level of functioning in skills or behavior specified in the child's IEP, which results from an extended break in instruction,
- The term critical learning stage means a developmental period in which a child has mastered a concept or skill in one setting and is ready to generalize what has been learned so that it can be applied in other situations. A critical learning

stage exists if the child is unlikely to retain the concept or skill, in order to generalize to other situations what has been learned.

The criteria that follow are to be applied in making determinations concerning the provision of ESY: [§300.309 and A.R.S. 15-881]

- ESY services will be provided to prevent irreparable harm to the pupil's ability to maintain identified skills or behavior.
- When the child is in a "critical learning period" of development and when there is a "window of opportunity" that will be lost if services are not provided.
- The IEP team will determine, on an individual basis, the services that are necessary to provide FAPE to the child with a disability.
- ESY services will:
  - Significantly enhance the child's ability to function independently.
  - Not be limited to particular categories of disability.
  - Not unilaterally be limited to the type, amount or duration of those services.
  - Not be required for all children with disabilities.
  - Not be based on need or desire for any of the following:
    - A day care or respite care service for children with disabilities;
    - A program to maximize the academic potential of a child with a disability; or
    - A summer recreation program for children with disabilities.

Elements to be included in a consideration of eligibility for ESY are:

- Regression-recoupment factors.
- Critical learning stages;
- Least restrictive environment considerations;
- Teacher and parent interviews and recommendations;
- Database observations of the pupil;
- Considerations of the child's previous history; and
- Parental skills and abilities.

The methods to measure regression and recoupment are to include:

- Use of a variety of types of measurement and strategies for assessing skills, abilities and behaviors.
- A collection of data:
  - At the end of instruction;
  - At the beginning of subsequent instruction; and
  - At the time of recoupment.
- A loss or reduction from the end of instruction to the beginning of subsequent instruction will be a measure of regression data.
- A measurement of recoupment from the beginning of the subsequent instruction to the time of recoupment.

In determining which children with disabilities are eligible for ESY, the IEP team will:

- Identify goals/benchmarks/short term objectives;
- Identify special education and related services needed;
- Determine the initiation, location, frequency and duration of services; and
- Establish a date to review and document services.

## **Private Schools**

To cooperate in the provision of services to students with disabilities attending private schools, and to perform the responsibilities identified in the IDEA regulations, the District will comply with the following requirements:

- The District ensures that special education and related services shall be provided to a child with a disability who has been placed in or referred to a private school or a facility by the District. [§§300.401 and 300.402]
- Unless the District is required to do so by a court or hearing officer, the District will not pay the cost of education, including special education and related services, of a child with a disability attending a private school or facility if the District made FAPE available to the child and the parents elected to place the child in a private school or facility. [§300.403]
- The District ensures that private school children, including religious-school children residing in the jurisdiction of the District will be identified, located, and evaluated. [§300.451]
- The public school will exercise administrative control of all property, equipment, and supplies that the District acquires with federal funds for the benefit of private school children with disabilities. [§300.462]
- The District ensures that, if a placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, shall be at no cost to the parents of the child. [§300.302 and A.R.S. 15-765]

The procedures to accomplish the above responsibilities include, but are not limited to, the following:

For children placed in private schools by the District: [§300.349]

- Before the District places a child with a disability, or refers a child with a disability to a private school or facility, the District will initiate and conduct a meeting to develop an IEP in accordance with §§300.346 and 300.347.
- Before any student is placed in any private school or other public facility, the District will ensure a full continuum of alternative placements is available to meet the least restrictive environment. [A.R.S. 15-765]
- After a child with a disability enters a private school or facility, any IEP meeting to review or revise the child's IEP may be initiated and conducted by the private school at the discretion of the District.

- A representative of the private school or facility will be invited to attend the IEP meeting. If the representative cannot attend, the District will use other methods to ensure participation by the private school or facility. [§300.349(b)]
- If the private agency or facility initiates and conducts IEP meetings, the District shall ensure that the parents and a District representative are involved in any decision about the child's IEP and agree to any proposed changes in the IEP before those changes are implemented.
- The District may use whatever state, local, federal and private sources of support are available in Arizona to meet the requirements, such as joint agreements between the agencies involved for sharing the cost of placement of a student in a private residential facility. [§300.301]

Points to be considered relative to the determination and provision of services to students enrolled by their parents in private school when FAPE is an issue: [§300.403]

- Disagreements about whether FAPE was made available to a child with a disability and the question of financial responsibility are subject to due process procedures of §§300.507 and 300.514.
- If a court or a hearing officer finds that the District has not made FAPE available to the child in a timely manner prior to the parental enrollment in the private placement and orders the District to reimburse the parents for the cost of that enrollment, the District will comply.

Points to be considered relative to the determination and provision of services to students enrolled by their parents in private school when FAPE is not an issue: [§§300.452 through 300.355]

- No private school or home schooled child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. [§300.454]
- No private school or home schooled child with a disability is individually entitled to any service or to any amount of a service the child would receive if enrolled in a public school. [§300.455(a)(3)]
- The District will spend the same proportion of the District's total sub grant under IDEA Part B sections 611 and 619 as the number of private school and home schooled children with disabilities residing in its jurisdiction is to the total number of children with disabilities in its jurisdiction.
- If a child with a disability is enrolled in a religious or other private school and receiving special education or related services from the District, the District will:
  - Initiate and conduct meetings to develop, review, and revise a service plan for the child, in accordance with §300.455(b);
  - Invite a representative of the religious or other private school to attend each meeting; and
  - When the representative cannot attend, the District will use other methods to ensure participation by the religious or private school,

including individual or conference telephone calls. [§§300.454(c) and 300.403)

- District personnel providing services to private school children with disabilities will meet the same standards as personnel providing services in the public school. [§300.455(a)(1)]

Child Find efforts will be made for private school children with disabilities: [§300.451]

- The District will annually consult with private and parochial schools within its jurisdiction to determine how to conduct the annual count of how many private and parochial students have been determined eligible to receive services as a child with a disability.
- The District will identify, locate, and evaluate all private and religious school children within the jurisdiction of the District.
- The child find activities implemented for private and religious school children with disabilities will be comparable to activities undertaken for children with disabilities in the public school. [§300.451]

The District abides by the following requirements concerning property, equipment, and supplies for the benefit of private school children with disabilities: [§300.462]

- The District may place equipment and supplies in a private school for a period of time for the program.
- The District will be accountable for equipment and supplies placed in the private school and ensure that the equipment and supplies:
  - Are used only for Part B purposes; and
  - Can be removed from the private school without remodeling the private school facility.

Residential placement will be used when appropriate and will comply with the requirements of IDEA. [§300.302 and A.R.S. 15-765]

- The District may place a child with a disability in a public or private residential program to provide special education and related services.
- The placement will include non-medical care, room and board and placement will be at no cost to the parents of a child with a disability. [§300.302]
- Before any placement is made in a private residential facility, the District will ensure that a full continuum of alternative placements is available and the placement is the least restrictive environment. [A.R.S. 15-765(c)]
- The IEP team and other qualified professionals will:
  - Review the existing data;
  - Determine if additional data are needed;
  - Determine eligibility or continued eligibility;
  - Review and revise the IEP; and
  - Include the exit criteria. [A.R.S. 15-765(G) and (K)]
- A residential voucher application will be initiated in accordance with A.R.S. 15-765 and A.R.S. 15-1181.



## Graduation and Pupil-Teacher Ratios

The district has incorporated the following standards:

- The Governing Board prescribes criteria for graduation for students with disabilities that include accomplishment of the academic standards adopted by the State Board of Education in reading, writing, and mathematics. [A.R.S. 15-701.01.B.]
- The Governing Board has adopted other criteria for students with disabilities including additional measures of academic achievement and attendance which are in addition to the courses of study and competency requirements prescribed by the State Board of Education. [A.R.S. 15-701.01 and A.A.C. R7-2-301(D)(1)]
- The allowable pupil-teacher ratios are displayed in regulation IIB-R [IHB-R]—Class Size of the District Governing Board Policies and Administrative Procedures Manual. [A.R.S. 15-764 (A)(5)]

The procedures to be followed in fulfilling the above commitments include, but are not limited to:

- The District is not obligated to provide FAPE to students with disabilities who have graduated from high school with a regular high school diploma. [§§300.122(3) and 300.543(c)]
- Graduation from high school with a regular diploma constitutes a change in placement for a student with a disability and requires prior written notice [§300.122(3)].
- A student with a disability will complete the requirements in accordance with the academic standards adopted by the State Board of Education in reading, writing and mathematics. [A.R.S. 15-701.01(B)]
- The Instrument to Measure Standards (AIMS) is administered at grades 3, 5, 8, and high school or, for students in ungraded classes, at ages nine (9) years, eleven (11) years, fourteen (14) years and sixteen (16) years.
- Each student's IEP team will determine the graduation test criteria on the AIMS.

## Preschool

The policy of the Board assures that:

- A Free Appropriate Public Education (FAPE) will be available to each eligible child by the child's third (3rd) birthday or, in the case of a child unknown to the District prior to the third (3rd) birthday, within thirty (30) days of the determination of eligibility. [§§300.342(c) and 300.121(c)(1)(i)].
- An individualized education program (IEP) or an individualized family service plan (IFSP) for each child will be in place prior to the provision of FAPE. [§300.121(c)(1)(ii)]
  - Definitions:

- AzEIP means Arizona's Early Intervention Program and includes the Department of Economic Security (DES); Department of Health Services (DHS); State Schools for the Deaf and Blind (ASDB); Arizona Health Care Cost Containment System (AHCCCS); and Arizona Department of Education (ADE).
- Individualized Family Service Plan (IFSP) means a written plan developed by a multidisciplinary team including the parent or guardian which includes a statement of:
  - The child's present levels of development;
  - The family resources, priorities, and concerns;
  - The major outcomes expected;
  - The specific early intervention services necessary and the method and environment of service provision;
  - The projected dates of services;
  - The name of the service coordinator, and
  - The transition plan. [Government Services Contract No. 341 4.6]

The procedural steps to be taken in implementing the preschool program for children transitioning from AzEIP into preschool are:

- The District will participate in transition planning conferences arranged by the designated lead agency. [§300.132(c)]
- At the transition conference, the District representative will provide information about the full continuum of educational programs options for preschool children with disabilities. [Government Services Contract No. 341 5.1.2] [Head Start Agreement]
- At the transition conference, the District representative will provide the parents with eligibility requirements for preschool special education services including evaluation components and special education classifications. [Governmental Services Contract No. 341 5.1.2]
- At the transition conference, the District representative will provide the parent with a copy of the parent's rights and a copy of procedural safeguards that become effective on the child's third (3rd) birthday. [Governmental Services Contract No. 341 5.1.2]
- The District representative will work with the parents to plan for visitations to possible preschool placement options and to establish tentative timelines for the child's transition into the preschool program. [Governmental Services Contract No. 341 5.1.2.]
- The District will complete necessary assessments and determine eligibility prior to the child's entering preschool but no later than the third (3rd) birthday. [Government Services Contract No. 341 5.2.2]
- The District will ensure the development of an IEP or IFSP prior to the provision of FAPE.

- The District will invite the Service Coordinator for the child to attend the IEP/IFSP meeting. [Government Services Contract No. 341 5.4]
- If an IFSP contains the necessary information and is developed under the §§300.341 and 300.346 (IEP), and the parents and the District agree, the IFSP may be used in place of an IEP. [§300.342(c)(i)(ii)]
- If, after a detailed explanation of the differences between an IFSP and an IEP, the parents choose an IFSP, the District will obtain written informed parental consent for its use. [§300.342(c)(2)]
- If the child's third (3rd) birthday occurs during the summer, the child's IEP team will determine the date when services under the IEP or IFSP will begin. [§300.121(c)(2)]

## **DISCIPLINE**

It is the policy of the District to comply with the requirements of the IDEA as they relate to disciplinary measures taken with a student with a disability. The requirements are:

- If a change in educational placement for disciplinary removal occurs for a child with a disability, the District shall provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP. [§300.121(d)]
- When a child with a disability is removed from his or her current educational placement, a change of placement occurs if:
  - The removal is for more than ten (10) consecutive school days; or
  - The series of removals constitute a pattern because they accumulate to more than ten (10) school days in a school year, and because of such factors as the length of each removal, the total amount of time the child is removed, or the proximity of the removals to one another. [§300.519]
- When the removal of a child with a disability constitutes a change of placement, a review of the placement shall be conducted regarding the relationship between the student's disability and the behavior subject to the disciplinary action (manifestation determination). [§300.523]
- If an IEP team determines that the behavior of the student with a disability was not a manifestation of the disability, disciplinary action applicable to students without disabilities shall be applied, except as provided in §300.121 which requires the provision of FAPE to all students with disabilities who are suspended or expelled. [§§300.524 and 300.525]
- A child who has not been determined eligible for special education and who engages in behavior that violates any rules or code of conduct may assert any of the protections of a child with a disability pursuant to §300.527.

Designated District personnel are to observe the following checkpoints and implement the following procedures when disciplinary measures are applied to a child with a disability.

FAPE for children suspended or expelled: [§§300.121 and 300.520]

- The District may cease services to a child with a disability during a removal period when that child has been removed from his or her current placement for ten (10) school days or less in a school year, if services are not provided to a child without disabilities who has been similarly removed.
- The District may cease services to a child with a disability during a removal period when that child has been removed from his or her current placement for ten (10) school days or less in a school year, if services are not provided to a child without disabilities who has been similarly removed.
  - The District will provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and advance toward achieving the IEP goals; and
  - School personnel, in consultation with the child's special education teacher, will determine the extent of services necessary to enable the child to appropriately progress in the general curriculum and advance toward achieving the IEP goals. [§300.121]
- For a child with a disability whose placement has been changed for disciplinary reasons, (i.e., has been removed from his or her current placement for more than ten [10] consecutive school days in a school year or whose removals constitute a pattern):
  - The District will provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and advance toward achieving the IEP goals; and
  - The IEP team will determine the extent of services necessary to enable the child to appropriately progress in the general curriculum and advance toward achieving the IEP goals. [§300.121]
- If a disciplinary action of more than ten (10) cumulative school days is contemplated for a child with a disability who has engaged in behavior that violated any rule or code of conduct of the District and:
  - The District did not conduct a functional behavioral assessment and implement a behavior intervention plan for the child before the behavior occurred, within ten (10) business days the District will convene an IEP meeting to develop appropriate behavioral interventions to address the behavior and shall implement those interventions.
  - If the child already has a behavior intervention plan, the IEP team will meet to review the plan and its implementation, and, modify the plan to address the behavior. [300.520]

Change of placement for disciplinary removals: [§§300.519)

- For a child with a disability, a change in placement occurs if:
  - A removal is for more than ten (10) consecutive school days; or
  - The child is subject to a series of removals that constitute a pattern because of factors such as length of each removal, total amount of time the

child is removed and the proximity of the removals to one another.  
[§300.519]

Manifestation determination review: [§300.523]

- The District will conduct a manifestation determination review when the District is contemplating a change of educational placement for disciplinary reasons.
  - When the District is contemplating a change of educational placement for disciplinary reasons, the District will notify the parents of the child no later than the date on which the decision was made to take that action. The District will provide the parents with the appropriate procedural safeguards notice.
  - No later than ten (10) days after the date on which the decision to act is made, the manifestation determination review must be conducted.
  - In conducting a manifestation determination, the IEP team will consider evaluation and diagnostic results, including information provided by the parents; observations of the child; and the child's IEP and placement.
- The IEP team will only determine the child's behavior was not a manifestation of the disability, when all relevant information indicates that:
  - The child's IEP was appropriately developed and implemented and behavior intervention strategies were provided consistent with the child's IEP and placement;
  - The child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to the disciplinary action; and
  - The child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.
- The behavior will be considered a manifestation of the child's disability if any of the standards in the immediately preceding item were not met.
- If the behavior is not a manifestation of the child's disability, disciplinary procedures applicable to children without disability will apply except as provided in IDEA regulation §300.121(d).

Determination of interim alternative educational setting (IAES): [§§ 300.520 through 300.522]

- The District may order a child with a disability to an interim alternative educational setting for weapons or drug violations for the same amount of time as that of a child without a disability, but not to exceed forty-five (45) days. The IAES will:
  - Be determined by the IEP team;
  - Be selected so as to enable the child to continue to participate in the general curriculum, and receive services specified in the IEP that will enable the child to meet the goals set out in the IEP; and [§300.520]

- Include services and modifications designed to prevent the behavior from recurring.
- The District may request an expedited due process hearing to request that the child be moved to an appropriate IAES for not more than forty-five (45) days if the District has substantial evidence that a child's current placement is likely to result in injury to the child or to others. [§300.521] Substantial evidence means beyond a preponderance of the evidence. This procedure may be repeated as necessary by the District.

Parental appeal: [§300.525]

- If the parent of a child with a disability disagrees with the manifestation determination or any decision regarding the placement, the parents may request a hearing. [§300.525]
- The District will arrange an expedited hearing if the parent requests a hearing. (In reviewing a determination pertinent to the manifestation determination, the hearing officer shall determine whether the District has demonstrated that the child's behavior was not a manifestation of the child's disability consistent with the requirements of the IDEA. In reviewing a decision to place the child in an interim alternative educational setting, the hearing officer shall apply the standards in §300.521).

Protections for children who are not yet eligible for special education and related services: [§300.527]

- The parent may assert any of the protections provided to children with disabilities if the District had knowledge that the child was a child with a disability before the behavior occurred. The District is presumed to have knowledge when:
  - The parent has expressed concern in writing, or orally if the parent cannot write or has a disability that prevents a written statement;
  - The behavior of the child has demonstrated the need for the services, in accordance with §300.7;
  - The teacher of the child or other personnel has expressed concern about the behavior or performance of the child to the District director of special education or to other personnel in accordance with the District's established child find or special education referral system; or
  - The parent of the child has requested an evaluation.
- The District is presumed not to have knowledge when the District has either:
  - Conducted a full and individual evaluation for special education eligibility and found the child was not a child with a disability; or
  - Has determined that an evaluation was not necessary and provided appropriate notice to the child's parents of its determination.
- If a request for an evaluation is made during the time period in which the child is subjected to disciplinary action under §§300.520 or 300.521:
  - The evaluation will be conducted in an expedited manner; and

- The child will remain in the placement determined by the school authorities until completion of the evaluation and eligibility determination.

Adopted: May 13, 2008  
Revised: September 19, 2012 (format change only)  
Revised: September 30, 2016 (Friday Report)  
Reviewed:

**Legal Ref:**

**Cross Ref**