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Attorney General Opinion: June 18, 1992, August 20, 1992, June 27, 1995, September 30, 1997, April 23, 1998, May 29, 1998, July 28, 1998, March 11, 1999, April 20, 2000, May 16, 2002, January 20, 2005, November 17, 2006.

Statutory Authority: Article 20 of Title 22, C.R.S., Sections 22-20-104, 22-2-107 (1) (a), 22-2-107(1) (c), 22-2-107 (1) (q), 22-20-109 and 22-20-116.

R U L E S  
( F O R   T H E )  
A D M I N I S T R A T I O N   O F   T H E   E X C E P T I O N A L   C H I L D R E N ' S  
E D U C A T I O N A L   A C T

**2220-R-1.00      STATEMENT OF BASIS AND PURPOSE**

- 1.00    (9)    THE STATUTORY AUTHORITY FOR THE AMENDMENTS TO THESE RULES IS FOUND IN TITLE 22, ARTICLE 20, SECTIONS 102, 103, 105, 104.5, 106, 107.5, 108, 112, 114, 114.5 AND 118. THE PURPOSES OF THE AMENDMENTS ARE:
- 1.00    (9)    (A)    TO CONFORM TO AMENDMENTS TO THE EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT (ECEA) AS SET FORTH IN SB06-118, SB07-255, HB07-1244, INCLUDING ALIGNMENT WITH THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATIONAL IMPROVEMENT ACT OF 2004, 20 U.S.C. SECTION 1400 ET SEQ., AS AMENDED, (IDEA) AND ITS IMPLEMENTING PART B AND PART C REGULATIONS AT 34 CFR PARTS 300 AND 303, RESPECTIVELY, INCLUDING APPENDICES.
- 1.00    (9)    (A)    (I)    THE IDEA PART B AND PART C REGULATIONS WERE ISSUED BY THE UNITED STATES DEPARTMENT OF EDUCATION, OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES. THROUGHOUT THESE RULES, THE APPLICABLE PART B AND PART C REGULATIONS ARE REFERRED TO IN GENERAL (E.G., "PART B REGULATIONS" OR "PART C CHILD FIND REGULATIONS") OR BY REFERENCE TO SPECIFIC REGULATORY SECTION NUMBERS (E.G., 34 CFR §300.1., 34 CFR §303.1) AND ARE INCORPORATED HEREIN BY REFERENCE AS APPLICABLE. HOWEVER, THESE RULES DO NOT INCLUDE LATER AMENDMENTS OR EDITIONS TO THE IDEA, THE PART B REGULATIONS OR THE PART C REGULATIONS.
- 1.00    (9)    (A)    (II)    COPIES OF THE IDEA PART B AND PART C REGULATIONS ARE AVAILABLE FOR PUBLIC INSPECTION, UPON APPOINTMENT, DURING

REGULAR BUSINESS HOURS AT THE OFFICE OF THE STATE BOARD OF EDUCATION. UPON REQUEST, A COPY OF THE PART B AND/OR PART C REGULATIONS SHALL BE PROVIDED AT COST TO THE PERSON OR ENTITY REQUESTING A COPY. INQUIRIES REGARDING THE PROCEDURE FOR EXAMINING SUCH REGULATIONS OR FOR OBTAINING A COPY OF SUCH REGULATIONS SHALL BE DIRECTED TO:

DIRECTOR  
OFFICE OF THE STATE BOARD OF EDUCATION  
201 EAST COLFAX AVENUE, DENVER, CO, 80203  
(303) 866-6817

- 1.00 (9) (A) (III) COPIES OF THE PART B REGULATIONS AND PART C REGULATIONS MAY BE EXAMINED AT ANY STATE PUBLICATION DEPOSITORY LIBRARY.
- 1.00 (9) (B) TO ADOPT NEW CRITERIA FOR THE DISABILITY CATEGORY "SPECIFIC LEARNING DISABILITY";
- 1.00 (9) (C) TO REORGANIZE THESE RULES FOR PURPOSES OF PROVIDING ENHANCED CLARIFICATION FOR IMPLEMENTATION;
- 1.00 (9) (D) TO CLARIFY LANGUAGE;
- 1.00 (9) (E) TO MAKE TECHNICAL AMENDMENTS, INCLUDING:
  - 1.00 (9) (E) (I) RENUMBERING MADE NECESSARY BY REORGANIZATION OF THESE RULES;
  - 1.00 (9) (E) (II) CORRECTION OF TYPOGRAPHICAL ERRORS SUCH AS MISSPELLINGS OR INACCURATE LEGAL CITATIONS; AND
  - 1.00 (9) (E) (III) REFORMATTING OF THESE RULES.

**DEFINITIONS AND CRITERIA USED IN THESE RULES**

Unless otherwise indicated by the context, the following definitions and criteria shall apply to the administration of the Exceptional Children's Educational Act:

**2.01 ACT**

ACT, WHEN USED IN 34 CFR PARTS 300 AND 303, MEANS THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT OF 2004, 20 U.S.C. §1400 ET SEQ. (IDEA) AS AMENDED.

~~2.01~~**2.02 Administrative Unit**

~~An administrative unit~~ **ADMINISTRATIVE UNIT (AU)** shall mean **MEANS** a school district or **DISTRICT**, board of cooperative services **SERVICES, OR THE STATE CHARTER SCHOOL INSTITUTE**, which is approved by the Department of Education according to the criteria established in 2220-R-3.01, that oversees the provision of special education services to children with disabilities **THAT IS PROVIDING EDUCATIONAL SERVICES TO EXCEPTIONAL CHILDREN AND THAT IS RESPONSIBLE FOR THE LOCAL ADMINISTRATION OF THESE RULES. IN ORDER TO QUALIFY AS AN ADMINISTRATIVE UNIT, SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE SERVICES SHALL MEET ALL MINIMUM STANDARDS ESTABLISHED IN SECTION 3.01 OF THESE RULES. THE CHARTER SCHOOL INSTITUTE SHALL MEET ALL MINIMUM STANDARDS ESTABLISHED IN SECTION 3.01 OF THESE RULES EXCEPT FOR SECTION 3.01(1)(A) ADDRESSING THE SIZE OF ADMINISTRATIVE UNITS. ALL ADMINISTRATIVE UNITS SHALL BE APPROVED BY THE DEPARTMENT OF EDUCATION.**

~~2.01 (1)~~**2.02 (1) Administrative unit of residence.**

Pursuant to sections 22-1-102 and 22-20-107.5, C.R.S., an administrative unit of residence **(AUR)** shall mean the unit in which the child resides on a day-to-day basis with the following exceptions to apply when a child has been determined to have a disability:

~~2.01 (1) (a)~~

**2.02 (1) (A)** ~~If the child resides at one of the regional centers, mental health institutes, residential child care facilities, hospitals, group care facilities or homes, Colorado School for the Deaf and the Blind, or in a facility formerly operated by or under contract to the Department of Institutions and now transferred to the Department of Human Services, such child shall be deemed to reside where the parent or guardian of the child resides.~~

**IF A CHILD WITH A DISABILITY IS LIVING AT ONE OF THE REGIONAL CENTERS, INCLUDING SATELLITE HOMES OF SUCH CENTERS, OPERATED BY THE DEPARTMENT OF HUMAN SERVICES OR ANY OTHER FACILITY OPERATED BY OR UNDER CONTRACT TO THE DEPARTMENT OF HUMAN SERVICES OR AT THE COLORADO MENTAL HEALTH INSTITUTES AT PUEBLO OR FORT LOGAN, AN ELIGIBLE FACILITY, OR IF THE CHILD ATTENDS THE COLORADO SCHOOL FOR THE DEAF AND THE BLIND, SUCH CHILD SHALL BE DEEMED TO RESIDE WHERE THE PARENT OR GUARDIAN OF SUCH CHILD RESIDES.**

~~2.01 (1) (b)~~

2.02 (1) (B)

IF A CHILD LIVES IN ONE OF THE REGIONAL CENTERS OR THE MENTAL HEALTH INSTITUTES AT PUEBLO OR FORT LOGAN OR IN AN ELIGIBLE FACILITY AND THE ADMINISTRATIVE UNIT OF RESIDENCE CANNOT BE DETERMINED BECAUSE parental rights have been relinquished by the parents or terminated by a court, the parents are incarcerated, cannot be located, reside out of state, **STATE** or the child is legally emancipated, and, in all such circumstances, the Colorado Department of Human Services has made the placement within a facility, **OR THE CHILD IS LEGALLY EMANCIPATED**, the child shall be considered a resident of the administrative unit in which such facility is located.

~~2.01 (1) (c)~~

2.02 (1) (C)

If the child resides in a foster care home, the child shall be deemed to be a resident of the administrative unit in which the foster care home is located.

~~2.01 (1) (d)~~

2.02 (1) (D)

When a child attends a school in another district under the provisions of the public schools of choice law, the child shall be considered a resident of the administrative unit in which the parent or guardian resides.

~~2.01 (1) (e)~~

2.02 (1) (E)

When a child attends a Charter School in another district, the child shall be considered a resident of the administrative unit in which the parent or guardian resides.

~~2.01 (1) (f)~~

2.02 (1) (F)

When a child attends a public school on-line program in another district, the child shall be considered a resident of the administrative unit in which the parent or guardian resides.

2.02 (1) (G)

**IF A CHILD WITH A DISABILITY IS HOMELESS, AS DEFINED BY SECTION 22-1-102.5, C.R.S., THE PROVISIONS OF SECTION 22-1-102(2), C.R.S., APPLY.**

2.02 (1) (H)

**DISPUTES REGARDING RESIDENCY.**

**IF THERE IS A DISPUTE AS TO WHICH ADMINISTRATIVE UNIT CONSTITUTES THE ADMINISTRATIVE UNIT OF RESIDENCE, THE COMMISSIONER OF EDUCATION SHALL HAVE THE AUTHORITY TO DETERMINE QUESTIONS OF RESIDENCY AND THUS RESPONSIBILITY AFTER REVIEWING NECESSARY DETAILS INVOLVED IN THE DETERMINATION OF RESIDENCY.**

~~2.01 (2)~~

2.02 (2)

Administrative unit of attendance.

An administrative unit of attendance (**AUA**) shall mean the unit that delivers the special education program for a child. It may be different from the administrative unit of residence when:

~~2.01 (2) (a)~~

2.02 (2) (A)

The administrative unit of residence does not have an adequate number of children with similar needs, and chooses to send the child to another administrative unit for his or her special education program.

~~2.01 (2) (b)~~

**2.02 (2) (B)** The child resides at one of the regional centers, mental health institutes, residential child care facilities, hospitals, group care facilities or homes, ~~Colorado School for the Deaf and the Blind~~, or in a facility formerly operated by or under contract to the Department of Institutions and now transferred to the Department of Human Services, **OR ATTENDS THE COLORADO SCHOOL FOR THE DEAF AND THE BLIND** and the special education program is provided by an administrative unit other than the **ADMINISTRATIVE** unit of residence.

~~2.01 (2) (c)~~

**2.02 (2) (C)** The child attends a Charter School, School of Choice or a public school on-line program and the Special Education program is provided by a special education administrative unit other than the administrative unit of residence.

~~2.01(3) Specific Responsibilities of Administrative Units~~

~~2.01(3)(a) Responsibility for special education functions and services~~

~~2.01(3)(a)(i) Except as is otherwise provided for in these Rules, the administrative unit of attendance is responsible for child identification, as defined by Section 4.01 of these Rules, IEP planning, delivery of special education services, re-evaluation, and the provision of a free appropriate public education to each child with a disability attending school within the administrative unit, including convening and conducting required meetings related to such special education functions.~~

~~2.01(3)(a)(i)(A) A child with a disability attending public school is entitled to all special education services specified by the child's IEP and to a free appropriate public education.~~

~~2.01(3)(a)(i)(B) A child with a disability attending private school located within an administrative unit does not have an individual right to special education and related services. Following timely and meaningful consultation with private school representatives, the administrative unit may, at its discretion, designate which private school students with disabilities, if any, it will serve. Special education and related services for a private school child with a disability shall be delivered in accordance with a services plan developed for the child in accordance with the procedures established in these Rules for IEP development.~~

~~2.01(3)(a)(i)(C) The administrative unit of attendance is not responsible for the delivery of special education services or the provision of a free appropriate public education to a child with a disability placed in an eligible facility approved by the State Board of Education. It is, however, responsible for all other special education functions identified in Section 2.01 of these Rules.~~

~~2.01(3)(a)(ii) If a child with a disability is not enrolled in school, the administrative unit of residence is responsible for the provision of legally required special education services.~~

~~2.01(3)(b) Responsibility for Special Education Tuition~~

~~2.01(3)(b)(i) The district of residence is responsible for the payment of special education tuition as defined by Section 2.03(2) of these Rules.~~

~~2.01(3)(b)(ii) The administrative units of attendance and residence shall be responsible for administering the special education tuition procedures set forth in Sections 2.03(2), 4.03(1)(C), 4.06, 4.07, 7.03 and 7.08 of these Rules. Each BOCES and its member districts shall jointly develop procedures and/or cooperative agreements that will ensure compliance with such Rules.~~

~~2.01(3)(b)(iii) If the child's district of attendance is not the child's district of residence but is within the same administrative unit as the child's district of residence, the payment of tuition, if any, shall be determined by the administrative unit and the two districts involved.~~

### **2.03 ASSISTIVE TECHNOLOGY DEVICE**

*ASSISTIVE TECHNOLOGY DEVICE* MEANS ANY ITEM, PIECE OF EQUIPMENT, OR PRODUCT SYSTEM, WHETHER ACQUIRED COMMERCIALY OFF THE SHELF, MODIFIED, OR CUSTOMIZED, THAT IS USED TO INCREASE, MAINTAIN, OR IMPROVE THE FUNCTIONAL CAPABILITIES OF A CHILD WITH A DISABILITY. THE TERM DOES NOT INCLUDE A MEDICAL DEVICE THAT IS SURGICALLY IMPLANTED, OR THE REPLACEMENT OF SUCH DEVICE.

### **2.04 ASSISTIVE TECHNOLOGY SERVICE**

- 2.04 (1) *ASSISTIVE TECHNOLOGY SERVICE* MEANS ANY SERVICE THAT DIRECTLY ASSISTS A CHILD WITH A DISABILITY IN THE SELECTION, ACQUISITION, OR USE OF AN ASSISTIVE TECHNOLOGY DEVICE. THE TERM INCLUDES—
- 2.04 (1) (A) THE EVALUATION OF THE NEEDS OF A CHILD WITH A DISABILITY, INCLUDING A FUNCTIONAL EVALUATION OF THE CHILD IN THE CHILD'S CUSTOMARY ENVIRONMENT;
- 2.04 (1) (B) PURCHASING, LEASING, OR OTHERWISE PROVIDING FOR THE ACQUISITION OF ASSISTIVE TECHNOLOGY DEVICES BY CHILDREN WITH DISABILITIES;
- 2.04 (1) (C) SELECTING, DESIGNING, FITTING, CUSTOMIZING, ADAPTING, APPLYING, MAINTAINING, REPAIRING, OR REPLACING ASSISTIVE TECHNOLOGY DEVICES;
- 2.04 (1) (D) COORDINATING AND USING OTHER THERAPIES, INTERVENTIONS, OR SERVICES WITH ASSISTIVE TECHNOLOGY DEVICES, SUCH AS THOSE ASSOCIATED WITH EXISTING EDUCATION AND REHABILITATION PLANS AND PROGRAMS;
- 2.04 (1) (E) TRAINING OR TECHNICAL ASSISTANCE FOR A CHILD WITH A DISABILITY OR, IF APPROPRIATE, THAT CHILD'S FAMILY; AND
- 2.04 (1) (F) TRAINING OR TECHNICAL ASSISTANCE FOR PROFESSIONALS (INCLUDING INDIVIDUALS PROVIDING EDUCATION OR REHABILITATION SERVICES), EMPLOYERS, OR OTHER INDIVIDUALS WHO PROVIDE SERVICES TO, EMPLOY, OR ARE OTHERWISE SUBSTANTIALLY INVOLVED IN THE MAJOR LIFE FUNCTIONS OF THAT CHILD.

### **2.05 BOARD OF COOPERATIVE SERVICES**

*BOARD OF COOPERATIVE SERVICES* MEANS A REGIONAL EDUCATIONAL SERVICES UNIT CREATED PURSUANT TO ARTICLE 5 OF TITLE 22, C.R.S. AND DESIGNED TO PROVIDE SUPPORTING, INSTRUCTIONAL, ADMINISTRATIVE, FACILITY, COMMUNITY, OR ANY OTHER SERVICES CONTRACTED BY PARTICIPATING MEMBERS.

### **2.06 CHARTER SCHOOL**

- 2.06 (1) *DISTRICT CHARTER SCHOOL* MEANS A CHARTER SCHOOL AUTHORIZED BY A SCHOOL DISTRICT PURSUANT TO PART 1 OF ARTICLE 30.5 OF TITLE 22, C.R.S.; OR

2.06 (2) *INSTITUTE CHARTER SCHOOL* MEANS A CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF TITLE 22, C.R.S.

## 2.07 CHILD FIND

*CHILD FIND* MEANS THE PROGRAM COMPONENT OF CHILD IDENTIFICATION THAT IS MORE FULLY DESCRIBED IN SECTION 4.02 OF THESE RULES.

## ~~2.02 Children with Disabilities~~

## 2.08 CHILDREN WITH DISABILITIES

~~Children with disabilities~~ *CHILDREN WITH DISABILITIES* shall mean those persons ~~between the ages of~~ FROM three and TO twenty-one YEARS OF AGE ~~who~~ WHO, BY REASON OF ONE OR MORE OF THE FOLLOWING CONDITIONS, are unable to receive reasonable benefit from regular education GENERAL EDUCATION without additional supports in the public schools because of specific disabling conditions. A child shall not be determined to have a disability IF THE DETERMINANT FACTOR FOR THAT DETERMINATION IS: ~~due to~~ lack of APPROPRIATE instruction in reading or math or limited English proficiency PROFICIENCY; AND IF THE CHILD DOES NOT OTHERWISE MEET THE ELIGIBILITY CRITERIA UNDER THIS SECTION 2.08. A child upon reaching his/her third birthday becomes eligible for services as of that date. A child reaching the age of 21 after the commencement of the academic year has the right to complete the semester in which the 21st birthday occurs or attend until he/she graduates, whichever comes first. In such a case, the child is not entitled to extended school year services during the summer following such current academic year. IF IT IS DETERMINED, THROUGH AN APPROPRIATE EVALUATION, UNDER SECTION 4.02(4) OF THESE RULES, THAT A CHILD HAS ONE OF THE FOLLOWING DISABILITIES BUT ONLY NEEDS A RELATED SERVICE (AS DEFINED IN SECTION 2.37 OF THESE RULES) AND NOT SPECIAL EDUCATION (AS DEFINED IN SECTIONS 2.43 AND 2.51 OF THESE RULES), THEN THE CHILD IS NOT A CHILD WITH A DISABILITY UNDER THESE RULES. ~~Children with disabilities may also mean those persons from birth to age three as defined in Section 2.02 (10) of these Rules.~~ FOR PURPOSES OF PART C OF IDEA CHILD FIND ACTIVITIES, *CHILDREN WITH DISABILITIES* ALSO MEANS PERSONS FROM BIRTH TO TWENTY-ONE YEARS OF AGE CONSISTENT WITH SECTION 22-20-103(5)(B), C.R.S.

### ~~2.02(1)~~

2.08 (1) A child with a physical disability shall have a sustained illness or disabling physical condition which prevents the child from receiving reasonable educational benefit from regular education.

### ~~2.02(1)(a)~~

2.08 (1) (A) A sustained illness means a prolonged, abnormal physical condition requiring continued monitoring characterized by limited strength, vitality, or alertness due to chronic or acute health problems and a disabling condition means a severe physical impairment. Conditions such as, but not limited to, traumatic brain injury, autism, attention deficit disorder and cerebral palsy may qualify as a physical disability, if they prevent a child from receiving reasonable educational benefit from regular education.

### ~~2.02(1)(b)~~

2.08 (1) (B) Criteria for a physical disability preventing the child from receiving reasonable educational benefit from regular education should be dependent upon the child's diagnosis and degree of involvement in the regular school setting as characterized by any of the following:



~~2.02(1)(b)(i)~~

2.08 (1) (B) (I) The child's chronic health problem or sustained illness requires continual monitoring, intervention, and/or specialized programming in order to accommodate the effects of the illness so as to reasonably benefit from the education program.

~~2.02(1)(b)(ii)~~

2.08 (1) (B) (II) The child's disabling condition interferes with ambulation, attention, hand movements, coordination, communication, self-help skills and other activities of daily living to such a degree that it requires special services, equipment, and/or transportation.

~~2.02(2)~~

2.08 (2) A child with a vision disability shall have a deficiency in visual acuity and/or visual field and/or visual performance where, even with the use of lenses or corrective devices, he/she is prevented from receiving reasonable educational benefit from regular education.

~~2.02(2)(a)~~

2.08 (2) (A) A vision disability shall be one or more of the following:

~~2.02(2)(a)(i)~~

2.08 (2) (A) (I) Visual acuity of no better than 20/70 in the better eye after correction.

~~2.02(2)(a)(ii)~~

2.08 (2) (A) (II) Visual field restriction to 20 degrees or less.

~~2.02(2)(a)(iii)~~

2.08 (2) (A) (III) A physical condition of visual system which cannot be medically corrected and as such affects visual functioning to the extent that specially designed instruction is needed. These criteria are reserved for special situations such as, but not restricted to, oculomotor apraxia, cortical visual impairment, and/or a progressive visual loss where field and acuity deficits alone may not meet the aforementioned criteria.

The term "visual disability" does not include children who have learning problems which are primarily the result of visual perceptual and/or visual motor ~~difficulties~~ **DIFFICULTIES**.

~~2.02(2)(b)~~

2.08 (2) (B) Criteria for a vision disability preventing the child from receiving reasonable educational benefit from regular education shall include:

~~2.02(2)(b)(i)~~

2.08 (2) (B) (I) Requirement for Braille and/or adaptation of educational material, or

~~2.02(2)(b)(ii)~~

2.08 (2) (B) (II) Requirement of specialized methods, aids, and/or equipment for learning, literacy, and/or mobility.

~~2.02(3)~~

2.08 (3) A child with a hearing disability shall have a deficiency in hearing sensitivity as demonstrated by an elevated threshold of auditory sensitivity to pure tones or speech where, even with the help of amplification, the child is prevented from receiving reasonable educational benefit from regular education.



- ~~2.02(3)(a)~~  
2.08 (3) (A) A "deficiency in hearing sensitivity" shall be one of the following:
- ~~2.02(3)(a)(i)~~  
2.08 (3) (A) (I) An average pure tone hearing loss in the speech range (500 - 2000 Hz) of at least 20 dBHL in the better ear which is not reversible within a reasonable period of time.
- ~~2.02(3)(a)(ii)~~  
2.08 (3) (A) (II) An average high frequency, pure tone hearing loss of at least 35 dBHL in the better ear for two or more of the following frequencies: 2000, 4000 or 6000 Hz.
- ~~2.02(3)(a)(iii)~~  
2.08 (3) (A) (III) A unilateral hearing loss of at least 35 dBHL which is not reversible within a reasonable period of time.
- ~~2.02(3)(b)~~  
2.08 (3) (B) Criteria for a hearing disability preventing the child from receiving reasonable educational benefit from regular education shall include one or more of the following:
- ~~2.02(3)(b)(i)~~  
2.08 (3) (B) (I) Sound-field word recognition (unaided) of less than 75% in quiet as measured with standardized open-set audiometric speech discrimination tests presented at average conversational speech (50-55 dBHL). Interpretation shall be modified for closed-set tests.
- ~~2.02(3)(b)(ii)~~  
2.08 (3) (B) (II) Receptive and/or expressive language delay as determined by standardized tests:
- 2.08 (3) (B) (II) (A) under 3 years: less than one-half of expected development for chronological age.
- 2.08 (3) (B) (II) (B) 3 to 8 years: 1 year delay or more.
- 2.08 (3) (B) (II) (C) 9 to 13 years: 2 years delay or more.
- 2.08 (3) (B) (II) (D) 14 to 21 years: 3 years delay or more.
- ~~2.02(3)(b)(iii)~~  
2.08 (3) (B) (III) An impairment of speech articulation, voice and/or fluency.
- ~~2.02(3)(b)(iv)~~  
2.08 (3) (B) (IV) Significant discrepancy between verbal and nonverbal performance on a standardized intelligence test.
- ~~2.02(3)(b)(v)~~  
2.08 (3) (B) (V) Delay in reading comprehension due to language deficit.
- ~~2.02(3)(b)(vi)~~  
2.08 (3) (B) (VI) Poor academic achievement.
- ~~2.02(3)(b)(vii)~~  
2.08 (3) (B) (VII) Inattentive, inconsistent and/or inappropriate classroom behavior.

~~2.02(4)~~

~~2.08~~ (4) A child with significant limited intellectual capacity shall have reduced general intellectual functioning which prevents the child from receiving reasonable educational benefit from regular education.

~~2.02(4)(a)~~

~~2.08~~ (4) (A) Reduced general intellectual functioning shall mean limited intellectual capacity or ability which usually originates in the developmental period and exists concurrently with impairment in adaptive behavior.

~~2.02(4)(b)~~

~~2.08~~ (4) (B) Criteria for significant limited intellectual capacity preventing the child from receiving reasonable educational benefit from regular education shall include:

~~2.02(4)(b)(i)~~

~~2.08~~ (4) (B) (I) A score of more than 2.0 standard deviations below the mean on individually administered measures of cognition.

~~2.02(4)(b)(ii)~~

~~2.08~~ (4) (B) (II) Evidence that the level of independent adaptive behavior is significantly below the culturally imposed expectations of personal and social responsibilities.

~~2.02(4)(b)(iii)~~

~~2.08~~ (4) (B) (III) A deficiency in academic achievement, as indicated by scores 2.0 standard deviations below the mean in measures of language, reading and math.

None of these indicators, by itself, shall be a sufficient criterion for determination of a significant limited intellectual capacity; however, all three indicators shall be evident for the determination of this disability. Professional judgment shall be required for interpretation of scores and/or other findings.

~~2.02(5)~~

~~2.08~~ (5) A child with a significant identifiable emotional disability shall have emotional or social functioning which prevents the child from receiving reasonable educational benefit from regular education.

~~2.02(5)(a)~~

~~2.08~~ (5) (A) Emotional or social functioning shall mean one or more of the following:

~~2.02(5)(a)(i)~~

~~2.08~~ (5) (A) (I) Exhibits pervasive sad affect, depression and feelings of worthlessness; cries suddenly or frequently.

~~2.02(5)(a)(ii)~~

~~2.08~~ (5) (A) (II) Displays unexpected and atypical affect for the situation.

~~2.02(5)(a)(iii)~~

~~2.08~~ (5) (A) (III) Excessive fear and anxiety.

~~2.02(5)(a)(iv)~~

~~2.08~~ (5) (A) (IV) Persistent physical complaints not due to a medical condition.

- ~~2.02(5)(a)(v)~~  
2.08 (5) (A) (V) Exhibits withdrawal, avoidance of social interaction and/or lack of personal care to an extent that maintenance of satisfactory interpersonal relationships is prevented.
- ~~2.02(5)(a)(vi)~~  
2.08 (5) (A) (VI) Out of touch with reality; has auditory and visual hallucinations, thought disorders, disorientation or delusions.
- ~~2.02(5)(a)(vii)~~  
2.08 (5) (A) (VII) Cannot get mind off certain thoughts or ideas; cannot keep self from engaging in repetitive and/or useless actions.
- ~~2.02(5)(a)(viii)~~  
2.08 (5) (A) (VIII) Displays consistent pattern of aggression toward objects or persons to an extent that development or maintenance of satisfactory internal relationships is prevented.
- ~~2.02(5)(a)(ix)~~  
2.08 (5) (A) (IX) Pervasive oppositional, defiant or noncompliant responses.
- ~~2.02(5)(a)(x)~~  
2.08 (5) (A) (X) Significantly limited self-control, including an impaired ability to pay attention.
- ~~2.02(5)(a)(xi)~~  
2.08 (5) (A) (XI) Exhibits persistent pattern of stealing, lying or cheating.
- ~~2.02(5)(a)(xii)~~  
2.08 (5) (A) (XII) Persistent patterns of bizarre and/or exaggerated behavior reactions to routine environments.
- ~~2.02(5)(b)~~  
2.08 (5) (B) Criteria for significant identifiable emotional disability preventing the child from receiving reasonable education benefit from regular education shall include the following characteristics and qualifiers:
- ~~2.02(5)(b)(i)~~  
2.08 (5) (B) (I) One or both of the following characteristics shall be present:
- 2.08 (5) (B) (I) (A) Academic functioning: an inability to receive reasonable educational benefit from regular education which is not primarily the result of intellectual, sensory or other health factors, but due to the identified emotional condition.
- 2.08 (5) (B) (I) (B) Social/emotional functioning: an inability to build or maintain interpersonal relationships which significantly interferes with the child's social development. Social development involves those adaptive behaviors and social skills which enable a child to meet environmental demands and assume responsibility for his/her own and others' welfare.
- ~~2.02(5)(b)(ii)~~  
2.08 (5) (B) (II) All four of the following qualifiers shall be documented for either of the above characteristics demonstrated. The first qualifier may not be applicable in the case of court ordered placements, triennial reviews and identification of children ages five years and younger.

- 2.08 (5) (B) (II) (A) A variety of instructional and/or behavioral interventions were implemented within regular education and the child remains unable to receive reasonable educational benefit from regular education or his/her presence continues to be detrimental to the education of others.
- 2.08 (5) (B) (II) (B) Indicators of social/emotional dysfunction exist to a marked degree; that is, at a rate and intensity above the child's peers and outside of his/her ethnic and cultural norms and outside the range of normal development expectations.
- 2.08 (5) (B) (II) (C) Indicators of social/emotional dysfunction are pervasive, and are observable in at least two different settings within the child's environment, one of which shall be school.
- 2.08 (5) (B) (II) (D) Indicators of social/emotional dysfunction have existed over a period of time and are not isolated incidents or transient, situational responses to stressors in the child's environment.

~~2.02(6) — A child with perceptual or communicative disability shall have a disorder in one or more of the psychological processes involved in understanding or in using language which prevents the child from receiving reasonable educational benefit.~~

~~2.02(6)(a) — A basic disorder in the psychological processes affecting language and/or learning may manifest itself in an impaired ability to listen, think, attend, speak, read, write, spell or do mathematical calculations. The term perceptual/communicative disability does not include students who have learning problems which are primarily the result of visual, hearing, or motor handicaps, or limited intellectual capacity or significant identifiable emotional disability, or who are of environmental, cultural, or economic disadvantage.~~

## 2.08 (6) SPECIFIC LEARNING DISABILITY

2.08 (6) (A) A CHILD WITH A SPECIFIC LEARNING DISABILITY SHALL HAVE A LEARNING DISORDER THAT PREVENTS THE CHILD FROM RECEIVING REASONABLE EDUCATIONAL BENEFIT FROM GENERAL EDUCATION.

2.08 (6) (A) (I) SPECIFIC LEARNING DISABILITY MEANS A DISORDER IN ONE OR MORE OF THE BASIC PSYCHOLOGICAL PROCESSES INVOLVED IN UNDERSTANDING OR IN USING LANGUAGE, SPOKEN OR WRITTEN, THAT MAY MANIFEST ITSELF IN THE IMPERFECT ABILITY TO LISTEN, THINK, SPEAK, READ, WRITE, SPELL OR TO DO MATHEMATICAL CALCULATIONS, INCLUDING CONDITIONS SUCH AS PERCEPTUAL DISABILITIES, BRAIN INJURY, MINIMAL BRAIN DYSFUNCTION, DYSLEXIA, AND DEVELOPMENTAL APHASIA. SPECIFIC LEARNING DISABILITY DOES NOT INCLUDE LEARNING PROBLEMS THAT ARE PRIMARILY THE RESULT OF: VISUAL, HEARING, OR MOTOR DISABILITIES; SIGNIFICANT LIMITED INTELLECTUAL CAPACITY; SIGNIFICANT IDENTIFIABLE EMOTIONAL DISABILITY; CULTURAL FACTORS; ENVIRONMENTAL OR ECONOMIC DISADVANTAGE; OR LIMITED ENGLISH PROFICIENCY.

2.08 (6) (B) ALTERNATIVE CRITERIA. A CHILD MAY BE DETERMINED TO HAVE A SPECIFIC LEARNING DISABILITY THAT PREVENTS THE CHILD FROM

RECEIVING REASONABLE EDUCATIONAL BENEFIT FROM GENERAL EDUCATION IF THE FOLLOWING CRITERIA ARE MET:

~~2.02(6)(b)~~

2.08 (6) (B) (I) Criteria UNDER THE DISCREPANCY MODEL. THE ELIGIBILITY DETERMINATION UNDER THE DISCREPANCY MODEL ~~for a perceptual or communicative disability preventing a child from receiving reasonable educational benefit from regular education~~ shall include documentation THAT THE CHILD MEETS ~~of both~~ OF THE FOLLOWING CRITERIA:

~~2.02(6)(b)(i)~~

2.08 (6) (B) (I) (A) A disorder in the psychological process which affects language and learning as evidenced by:

2.08 (6) (B) (I) (A) (I) Significant discrepancy between estimated intellectual potential and actual level of performance, and

2.08 (6) (B) (I) (A) (II) Difficulty with perceptual, cognitive and/or language processing PROCESSING; AND

~~2.02(6)(b)(ii)~~

2.08 (6) (B) (I) (B) ~~And significantly~~ SIGNIFICANTLY impaired achievement in one or more of the following areas:

2.08 (6) (B) (I) (B) (I) Prereading and/or reading skills.

2.08 (6) (B) (I) (B) (II) Reading comprehension.

2.08 (6) (B) (I) (B) (III) Written language expression, such as problems in handwriting, spelling, sentence structure and written organization.

2.08 (6) (B) (I) (B) (IV) Comprehension, application and retention of math concepts.

**ADMINISTRATIVE UNITS AND STATE-OPERATED PROGRAMS MAY CONTINUE TO USE THE CRITERIA SET OUT IN THIS SECTION 2.08(6)(B)(I) THROUGH AUGUST 14, 2009.**

2.08 (6) (B) (II) CRITERIA UNDER THE RESPONSE TO INTERVENTION MODEL. THE CHILD MUST MEET THE FOLLOWING CRITERIA:

2.08 (6) (B) (II) (A) THE CHILD DOES NOT ACHIEVE ADEQUATELY FOR THE CHILD'S AGE OR TO MEET STATE-APPROVED GRADE-LEVEL STANDARDS IN ONE OR MORE OF THE FOLLOWING AREAS, WHEN PROVIDED WITH LEARNING EXPERIENCES AND INSTRUCTION APPROPRIATE FOR THE CHILD'S AGE OR STATE-APPROVED GRADE-LEVEL STANDARDS:

2.08 (6) (B) (II) (A) (I) ORAL EXPRESSION;

2.08 (6) (B) (II) (A) (II) LISTENING COMPREHENSION;

2.08 (6) (B) (II) (A) (III) WRITTEN EXPRESSION;

2.08 (6) (B) (II) (A) (IV) BASIC READING SKILL;

2.08	(6)	(B)	(II)	(A)	(V)	READING FLUENCY SKILLS;
2.08	(6)	(B)	(II)	(A)	(VI)	READING COMPREHENSION;
2.08	(6)	(B)	(II)	(A)	(VII)	MATHEMATICAL CALCULATION;
2.08	(6)	(B)	(II)	(A)	(VIII)	MATHEMATICS PROBLEM SOLVING; AND
2.08	(6)	(B)	(II)	(B)		THE CHILD DOES NOT MAKE SUFFICIENT PROGRESS TO MEET AGE OR STATE-APPROVED GRADE-LEVEL STANDARDS IN ONE OR MORE OF THE AREAS IDENTIFIED IN SECTION 2.08(6)(B)(I) WHEN USING A PROCESS BASED ON THE CHILD'S RESPONSE TO SCIENTIFIC, RESEARCH-BASED INTERVENTION AS DETERMINED BY A BODY OF EVIDENCE DEMONSTRATING:
2.08	(6)	(B)	(II)	(B)	(I)	ACADEMIC SKILL DEFICIT(S); AND
2.08	(6)	(B)	(II)	(B)	(II)	INSUFFICIENT PROGRESS IN RESPONSE TO SCIENTIFIC, RESEARCH-BASED INTERVENTION.

***THE CRITERIA SET FORTH IN THIS SECTION 2.08(6)(B)(II) MAY BE USED AS OF THE EFFECTIVE DATE OF THESE RULES BUT MUST BE USED BY ADMINISTRATIVE UNITS AND STATE-OPERATED PROGRAMS NO LATER THAN AUGUST 15, 2009. NO LATER THAN AUGUST 15, 2008, EACH ADMINISTRATIVE UNIT AND STATE-OPERATED PROGRAM SHALL SUBMIT A PLAN TO THE DEPARTMENT DESCRIBING HOW THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM WILL IMPLEMENT THE CRITERIA SET FORTH IN THIS SECTION 2.08(6)(B)(II) BY AUGUST 15, 2009.***

~~2.02(7)~~

2.08 (7) A child with speech-language disability shall have a communicative disorder which prevents the child from receiving reasonable educational benefit from regular education.

~~2.02(7)(a)~~

2.08 (7) (A) Speech-language disorders may be classified under the headings of articulation, fluency, voice, functional communication or delayed language development and shall mean a dysfunction in one or more of the following:

~~2.02(7)(a)(i)~~

2.08 (7) (A) (I) Receptive and expressive language (oral and written) difficulties including syntax (word order, word form, developmental level), semantics (vocabulary, concepts and word finding), and pragmatics (purposes and uses of language).

~~2.02(7)(a)(ii)~~

2.08 (7) (A) (II) Auditory processing, including sensation (acuity), perception (discrimination, sequencing, analysis and synthesis) association and auditory attention.

~~2.02(7)(a)(iii)~~

2.08 (7) (A) (III) Deficiency of structure and function of oral peripheral mechanism.

~~2.02(7)(a)(iv)~~

2.08 (7) (A) (IV) Articulation including substitutions, omissions, distortions or additions of sound.

- ~~2.02(7)(a)(v)~~  
2.08 (7) (A) (V) Voice, including deviation of respiration, phonation (pitch, intensity, quality), and/or resonance.
- ~~2.02(7)(a)(vi)~~  
2.08 (7) (A) (VI) Fluency, including hesitant speech, stuttering, cluttering and related disorders.
- ~~2.02(7)(a)(vii)~~  
2.08 (7) (A) (VII) Problems in auditory perception such as discrimination and memory.
- ~~2.02(7)(b)~~  
2.08 (7) (B) Criteria for a speech-language disability preventing a child from receiving reasonable educational benefit from regular education shall include:
- ~~2.02(7)(b)(i)~~  
2.08 (7) (B) (I) Interference with oral and/or written communication in academic and social interactions in his/her primary language.
- ~~2.02(7)(b)(ii)~~  
2.08 (7) (B) (II) Demonstration of undesirable or inappropriate behavior as a result of limited communication skills.
- ~~2.02(7)(b)(iii)~~  
2.08 (7) (B) (III) The inability to communicate without the use of assistive, augmentative/alternative communication devices or systems.
- ~~2.02(8)~~  
2.08 (8) A child with multiple disabilities shall have two or more areas of significant impairment, one of which shall be a cognitive impairment except in the case of deaf-blindness. Cognitive impairment shall mean significant limited intellectual capacity. The other areas of significant impairment include: physical, visual, auditory, communicative or emotional. The combination of such impairments creates a unique condition that is evidenced through a multiplicity of needs which prevent the child from receiving reasonable educational benefit from regular education.
- ~~2.02(8)(a)~~  
2.08 (8) (A) The definition of impairment shall be the same as that for each of the single disabilities.
- ~~2.02(8)(b)~~  
2.08 (8) (B) Criteria for multiple disabilities preventing a child from receiving reasonable educational benefit from regular education shall be the same as that considered for each of the single disabilities. Indicators for the combination of impairments creating a unique condition shall be:
- ~~2.02(8)(b)(i)~~  
2.08 (8) (B) (I) Inability to comprehend and utilize instructional information.
- ~~2.02(8)(b)(ii)~~  
2.08 (8) (B) (II) Inability to generalize skills consistently.
- ~~2.02(8)(b)(iii)~~  
2.08 (8) (B) (III) Inability to communicate fluently.



~~2.02(8)(b)(iv)~~

2.08 (8) (B) (IV) Inability to demonstrate problem solving skills when such information is presented in a traditional academic curriculum.

~~2.02(9)~~

2.08 (9) A preschool child with a disability shall be three through five years of age and shall, by reason of one or more of the following conditions, be unable to receive reasonable educational benefit from regular education: long-term physical impairment or illness, significant limited intellectual capacity, significant identifiable emotional disorder ~~or identifiable perceptual or communicative disorders~~, **SPECIFIC LEARNING DISABILITY**, or ~~speech disorders~~ **SPEECH LANGUAGE IMPAIRMENT**.

~~2.02(9)(a)~~

2.08 (9) (A) Children ages three through five who would otherwise qualify according to one or more of the above categorical conditions but for whom the category cannot be appropriately determined may qualify for preschool special education if multiple sources of information are utilized and if such children meet one or more of the following criteria:

~~2.02(9)(a)(i)~~

2.08 (9) (A) (I) Children who rank at the seventh percentile or below on a valid standardized diagnostic instrument, or the technical equivalent in standard scores (76 if the mean is 100 and the standard deviation is 16) or standard deviations (1.5 standard deviations below the mean) in one or more of the following areas of development: cognition, communication, physical and psychosocial.

~~2.02(9)(a)(ii)~~

2.08 (9) (A) (II) Children with identifiable conditions known through empirical data to be associated with significant delays in development.

~~2.02(9)(a)(iii)~~

2.08 (9) (A) (III) In extraordinary cases when a standardized score cannot be determined, a child may be determined disabled based on the informed opinion of the assessment team which includes the parent(s) and with documentation of the rationale for the inability to obtain a standardized score.

~~2.02(9)(b)~~

2.08 (9) (B) Criteria for a preschool child being unable to receive reasonable educational benefit from regular education shall be a substantial discrepancy between the child's performance and behavior as compared to children of a comparable age.

~~2.02(10)~~

2.08 (10) An infant/toddler with a disability shall be a child from birth through two years of age who has significant developmental delays and who potentially may be unable to receive reasonable educational benefit from regular education is eligible for early intervention services and shall be defined by one of the following:

~~2.02(10)(a)~~

2.08 (10) (A) Significant developmental delays shall mean those children who have a significant delay in at least one or more of the following areas of development: cognition, communication, physical, motor, vision, hearing, psychosocial and self-help skills as assessed by qualified professionals utilizing appropriate methods and procedures. Significant development delay shall mean, development that qualified personnel determine to be outside the range of "normal" or "typical" for a same aged peer. Conditions associated with significant developmental delays shall mean those

children who have identifiable conditions known to have a high probability of resulting in significant developmental delays, but who may not be exhibiting delays in development at the time of diagnosis. Those identifiable conditions are:

~~2.02(10)(a)(i)~~

2.08 (10) (A) (I) Chromosomal syndromes and conditions associated with mental retardation.

~~2.02(10)(a)(ii)~~

2.08 (10) (A) (II) Congenital syndromes and conditions associated with delays in development.

~~2.02(10)(a)(iii)~~

2.08 (10) (A) (III) Sensory impairments.

~~2.02(10)(a)(iv)~~

2.08 (10) (A) (IV) Metabolic disorders.

~~2.02(10)(a)(v)~~

2.08 (10) (A) (V) Prenatal and perinatal infections and significant medical problems.

~~2.02(10)(a)(vi)~~

2.08 (10) (A) (VI) Low birth weight infants weighing less than 1,200 grams.

~~2.02(10)(a)(vii)~~

2.08 (10) (A) (VII) Post-natal acquired problems known to result in significant developmental delays.

## **2.09 COMMUNICATION MODE OR LANGUAGE**

*COMMUNICATION MODE OR LANGUAGE MEANS ONE OR MORE OF THE FOLLOWING SYSTEMS OR METHODS OF COMMUNICATION APPLICABLE TO CHILDREN WHO ARE DEAF OR HARD OF HEARING:*

2.09 (1) AMERICAN SIGN LANGUAGE;

2.09 (2) ENGLISH-BASED MANUAL OR SIGN SYSTEMS; OR

2.09 (3) ORAL, AURAL, OR SPEECH-BASED TRAINING.

## **2.10 CONSENT**

*CONSENT MEANS THAT:*

2.10 (1) THE PARENT HAS BEEN 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;

2.10 (2) THE PARENT UNDERSTANDS AND AGREES IN WRITING TO THE CARRYING OUT OF THE ACTIVITY FOR WHICH HIS OR HER CONSENT IS SOUGHT, AND THE CONSENT DESCRIBES THAT ACTIVITY AND LISTS THE RECORDS (IF ANY) THAT WILL BE RELEASED AND TO WHOM; AND

2.10 (3) (A) THE PARENT UNDERSTANDS THAT THE GRANTING OF CONSENT IS VOLUNTARY ON THE PART OF THE PARENT AND MAY BE REVOKED AT ANYTIME.

- 2.10 (3) (B) IF A PARENT REVOKES CONSENT, THAT REVOCATION IS NOT RETROACTIVE (I.E., IT DOES NOT NEGATE AN ACTION THAT HAS OCCURRED AFTER THE CONSENT WAS GIVEN AND BEFORE THE CONSENT WAS REVOKED).

**2.11 DAY; BUSINESS DAY; SCHOOL DAY**

- 2.11 (1) DAY MEANS CALENDAR DAY UNLESS OTHERWISE INDICATED AS BUSINESS DAY OR SCHOOL DAY.
- 2.11 (2) BUSINESS DAY MEANS MONDAY THROUGH FRIDAY, EXCEPT FOR FEDERAL AND STATE HOLIDAYS (UNLESS HOLIDAYS ARE SPECIFICALLY INCLUDED IN THE DESIGNATION OF BUSINESS DAY (E.G., 34 CFR §300.148(D)(1)(ii)).
- 2.11 (3) SCHOOL DAY HAS THE SAME MEANING FOR ALL CHILDREN IN SCHOOL, INCLUDING CHILDREN WITH AND WITHOUT DISABILITIES.

**2.12 DEPARTMENT**

DEPARTMENT MEANS THE DEPARTMENT OF EDUCATION, CREATED AND EXISTING PURSUANT TO SECTION 24-1-115, C.R.S.

**2.13 EDUCATIONAL SURROGATE PARENT**

EDUCATIONAL SURROGATE PARENT SHALL MEAN A PERSON WHO MEETS THE QUALIFICATIONS ESTABLISHED IN SECTION 6.02(8)(E)(III) OF THESE RULES AND IS ASSIGNED TO REPRESENT THE CHILD IN ALL EDUCATIONAL DECISION-MAKING PROCESSES PERTAINING TO THE IDENTIFICATION, EVALUATION, EDUCATIONAL PLACEMENT OF THE CHILD AND THE PROVISION OF A FREE, APPROPRIATE PUBLIC EDUCATION TO THE CHILD WHENEVER THE PARENT OF A CHILD WITH A DISABILITY IS UNKNOWN, CANNOT BE LOCATED, IS UNAVAILABLE OR THE CHILD IS A WARD OF THE STATE. THE ASSIGNMENT OF AN EDUCATIONAL SURROGATE PARENT SHALL BE IN ACCORDANCE WITH SECTION 6.02(8) OF THESE RULES.

**2.14 ELIGIBLE FACILITY**

ELIGIBLE FACILITY MEANS A GROUP CARE FACILITY (E.G., A PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY AND A THERAPEUTIC TREATMENT FACILITY), GROUP HOME, COMMUNITY CENTERED BOARD, HOSPITAL, OR STATE-LICENSED DAY TREATMENT FACILITY THAT OFFERS A SCHOOL PROGRAM PROVIDING SPECIAL EDUCATION SERVICES TO CHILDREN WITH DISABILITIES THAT HAS BEEN APPROVED BY THE STATE BOARD OF EDUCATION.

**2.15 EQUIPMENT**

EQUIPMENT MEANS THAT EQUIPMENT USED ESPECIALLY FOR THE INSTRUCTION OR EVALUATION OF CHILDREN WITH DISABILITIES.

**2.16 ESEA**

ESEA MEANS THE FEDERAL "ELEMENTARY AND SECONDARY EDUCATION ACT", 20 U.S.C. §§6301-9276.

## **2.17 EVALUATION**

- 2.17 (1) FOR PURPOSES OF PART B OF IDEA, THE TERM “*EVALUATION*” MEANS PROCEDURES USED IN ACCORDANCE WITH SECTION 4.02(2) OF THESE RULES, TO DETERMINE WHETHER A CHILD HAS A DISABILITY AND THE NATURE AND EXTENT OF THE SPECIAL EDUCATION AND RELATED SERVICES THAT THE CHILD NEEDS.
- 2.17 (2) FOR PURPOSES OF PART C CHILD FIND OF IDEA, THE TERM “*EVALUATION*” MEANS PROCEDURES USED TO DETERMINE A CHILD’S INITIAL AND CONTINUING ELIGIBILITY FOR PART C CHILD FIND, INCLUDING BUT NOT LIMITED TO:
- 2.17 (2) (A) DETERMINING THE STATUS OF THE CHILD IN EACH OF THE DEVELOPMENTAL AREAS;
- 2.17 (2) (B) IDENTIFYING THE CHILD’S UNIQUE STRENGTHS AND NEEDS;
- 2.17 (2) (C) IDENTIFYING ANY EARLY INTERVENTION SERVICES THAT MIGHT SERVE THE CHILD’S NEEDS; AND
- 2.17 (2) (D) IDENTIFYING PRIORITIES AND CONCERNS OF THE FAMILY AND RESOURCES TO WHICH THE FAMILY HAS ACCESS.

## **2.18 EXCESS COSTS**

WHEN USED IN 34 CFR PART B, *EXCESS COSTS* MEANS THOSE COSTS THAT ARE IN EXCESS OF THE AVERAGE ANNUAL PER-STUDENT EXPENDITURE IN AN AU OR STATE-OPERATED PROGRAM DURING THE PRECEDING SCHOOL YEAR FOR AN ELEMENTARY SCHOOL OR SECONDARY SCHOOL STUDENT, AS MAY BE APPROPRIATE, AND THAT MUST BE COMPUTED AFTER DEDUCTING:

- 2.18 (1) AMOUNTS RECEIVED:
- 2.18 (1) (A) UNDER PART B OF THE ACT;
- 2.18 (1) (B) UNDER PART A OF TITLE I OF THE ESEA; AND
- 2.18 (1) (C) UNDER PARTS A AND B OF TITLE III OF THE ESEA AND;
- 2.18 (2) ANY STATE OR LOCAL FUNDS EXPENDED FOR PROGRAMS THAT WOULD QUALIFY FOR ASSISTANCE UNDER ANY OF THE PARTS DESCRIBED IN PARAGRAPH (1) OF THIS SECTION, BUT EXCLUDING ANY AMOUNTS FOR CAPITAL OUTLAY OR DEBT SERVICE. (SEE APPENDIX A OF 34 CFR PART 300 FOR AN EXAMPLE OF HOW EXCESS COSTS MUST BE CALCULATED.)
- 2.18 (3) THIS DEFINITION FOR “EXCESS COSTS” IS DIFFERENT FROM THE TERM “TUITION COSTS” AS DEFINED IN SECTION 9.00 OF THESE RULES.

## **2.19 FREE APPROPRIATE PUBLIC EDUCATION**

*FREE APPROPRIATE PUBLIC EDUCATION* OR FAPE MEANS SPECIAL EDUCATION AND RELATED SERVICES THAT:

- 2.19 (1) ARE PROVIDED AT PUBLIC EXPENSE, UNDER PUBLIC SUPERVISION AND DIRECTION, AND WITHOUT CHARGE;

- 2.19 (2) MEET THE STANDARDS OF THE DEPARTMENT, INCLUDING THE REQUIREMENTS OF THESE RULES;
- 2.19 (3) INCLUDE AN APPROPRIATE PRESCHOOL, ELEMENTARY SCHOOL, OR SECONDARY SCHOOL EDUCATION IN THE STATE; AND
- 2.19 (4) ARE PROVIDED IN CONFORMITY WITH AN INDIVIDUALIZED EDUCATION PROGRAM (IEP) THAT MEETS THE IEP CONTENT, DEVELOPMENT, REVIEW AND REVISION REQUIREMENTS OF SECTION 4.03 OF THESE RULES AND 34 CFR §§300.320 THROUGH 300.324.

## **2.20 HIGHLY QUALIFIED SPECIAL EDUCATION TEACHERS**

SPECIAL EDUCATION TEACHERS IN ADMINISTRATIVE UNITS, STATE-OPERATED PROGRAMS AND ELIGIBLE FACILITIES WHO ARE TEACHING CORE ACADEMIC SUBJECTS (I.E., ENGLISH, READING OR LANGUAGE ARTS, MATHEMATICS, SCIENCE, FOREIGN LANGUAGES, CIVICS AND GOVERNMENT, ECONOMICS, ARTS, HISTORY, AND GEOGRAPHY) MUST MEET THE HIGHLY QUALIFIED REQUIREMENTS ESTABLISHED IN 34 CFR §300.18.

## **2.21 HOMELESS CHILDREN**

*HOMELESS CHILDREN* HAS THE MEANING GIVEN THE TERM HOMELESS CHILDREN AND YOUTHS IN SECTION 725 (42 U.S.C. 11434a) OF THE MCKINNEY-VENTO HOMELESS ASSISTANCE ACT, AS AMENDED, 42 U.S.C. 11431 ET SEQ. AND SECTION 22-1-102.5, C.R.S.

## **2.22 IDEA**

*IDEA* MEANS THE FEDERAL “INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT OF 2004”, 20 U.S.C. §1400 ET SEQ., AS AMENDED, AND ITS IMPLEMENTING REGULATIONS, 34 CFR PART 300 AND ALSO 34 CFR PART 303, AS THOSE REGULATIONS PERTAIN TO CHILD FIND.

## **2.23 INCLUDE**

*INCLUDE* MEANS THAT THE ITEMS NAMED ARE NOT ALL OF THE POSSIBLE ITEMS THAT ARE COVERED, WHETHER LIKE OR UNLIKE THE ONES NAMED.

## **2.24 INDIVIDUALIZED EDUCATION PROGRAM**

*INDIVIDUALIZED EDUCATION PROGRAM* OR *IEP* MEANS A WRITTEN STATEMENT FOR A CHILD WITH A DISABILITY THAT IS DEVELOPED, REVIEWED, AND REVISED IN ACCORDANCE WITH SECTION 4.03 OF THESE RULES AND 34 CFR §§300.320 THROUGH 300.324.

## **2.25 INDIVIDUALIZED EDUCATION PROGRAM TEAM**

*INDIVIDUALIZED EDUCATION PROGRAM TEAM* OR *IEP TEAM* MEANS A GROUP OF INDIVIDUALS DESCRIBED IN SECTION 4.03(5) OF THESE RULES THAT IS RESPONSIBLE FOR DEVELOPING, REVIEWING, OR REVISING AN IEP FOR A CHILD WITH A DISABILITY.

## **2.26 INDIVIDUAL FAMILY SERVICE PLAN**

*INDIVIDUAL FAMILY SERVICE PLAN* OR *IFSP* MEANS A WRITTEN STATEMENT FOR A CHILD FROM BIRTH THROUGH TWO YEARS OF AGE WITH A DISABILITY, WHICH STATEMENT IS

DEVELOPED, REVIEWED, AND REVISED IN ACCORDANCE WITH PART C CHILD FIND OF IDEA AND WITH RULES PROMULGATED BY THE DEPARTMENT OF HUMAN SERVICES.

## **2.27 INSTITUTION OF HIGHER EDUCATION**

*INSTITUTION OF HIGHER EDUCATION—*

- 2.27 (1) HAS THE MEANING GIVEN THE TERM IN SECTION 101 OF THE HIGHER EDUCATION ACT OF 1965, AS AMENDED, 20 U.S.C. 1021 ET SEQ. (HEA); AND
- 2.27 (2) ALSO INCLUDES ANY COMMUNITY COLLEGE RECEIVING FUNDS FROM THE SECRETARY OF THE INTERIOR UNDER THE TRIBALLY CONTROLLED COMMUNITY COLLEGE OR UNIVERSITY ASSISTANCE ACT OF 1978, 25 U.S.C. 1801, ET SEQ.

## **2.28 LEAST RESTRICTIVE ENVIRONMENT**

CONSISTENT WITH 34 CFR §300.114(a)(2), *LEAST RESTRICTIVE ENVIRONMENT* MEANS THAT:

- 2.28 (1) TO THE MAXIMUM EXTENT APPROPRIATE, CHILDREN WITH DISABILITIES, INCLUDING CHILDREN IN PUBLIC OR PRIVATE INSTITUTIONS OR OTHER CARE FACILITIES, ARE EDUCATED WITH CHILDREN WHO ARE NONDISABLED; AND
- 2.28 (2) SPECIAL CLASSES, SEPARATE SCHOOLING, OR OTHER REMOVAL OF CHILDREN WITH DISABILITIES FROM THE GENERAL EDUCATIONAL ENVIRONMENT OCCURS ONLY IF THE NATURE OR SEVERITY OF THE DISABILITY IS SUCH THAT EDUCATION IN GENERAL EDUCATIONAL CLASSES WITH THE USE OF SUPPLEMENTARY AIDS AND SERVICES CANNOT BE ACHIEVED SATISFACTORILY.

## **2.29 LIMITED ENGLISH PROFICIENT**

*LIMITED ENGLISH PROFICIENT* HAS THE MEANING GIVEN THE TERM IN SECTION 9101(25) OF THE ESEA.

## **2.30 LITERACY MODE**

*LITERACY MODE* MEANS ONE OF THE FOLLOWING FOUR SYSTEMS OR METHODS OF ACHIEVING LITERACY APPLICABLE TO CHILDREN WHO ARE BLIND:

- 2.30 (1) AUDITORY MODE MEANS ANY METHOD OR SYSTEM OF ACHIEVING LITERACY THAT DEPENDS UPON THE AUDITORY SENSES, INCLUDING THE USE OF READERS, TAPED MATERIALS, ELECTRONIC SPEECH, SPEECH SYNTHESIS, OR ANY COMBINATION OF THE ABOVE.
- 2.30 (2) BRAILLE MEANS THE SYSTEM OF READING AND WRITING BY MEANS OF RAISED POINTS, COMMONLY KNOWN AS STANDARD ENGLISH BRAILLE.
- 2.30 (3) PRINT ENLARGEMENT MEANS ANY METHOD OR SYSTEM OF ACHIEVING LITERACY THAT INCLUDES OPTICAL AIDS TO ENHANCE APPREHENSION OF PRINTED MATERIAL, ELECTRONIC ENLARGEMENT OR PRINTED MATERIAL, BOOKS AND TEXTUAL MATERIALS PRINTED IN LARGE PRINT, AND ANY COMBINATION OF THE ABOVE.

- 2.30 (4) REGULAR PRINT MODE MEANS ANY METHOD OR SYSTEM OF ACHIEVING LITERACY THAT DEPENDS UPON THE APPREHENSION OF REGULAR-SIZED PRINTED MATERIAL.

### **2.31 LOCAL EDUCATIONAL AGENCY**

WHEN USED IN 34 CFR PART B, THE TERM *LOCAL EDUCATIONAL AGENCY* MEANS AN ADMINISTRATIVE UNIT, AS DEFINED IN SECTION 2.02 OF THESE RULES, OR A STATE-OPERATED PROGRAM AS DEFINED IN SECTION 2.49 OF THESE RULES.

### **2.32 NATIVE LANGUAGE**

- 2.32 (1) *NATIVE LANGUAGE*, WHEN USED WITH RESPECT TO AN INDIVIDUAL WHO IS LIMITED ENGLISH PROFICIENT, MEANS THE FOLLOWING:
- 2.32 (1) (A) THE LANGUAGE NORMALLY USED BY THAT INDIVIDUAL, OR, IN THE CASE OF A CHILD, THE LANGUAGE NORMALLY USED BY THE PARENTS OF THE CHILD, EXCEPT AS PROVIDED IN PARAGRAPH (1)(B) OF THIS SECTION.
- 2.32 (1) (B) IN ALL DIRECT CONTACT WITH A CHILD (INCLUDING EVALUATION OF THE CHILD), THE LANGUAGE NORMALLY USED BY THE CHILD IN THE HOME OR LEARNING ENVIRONMENT.
- 2.32 (2) FOR AN INDIVIDUAL WITH DEAFNESS OR BLINDNESS, OR FOR AN INDIVIDUAL WITH NO WRITTEN LANGUAGE, THE MODE OF COMMUNICATION IS THAT NORMALLY USED BY THE INDIVIDUAL (SUCH AS SIGN LANGUAGE, BRAILLE, OR ORAL COMMUNICATION).

### **2.33 PARENT**

- 2.33 (1) *PARENT* MEANS—
- 2.33 (1) (A) A BIOLOGICAL OR ADOPTIVE PARENT OF A CHILD;
- 2.33 (1) (B) A FOSTER PARENT, UNLESS STATE LAW, REGULATIONS, OR CONTRACTUAL OBLIGATIONS WITH A STATE OR LOCAL ENTITY PROHIBIT A FOSTER PARENT FROM ACTING AS A PARENT;
- 2.33 (1) (C) A GUARDIAN GENERALLY AUTHORIZED TO ACT AS THE CHILD'S PARENT, OR AUTHORIZED TO MAKE EDUCATIONAL DECISIONS FOR THE CHILD (BUT NOT THE STATE IF THE CHILD IS A WARD OF THE STATE);
- 2.33 (1) (D) AN INDIVIDUAL ACTING IN THE PLACE OF A BIOLOGICAL OR ADOPTIVE PARENT (INCLUDING A GRANDPARENT, STEP-PARENT, OR OTHER RELATIVE) WITH WHOM THE CHILD LIVES, OR AN INDIVIDUAL WHO IS LEGALLY RESPONSIBLE FOR THE CHILD'S WELFARE; OR
- 2.33 (1) (E) AN EDUCATIONAL SURROGATE PARENT WHO HAS BEEN ASSIGNED IN ACCORDANCE WITH SECTION 6.02(8) OF THESE RULES.
- 2.33 (2) (A) EXCEPT AS PROVIDED IN SECTION (2)(B) OF THIS RULE 2.33, THE BIOLOGICAL OR ADOPTIVE PARENT, WHEN ATTEMPTING TO ACT AS THE PARENT UNDER THESE RULES AND WHEN MORE THAN ONE PARTY IS QUALIFIED UNDER SECTION (1) OF THIS RULE 2.33 TO ACT AS A PARENT, MUST BE PRESUMED TO BE THE PARENT FOR PURPOSES OF THIS SECTION



UNLESS THE BIOLOGICAL OR ADOPTIVE PARENT DOES NOT HAVE LEGAL AUTHORITY TO MAKE EDUCATIONAL DECISIONS FOR THE CHILD.

- 2.33 (2) (B) IF A JUDICIAL DECREE OR ORDER IDENTIFIES A SPECIFIC PERSON OR PERSONS UNDER SECTIONS (1)(A) THROUGH (D) OF THIS RULE 2.33 TO ACT AS THE "PARENT" OF A CHILD OR TO MAKE EDUCATIONAL DECISIONS ON BEHALF OF A CHILD, THEN SUCH PERSON OR PERSONS SHALL BE DETERMINED TO BE THE "PARENT" FOR PURPOSES OF THIS SECTION.

#### **2.34 PERSONALLY IDENTIFIABLE**

*PERSONALLY IDENTIFIABLE* MEANS INFORMATION THAT CONTAINS--

- 2.34 (1) THE NAME OF THE CHILD, THE CHILD'S PARENT, OR OTHER FAMILY MEMBER;
- 2.34 (2) THE ADDRESS OF THE CHILD;
- 2.34 (3) A PERSONAL IDENTIFIER, SUCH AS THE CHILD'S SOCIAL SECURITY NUMBER OR STUDENT NUMBER; OR
- 2.34 (4) A LIST OF PERSONAL CHARACTERISTICS OR OTHER INFORMATION THAT WOULD MAKE IT POSSIBLE TO IDENTIFY THE CHILD WITH REASONABLE CERTAINTY.

#### **2.35 PUBLIC AGENCY**

THE TERM "*PUBLIC AGENCY*":

- 2.35 (1) WHEN USED IN CONNECTION WITH OUT OF DISTRICT PLACEMENTS, SHALL HAVE THE MEANING GIVEN IT IN SECTION 9.01(5) OF THESE RULES.
- 2.35 (2) WHEN USED IN 34 CFR PART 300, SHALL MEAN AN ADMINISTRATIVE UNIT, AS DEFINED IN SECTION 2.02 OF THESE RULES, AND A STATE-OPERATED PROGRAM AS DEFINED IN SECTION 2.49 OF THESE RULES.

#### **2.36 PUBLIC PLACEMENT**

THE TERM "*PUBLIC PLACEMENT*" SHALL HAVE THE MEANING GIVEN IT IN SECTION 9.01(6) OF THESE RULES.

#### **2.37 RELATED SERVICES**

- 2.37 (1) GENERAL.

*RELATED SERVICES* MEANS TRANSPORTATION AND SUCH DEVELOPMENTAL, CORRECTIVE, AND OTHER SUPPORTIVE SERVICES AS ARE REQUIRED TO ASSIST A CHILD WITH A DISABILITY TO BENEFIT FROM SPECIAL EDUCATION, AND INCLUDES AUDIOLOGY SERVICES; INTERPRETING SERVICES; PSYCHOLOGICAL SERVICES; PHYSICAL AND OCCUPATIONAL THERAPY; RECREATION, INCLUDING THERAPEUTIC RECREATION; EARLY IDENTIFICATION AND EVALUATION OF DISABILITIES IN CHILDREN; COUNSELING SERVICES, INCLUDING REHABILITATION COUNSELING; ORIENTATION AND MOBILITY SERVICES; AND MEDICAL SERVICES FOR DIAGNOSTIC OR EVALUATION PURPOSES. RELATED SERVICES ALSO INCLUDE SCHOOL HEALTH SERVICES AND SCHOOL NURSE SERVICES; SOCIAL WORK SERVICES IN SCHOOLS; AND PARENT COUNSELING AND TRAINING.

2.37 (2) EXCEPTION.

SERVICES THAT APPLY TO CHILDREN WITH SURGICALLY IMPLANTED DEVICES, INCLUDING COCHLEAR IMPLANTS.

2.37 (2) (A) RELATED SERVICES DO NOT INCLUDE A MEDICAL DEVICE THAT IS SURGICALLY IMPLANTED, THE OPTIMIZATION OF THAT DEVICE'S FUNCTIONING (E.G., MAPPING), MAINTENANCE OF THAT DEVICE, OR THE REPLACEMENT OF THAT DEVICE.

2.37 (2) (B) NOTHING IN SECTION 2.37(2)(A)—

2.37 (2) (B) (I) LIMITS THE RIGHT OF A CHILD WITH A SURGICALLY IMPLANTED DEVICE (E.G., COCHLEAR IMPLANT) TO RECEIVE RELATED SERVICES (AS LISTED IN PARAGRAPH (A) OF THIS SECTION) THAT ARE DETERMINED BY THE IEP TEAM TO BE NECESSARY FOR THE CHILD TO RECEIVE FAPE.

2.37 (2) (B) (II) LIMITS THE RESPONSIBILITY OF A PUBLIC AGENCY TO APPROPRIATELY MONITOR AND MAINTAIN MEDICAL DEVICES THAT ARE NEEDED TO MAINTAIN THE HEALTH AND SAFETY OF THE CHILD, INCLUDING BREATHING, NUTRITION, OR OPERATION OF OTHER BODILY FUNCTIONS, WHILE THE CHILD IS TRANSPORTED TO AND FROM SCHOOL OR IS AT SCHOOL; OR

2.37 (2) (B) (III) PREVENTS THE ROUTINE CHECKING OF AN EXTERNAL COMPONENT OF A SURGICALLY IMPLANTED DEVICE TO MAKE SURE IT IS FUNCTIONING PROPERLY, AS REQUIRED IN 34 CFR §300.113(B).

2.37 (3) INDIVIDUAL RELATED SERVICES TERMS DEFINED.

THE TERMS USED IN THIS DEFINITION ARE DEFINED AS FOLLOWS:

2.37 (3) (A) AUDIOLOGY INCLUDES—

2.37 (3) (A) (I) IDENTIFICATION OF CHILDREN WITH HEARING LOSS;

2.37 (3) (A) (II) DETERMINATION OF THE RANGE, NATURE, AND DEGREE OF HEARING LOSS, INCLUDING REFERRAL FOR MEDICAL OR OTHER PROFESSIONAL ATTENTION FOR THE HABILITATION OF HEARING;

2.37 (3) (A) (III) PROVISION OF HABILITATIVE ACTIVITIES, SUCH AS LANGUAGE HABILITATION, AUDITORY TRAINING, SPEECH READING (LIP-READING), HEARING EVALUATION, AND SPEECH CONSERVATION;

2.37 (3) (A) (IV) CREATION AND ADMINISTRATION OF PROGRAMS FOR PREVENTION OF HEARING LOSS;

2.37 (3) (A) (V) COUNSELING AND GUIDANCE OF CHILDREN, PARENTS, AND TEACHERS REGARDING HEARING LOSS; AND

2.37 (3) (A) (VI) DETERMINATION OF CHILDREN'S NEEDS FOR GROUP AND INDIVIDUAL AMPLIFICATION, SELECTING AND FITTING AN APPROPRIATE AID, AND EVALUATING THE EFFECTIVENESS OF AMPLIFICATION.

- 2.37 (3) (B) COUNSELING SERVICES MEANS SERVICES PROVIDED BY QUALIFIED SOCIAL WORKERS, PSYCHOLOGISTS, GUIDANCE COUNSELORS, OR OTHER QUALIFIED PERSONNEL.
- 2.37 (3) (C) EARLY IDENTIFICATION AND ASSESSMENT OF DISABILITIES IN CHILDREN MEANS THE IMPLEMENTATION OF A FORMAL PLAN FOR IDENTIFYING A DISABILITY AS EARLY AS POSSIBLE IN A CHILD'S LIFE.
- 2.37 (3) (D) INTERPRETING SERVICES THAT INCLUDES—
- 2.37 (3) (D) (I) THE FOLLOWING, WHEN USED WITH RESPECT TO CHILDREN WHO ARE DEAF OR HARD OF HEARING: ORAL TRANSLITERATION SERVICES, CUED LANGUAGE TRANSLITERATION SERVICES, SIGN LANGUAGE TRANSLITERATION AND INTERPRETING SERVICES, AND TRANSCRIPTION SERVICES, SUCH AS COMMUNICATION ACCESS REAL-TIME TRANSLATION (CART), C-PRINT, AND TYPEWELL; AND
- 2.37 (3) (D) (II) SPECIAL INTERPRETING SERVICES FOR CHILDREN WHO ARE DEAF-BLIND.
- 2.37 (3) (E) MEDICAL SERVICES MEANS SERVICES PROVIDED BY A LICENSED PHYSICIAN TO DETERMINE A CHILD'S MEDICALLY RELATED DISABILITY THAT RESULTS IN THE CHILD'S NEED FOR SPECIAL EDUCATION AND RELATED SERVICES.
- 2.37 (3) (F) OCCUPATIONAL THERAPY—
- 2.37 (3) (F) (I) MEANS SERVICES PROVIDED BY A QUALIFIED OCCUPATIONAL THERAPIST; AND
- 2.37 (3) (F) (II) INCLUDES—
- 2.37 (3) (F) (II) (A) IMPROVING, DEVELOPING, OR RESTORING FUNCTIONS IMPAIRED OR LOST THROUGH ILLNESS, INJURY, OR DEPRIVATION;
- 2.37 (3) (F) (II) (B) IMPROVING ABILITY TO PERFORM TASKS FOR INDEPENDENT FUNCTIONING IF FUNCTIONS ARE IMPAIRED OR LOST; AND
- 2.37 (3) (F) (II) (C) PREVENTING, THROUGH EARLY INTERVENTION, INITIAL OR FURTHER IMPAIRMENT OR LOSS OF FUNCTION.
- 2.37 (3) (G) ORIENTATION AND MOBILITY SERVICES—
- 2.37 (3) (G) (I) MEANS SERVICES PROVIDED TO BLIND OR VISUALLY IMPAIRED CHILDREN BY QUALIFIED PERSONNEL TO ENABLE THOSE STUDENTS TO ATTAIN SYSTEMATIC ORIENTATION TO AND SAFE MOVEMENT WITHIN THEIR ENVIRONMENTS IN SCHOOL, HOME, AND COMMUNITY; AND
- 2.37 (3) (G) (II) INCLUDES TEACHING CHILDREN THE FOLLOWING, AS APPROPRIATE:
- 2.37 (3) (G) (II) (A) SPATIAL AND ENVIRONMENTAL CONCEPTS AND USE OF INFORMATION RECEIVED BY THE SENSES (SUCH AS SOUND,

TEMPERATURE AND VIBRATIONS) TO ESTABLISH, MAINTAIN, OR REGAIN ORIENTATION AND LINE OF TRAVEL (E.G., USING SOUND AT A TRAFFIC LIGHT TO CROSS THE STREET);

- 2.37 (3) (G) (II) (B) TO USE THE LONG CANE OR A SERVICE ANIMAL TO SUPPLEMENT VISUAL TRAVEL SKILLS OR AS A TOOL FOR SAFELY NEGOTIATING THE ENVIRONMENT FOR CHILDREN WITH NO AVAILABLE TRAVEL VISION;
- 2.37 (3) (G) (II) (C) TO UNDERSTAND AND USE REMAINING VISION AND DISTANCE LOW VISION AIDS; AND
- 2.37 (3) (G) (II) (D) OTHER CONCEPTS, TECHNIQUES, AND TOOLS.
- 2.37 (3) (H) PARENT COUNSELING AND TRAINING MEANS ASSISTING PARENTS IN UNDERSTANDING THE SPECIAL NEEDS OF THEIR CHILD; PROVIDING PARENTS WITH INFORMATION ABOUT CHILD DEVELOPMENT; AND HELPING PARENTS TO ACQUIRE THE NECESSARY SKILLS THAT WILL ALLOW THEM TO SUPPORT THE IMPLEMENTATION OF THEIR CHILD'S IEP OR IFSP.
- 2.37 (3) (I) PHYSICAL THERAPY MEANS SERVICES PROVIDED BY A QUALIFIED PHYSICAL THERAPIST.
- 2.37 (3) (J) PSYCHOLOGICAL SERVICES INCLUDES—
- 2.37 (3) (J) (I) ADMINISTERING PSYCHOLOGICAL AND EDUCATIONAL TESTS, AND OTHER ASSESSMENT PROCEDURES;
- 2.37 (3) (J) (II) INTERPRETING ASSESSMENT RESULTS;
- 2.37 (3) (J) (III) OBTAINING, INTEGRATING, AND INTERPRETING INFORMATION ABOUT CHILD BEHAVIOR AND CONDITIONS RELATING TO LEARNING;
- 2.37 (3) (J) (IV) CONSULTING WITH OTHER STAFF MEMBERS IN PLANNING SCHOOL PROGRAMS TO MEET THE SPECIAL EDUCATIONAL NEEDS OF CHILDREN AS INDICATED BY PSYCHOLOGICAL TESTS, INTERVIEWS, DIRECT OBSERVATION, AND BEHAVIORAL EVALUATIONS;
- 2.37 (3) (J) (V) PLANNING AND MANAGING A PROGRAM OF PSYCHOLOGICAL SERVICES, INCLUDING PSYCHOLOGICAL COUNSELING FOR CHILDREN AND PARENTS; AND
- 2.37 (3) (J) (VI) ASSISTING IN DEVELOPING POSITIVE BEHAVIORAL INTERVENTION STRATEGIES.
- 2.37 (3) (K) RECREATION INCLUDES—
- 2.37 (3) (K) (I) ASSESSMENT OF LEISURE FUNCTION;
- 2.37 (3) (K) (II) THERAPEUTIC RECREATION SERVICES;
- 2.37 (3) (K) (III) RECREATION PROGRAMS IN SCHOOLS AND COMMUNITY AGENCIES; AND
- 2.37 (3) (K) (IV) LEISURE EDUCATION.

- 2.37 (3) (L) REHABILITATION COUNSELING SERVICES MEANS SERVICES PROVIDED BY QUALIFIED PERSONNEL IN INDIVIDUAL OR GROUP SESSIONS THAT FOCUS SPECIFICALLY ON CAREER DEVELOPMENT, EMPLOYMENT PREPARATION, ACHIEVING INDEPENDENCE, AND INTEGRATION IN THE WORKPLACE AND COMMUNITY OF A STUDENT WITH A DISABILITY. THE TERM ALSO INCLUDES VOCATIONAL REHABILITATION SERVICES PROVIDED TO A STUDENT WITH A DISABILITY BY VOCATIONAL REHABILITATION PROGRAMS FUNDED UNDER THE REHABILITATION ACT OF 1973, AS AMENDED, 29 U.S.C. 701 ET SEQ.
- 2.37 (3) (M) SCHOOL HEALTH SERVICES AND SCHOOL NURSE SERVICES MEANS HEALTH SERVICES THAT ARE DESIGNED TO ENABLE A CHILD WITH A DISABILITY TO RECEIVE FAPE AS DESCRIBED IN THE CHILD'S IEP. SCHOOL NURSE SERVICES ARE SERVICES PROVIDED BY A QUALIFIED SCHOOL NURSE. SCHOOL HEALTH SERVICES ARE SERVICES THAT MAY BE PROVIDED BY EITHER A QUALIFIED SCHOOL NURSE OR OTHER QUALIFIED PERSON.
- 2.37 (3) (N) SOCIAL WORK SERVICES IN SCHOOLS INCLUDES—
- 2.37 (3) (N) (I) PREPARING A SOCIAL OR DEVELOPMENTAL HISTORY ON A CHILD WITH A DISABILITY;
- 2.37 (3) (N) (II) GROUP AND INDIVIDUAL COUNSELING WITH THE CHILD AND FAMILY;
- 2.37 (3) (N) (III) WORKING IN PARTNERSHIP WITH PARENTS AND OTHERS ON THOSE PROBLEMS IN A CHILD'S LIVING SITUATION (HOME, SCHOOL, AND COMMUNITY) THAT AFFECT THE CHILD'S ADJUSTMENT IN SCHOOL;
- 2.37 (3) (N) (IV) MOBILIZING SCHOOL AND COMMUNITY RESOURCES TO ENABLE THE CHILD TO LEARN AS EFFECTIVELY AS POSSIBLE IN HIS OR HER EDUCATIONAL PROGRAM; AND
- 2.37 (3) (N) (V) ASSISTING IN DEVELOPING POSITIVE BEHAVIORAL INTERVENTION STRATEGIES.
- 2.37 (3) (O) TRANSPORTATION INCLUDES—
- 2.37 (3) (O) (I) TRAVEL TO AND FROM SCHOOL AND BETWEEN SCHOOLS;
- 2.37 (3) (O) (II) TRAVEL IN AND AROUND SCHOOL BUILDINGS; AND
- 2.37 (3) (O) (III) SPECIALIZED EQUIPMENT (SUCH AS SPECIAL OR ADAPTED BUSES, LIFTS, AND RAMPS), IF REQUIRED TO PROVIDE SPECIAL TRANSPORTATION FOR A CHILD WITH A DISABILITY.

## **2.38 SCIENTIFICALLY BASED RESEARCH**

*SCIENTIFICALLY BASED RESEARCH* HAS THE MEANING GIVEN THE TERM IN SECTION 9101(37) OF THE ESEA.

## **2.39 SCHOOL**

- 2.39 (1) ELEMENTARY SCHOOL

WHEN USED IN 34 CFR PART B, *ELEMENTARY SCHOOL* MEANS A NONPROFIT INSTITUTIONAL DAY OR RESIDENTIAL SCHOOL, INCLUDING A PUBLIC ELEMENTARY CHARTER SCHOOL, THAT PROVIDES ELEMENTARY EDUCATION, AS DETERMINED UNDER STATE LAW.

2.39 (2) **SECONDARY SCHOOL**

WHEN USED IN 34 CFR PART B, *SECONDARY SCHOOL* MEANS A NONPROFIT INSTITUTIONAL DAY OR RESIDENTIAL SCHOOL, INCLUDING A PUBLIC SECONDARY CHARTER SCHOOL THAT PROVIDES SECONDARY EDUCATION, AS DETERMINED UNDER STATE LAW, EXCEPT THAT IT DOES NOT INCLUDE ANY EDUCATION BEYOND GRADE 12.

**2.40 SCHOOL DISTRICT**

*SCHOOL DISTRICT* MEANS A SCHOOL DISTRICT ORGANIZED AND EXISTING PURSUANT TO LAW, BUT SHALL NOT INCLUDE A JUNIOR COLLEGE DISTRICT.

**2.41 SERVICES PLAN**

*SERVICES PLAN* MEANS A WRITTEN STATEMENT THAT DESCRIBES THE SPECIAL EDUCATION AND RELATED SERVICES THE ADMINISTRATIVE UNIT WILL PROVIDE TO A PARENTALLY-PLACED CHILD WITH A DISABILITY ENROLLED IN A PRIVATE SCHOOL WHO HAS BEEN DESIGNATED TO RECEIVE SERVICES, INCLUDING THE LOCATION OF THE SERVICES AND ANY TRANSPORTATION NECESSARY, CONSISTENT WITH 34 CFR §300.132, AND IS DEVELOPED AND IMPLEMENTED IN ACCORDANCE WITH 34 CFR §§300.137 THROUGH 300.139.

**2.42 SECRETARY**

THE TERM “*SECRETARY*”, WHEN USED IN 34 CFR PARTS 300 AND 303, MEANS THE SECRETARY OF THE UNITED STATES DEPARTMENT OF EDUCATION.

**2.43 SPECIAL EDUCATION**

2.43 (1) **GENERAL.**

2.43 (1) (A) *SPECIAL EDUCATION* MEANS SPECIALLY DESIGNED INSTRUCTION, AT NO COST TO THE PARENTS, TO MEET THE UNIQUE NEEDS OF A CHILD WITH A DISABILITY, INCLUDING—

2.43 (1) (A) (I) INSTRUCTION CONDUCTED IN THE CLASSROOM, IN THE HOME, IN HOSPITALS AND INSTITUTIONS, AND IN OTHER SETTINGS; AND

2.43 (1) (A) (II) INSTRUCTION IN PHYSICAL EDUCATION.

2.43 (1) (B) SPECIAL EDUCATION INCLUDES EACH OF THE FOLLOWING, IF THE SERVICES OTHERWISE MEET THE REQUIREMENTS OF PARAGRAPH (1)(A) OF THIS SECTION—

2.43 (1) (B) (I) SPEECH-LANGUAGE PATHOLOGY SERVICES THAT INCLUDES—

2.43 (1) (B) (I) (A) IDENTIFICATION OF CHILDREN WITH SPEECH OR LANGUAGE IMPAIRMENTS;

- 2.43 (1) (B) (I) (B) DIAGNOSIS AND APPRAISAL OF SPECIFIC SPEECH OR LANGUAGE IMPAIRMENTS;
  - 2.43 (1) (B) (I) (C) REFERRAL FOR MEDICAL OR OTHER PROFESSIONAL ATTENTION NECESSARY FOR THE HABILITATION OF SPEECH OR LANGUAGE IMPAIRMENTS;
  - 2.43 (1) (B) (I) (D) PROVISION OF SPEECH AND LANGUAGE SERVICES FOR THE HABILITATION OR PREVENTION OF COMMUNICATIVE IMPAIRMENTS; AND
  - 2.43 (1) (B) (I) (E) COUNSELING AND GUIDANCE OF PARENTS, CHILDREN, AND TEACHERS REGARDING SPEECH AND LANGUAGE IMPAIRMENTS.
  - 2.43 (1) (B) (I) (F) RULE OF CONSTRUCTION: A CHILD WITH A DISABILITY, AS DEFINED IN SECTION 2.08 OF THESE RULES, SHALL BE ENTITLED TO RECEIVE SPEECH LANGUAGE PATHOLOGY SERVICES AS SPECIALLY DESIGNED INSTRUCTION IF THE CHILD'S IEP TEAM DETERMINES THAT THE CHILD NEEDS SPEECH LANGUAGE PATHOLOGY SERVICES IN ORDER TO RECEIVE A FREE APPROPRIATE PUBLIC EDUCATION.
  - 2.43 (1) (B) (II) TRAVEL TRAINING; AND
  - 2.43 (1) (B) (III) VOCATIONAL EDUCATION.
  - 2.43 (2) INDIVIDUAL SPECIAL EDUCATION TERMS DEFINED.
- THE TERMS IN THIS DEFINITION ARE DEFINED AS FOLLOWS:
- 2.43 (2) (A) AT NO COST MEANS THAT ALL SPECIALLY-DESIGNED INSTRUCTION IS PROVIDED WITHOUT CHARGE, BUT DOES NOT PRECLUDE INCIDENTAL FEES THAT ARE NORMALLY CHARGED TO NONDISABLED STUDENTS OR THEIR PARENTS AS A PART OF THE GENERAL EDUCATION PROGRAM.
  - 2.43 (2) (B) PHYSICAL EDUCATION MEANS—
    - 2.43 (2) (B) (I) THE DEVELOPMENT OF—
      - 2.43 (2) (B) (I) (A) PHYSICAL AND MOTOR FITNESS;
      - 2.43 (2) (B) (I) (B) FUNDAMENTAL MOTOR SKILLS AND PATTERNS; AND
      - 2.43 (2) (B) (I) (C) SKILLS IN AQUATICS, DANCE, AND INDIVIDUAL AND GROUP GAMES AND SPORTS (INCLUDING INTRAMURAL AND LIFETIME SPORTS); AND
    - 2.43 (2) (B) (II) INCLUDES SPECIAL PHYSICAL EDUCATION, ADAPTED PHYSICAL EDUCATION, MOVEMENT EDUCATION, AND MOTOR DEVELOPMENT.
  - 2.43 (2) (C) SPECIALLY DESIGNED INSTRUCTION MEANS ADAPTING, AS APPROPRIATE TO THE NEEDS OF AN ELIGIBLE CHILD UNDER THIS PART, THE CONTENT, METHODOLOGY, OR DELIVERY OF INSTRUCTION—



- 2.43 (2) (C) (I) TO ADDRESS THE UNIQUE NEEDS OF THE CHILD THAT RESULT FROM THE CHILD'S DISABILITY; AND
- 2.43 (2) (C) (II) TO ENSURE ACCESS OF THE CHILD TO THE GENERAL CURRICULUM, SO THAT THE CHILD CAN MEET THE EDUCATIONAL STANDARDS OF THE RESPONSIBLE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM AS ESTABLISHED IN SECTION 8.00 OF THESE RULES.
- 2.43 (2) (D) TRAVEL TRAINING MEANS PROVIDING INSTRUCTION, AS APPROPRIATE, TO CHILDREN WITH SIGNIFICANT COGNITIVE DISABILITIES, AND ANY OTHER CHILDREN WITH DISABILITIES WHO REQUIRE THIS INSTRUCTION, TO ENABLE THEM TO—
- 2.43 (2) (D) (I) DEVELOP AN AWARENESS OF THE ENVIRONMENT IN WHICH THEY LIVE; AND
- 2.43 (2) (D) (II) LEARN THE SKILLS NECESSARY TO MOVE EFFECTIVELY AND SAFELY FROM PLACE TO PLACE WITHIN THAT ENVIRONMENT (E.G., IN SCHOOL, IN THE HOME, AT WORK, AND IN THE COMMUNITY).
- 2.43 (2) (E) VOCATIONAL EDUCATION MEANS ORGANIZED EDUCATIONAL PROGRAMS THAT ARE DIRECTLY RELATED TO THE PREPARATION OF INDIVIDUALS FOR PAID OR UNPAID EMPLOYMENT, OR FOR ADDITIONAL PREPARATION FOR A CAREER NOT REQUIRING A BACCALAUREATE OR ADVANCED DEGREE.

## **2.03**

### **2.44 Special Education Revenues and Expenditures**

~~2.03 (1) Special education expenditures.~~

~~Special education expenditures~~ **SPECIAL EDUCATION EXPENDITURES** are those costs which are incurred by an administrative unit **OR STATE-OPERATED PROGRAM** for professional services associated with special education referrals and assessments of children who may be disabled and for the provision of special education **AND RELATED** services as identified on individual students' Individualized Educational Programs (IEPs), and do not include costs of the regular education program. ~~An administrative unit which maintains and operates special education programs approved by the Department of Education for the education of students with disabilities shall use its ECEA and its federal funds received through the Department to pay for the special education expenditures listed below:~~

~~2.03 (1) (a) Salaries of:~~

~~2.03 (1) (a) (i) Special education teachers.~~

~~2.03 (1) (a) (ii) Home-hospital teachers for students with disabilities.~~

~~2.03 (1) (a) (iii) Speech/language specialists.~~

~~2.03 (1) (a) (iv) Specialty teachers.~~

~~2.03 (1) (a) (v) Instructional paraprofessionals.~~

~~2.03 (1) (a) (vi) Tutor interpreters.~~

~~2.03 (1) (a) (vii) School nurses.~~

- ~~2.03 (1) (a) (viii) Occupational therapists.~~
- ~~2.03 (1) (a) (ix) Physical therapists.~~
- ~~2.03 (1) (a) (x) School psychologists.~~
- ~~2.03 (1) (a) (xi) School social workers.~~
- ~~2.03 (1) (a) (xii) Audiologists.~~
- ~~2.03 (1) (a) (xiii) Other professionals.~~
- ~~2.03 (1) (a) (xiv) Special education administrators.~~
- ~~2.03 (1) (a) (xv) Special education office support.~~
- ~~2.03 (1) (a) (xvi) Other non-certificated or non-licensed support.~~
- ~~2.03 (1) (b) Employee benefits.~~
- ~~2.03 (1) (c) Supplies and materials.~~
- ~~2.03 (1) (d) Equipment which is used especially for individual students' special education programs and services.~~
- ~~2.03 (1) (e) Purchased services contracts for:~~
  - ~~2.03 (1) (e) (i) Personal services.~~
  - ~~2.03 (1) (e) (ii) Tuition to other administrative units, and approved tuition rates to community centered boards and eligible facilities.~~
  - ~~2.03 (1) (e) (iii) Staff travel, including travel expenses for inservice education.~~
  - ~~2.03 (1) (e) (iv) Other purchased services.~~
- ~~2.03 (1) (f) Dues, fees and other miscellaneous objects of expenditure.~~
- ~~2.03 (2) (reserved)~~
- ~~2.03(3) Applicable revenues.~~

~~Applicable revenues shall mean funds provided for the special education program of a child with disabilities and shall include:~~

  - ~~2.03(3)(a) The Per Pupil Operating Revenue (PPOR) or the Per Pupil Revenue (PPR), whichever is applicable, as follows:~~
    - ~~2.03(3)(a)(i) The state average PPOR when an administrative unit of residence initiates a placement of a child with a disability into a community centered board or eligible facility for its day treatment or residential program, and the community centered board or eligible facility also provides the child's educational program;~~

- ~~2.03(3)(a)(ii) The PPOR of the district of residence when an administrative unit of residence places a child with a disability into a community centered board or eligible facility for the educational program only;~~
- ~~2.03(3)(a)(iii) The PPR of the chartering school district when a child with a disability enrolls in and attends a charter school pursuant to Section 22-30.5-101, C.R.S., not including a charter school that provides an on-line program pursuant to Section 22-33-104.6, C.R.S.;~~
- ~~2.03(3)(a)(iv) The PPR of the district of attendance when a child with a disability enrolls in and attends a school in an administrative unit other than the child's administrative unit of residence pursuant to Section 22-36-101, C.R.S., and the school does not provide the child an on-line program and the school is not a charter school;~~
- ~~2.03(3)(a)(v) The PPOR of the district of residence when an administrative unit of residence purchases services from another administrative unit for a specific special education program not available in the administrative unit of residence; or~~
- ~~2.03(3)(a)(vi) The state minimum PPR when a child with a disability enrolls in and attends a public on-line program pursuant to Section 22-33-104.6, C.R.S., including an on-line program provided by a charter school.~~
- ~~2.03(3)(b) For three and four year old children with disabilities, and for five year old children with disabilities who are not enrolled in kindergarten, 50 percent PPOR shall be considered applicable revenue.~~
- ~~2.03(3)(c) Monies available from federal sources.~~
- ~~2.03(3)(d) Monies received under ECEA.~~
- ~~2.03(3)(e) Monies received from other state agencies to cover special education program costs.~~
- ~~2.03(3)(f) Monies received from other administrative units for special education expenditures.~~
- ~~2.03(3)(g) Monies received through grants and donations awarded for the purpose of supporting special education programs as described in the IEP of children with disabilities.~~

## **2.45 SPECIAL EDUCATION SERVICES**

*SPECIAL EDUCATION SERVICES OR SPECIAL EDUCATION PROGRAMS MEANS THE SERVICES OR PROGRAMS PROVIDED TO A CHILD WITH A DISABILITY IN CONFORMITY WITH THE CHILD'S IEP OR IFSP.*

## **2.46 STATE BOARD**

*STATE BOARD MEANS THE STATE BOARD OF EDUCATION, CREATED AND EXISTING PURSUANT TO SECTION 1 OF ARTICLE IX OF THE STATE CONSTITUTION.*

## **2.47 STATE CHARTER SCHOOL INSTITUTE**

*STATE CHARTER SCHOOL INSTITUTE MEANS THE STATE CHARTER SCHOOL INSTITUTE CREATED PURSUANT TO PART 5 OF ARTICLE 30.5 OF TITLE 22, C.R.S.*

## **2.48 STATE EDUCATIONAL AGENCY**

THE TERM "STATE EDUCATIONAL AGENCY", WHEN USED IN 34 CFR PARTS 300 AND 303, MEANS THE COLORADO DEPARTMENT OF EDUCATION.

## **2.04 State-Operated Programs**

### **2.49 STATE-OPERATED PROGRAM**

~~State-operated programs shall mean the Colorado School for the Deaf and the Blind and those facilities with approved school programs operated by the Department of Human Services and the Department of Corrections and supervised by the Colorado Department of Education.~~

STATE-OPERATED PROGRAM MEANS AN APPROVED SCHOOL PROGRAM SUPERVISED BY THE DEPARTMENT AND OPERATED BY:

- 2.49 (1) THE COLORADO SCHOOL FOR THE DEAF AND THE BLIND;
- 2.49 (2) THE DEPARTMENT OF CORRECTIONS; OR
- 2.49 (3) THE DEPARTMENT OF HUMAN SERVICES, INCLUDING BUT NOT LIMITED TO THE DIVISION OF YOUTH CORRECTIONS AND THE MENTAL HEALTH INSTITUTES AT FORT LOGAN AND PUEBLO.

## **2.05 Eligible Facility**

~~An eligible facility shall mean a group care facility, day treatment center or hospital that offers a school program providing special education services for children with disabilities ages three to twenty-one that has been approved by the State Board of Education in accordance with Section 3.02 of these Rules.~~

## **2.50 SUPPLEMENTARY AIDS AND SERVICES**

SUPPLEMENTARY AIDS AND SERVICES MEANS AIDS, SERVICES, AND OTHER SUPPORTS THAT ARE PROVIDED IN GENERAL EDUCATION CLASSES, OTHER EDUCATION-RELATED SETTINGS, AND IN EXTRACURRICULAR AND NONACADEMIC SETTINGS, TO ENABLE CHILDREN WITH DISABILITIES TO BE EDUCATED WITH NONDISABLED CHILDREN TO THE MAXIMUM EXTENT APPROPRIATE IN ACCORDANCE WITH 34 CFR §§300.114 THROUGH 300.116.

## **2.51 TRANSITION SERVICES**

- 2.51 (1) TRANSITION SERVICES MEANS A COORDINATED SET OF ACTIVITIES FOR A CHILD WITH A DISABILITY THAT--
- 2.51 (1) (A) IS DESIGNED TO BE WITHIN A RESULTS-ORIENTED PROCESS, THAT IS FOCUSED ON IMPROVING THE ACADEMIC AND FUNCTIONAL ACHIEVEMENT OF THE CHILD WITH A DISABILITY TO FACILITATE THE CHILD'S MOVEMENT FROM SCHOOL TO POST-SCHOOL ACTIVITIES, INCLUDING POSTSECONDARY EDUCATION, VOCATIONAL EDUCATION, INTEGRATED EMPLOYMENT (INCLUDING SUPPORTED EMPLOYMENT), CONTINUING AND ADULT EDUCATION, ADULT SERVICES, INDEPENDENT LIVING, OR COMMUNITY PARTICIPATION;
- 2.51 (1) (B) IS BASED ON THE INDIVIDUAL CHILD'S NEEDS, TAKING INTO ACCOUNT THE CHILD'S STRENGTHS, PREFERENCES, AND INTERESTS; AND INCLUDES—

- 2.51 (1) (B) (I) INSTRUCTION;
- 2.51 (1) (B) (II) RELATED SERVICES;
- 2.51 (1) (B) (III) COMMUNITY EXPERIENCES;
- 2.51 (1) (B) (IV) THE DEVELOPMENT OF EMPLOYMENT AND OTHER POST-SCHOOL ADULT LIVING OBJECTIVES; AND
- 2.51 (1) (B) (V) IF APPROPRIATE, ACQUISITION OF DAILY LIVING SKILLS AND PROVISION OF A FUNCTIONAL VOCATIONAL EVALUATION.
- 2.51 (2) TRANSITION SERVICES FOR CHILDREN WITH DISABILITIES MAY BE SPECIAL EDUCATION, IF PROVIDED AS SPECIALLY DESIGNED INSTRUCTION, OR A RELATED SERVICE, IF REQUIRED TO ASSIST A CHILD WITH A DISABILITY TO BENEFIT FROM SPECIAL EDUCATION.

## **2.52 UNIVERSAL DESIGN**

THE TERM “*UNIVERSAL DESIGN*”, WHEN USED IN 34 CFR PARTS 300 AND 303, HAS THE MEANING GIVEN THE TERM IN SECTION 3 OF THE ASSISTIVE TECHNOLOGY ACT OF 1998, AS AMENDED, 29 U.S.C. 3002.

## **2.53 WARD OF THE STATE**

AS USED IN 34 CFR PART B, THE TERM *WARD OF THE STATE* MEANS:

- 2.53 (1) GENERAL. SUBJECT TO 2.53(2) OF THIS SECTION, WARD OF THE STATE MEANS A CHILD WHO, AS DETERMINED BY THE STATE WHERE THE CHILD RESIDES, IS—
- 2.53 (1) (A) A FOSTER CHILD;
- 2.53 (1) (B) A WARD OF THE STATE; OR
- 2.53 (1) (C) IN THE CUSTODY OF A PUBLIC CHILD WELFARE AGENCY.
- 2.53 (2) EXCEPTION. WARD OF THE STATE DOES NOT INCLUDE A FOSTER CHILD WHO HAS A FOSTER PARENT WHO MEETS THE DEFINITION OF A PARENT IN SECTION 2.33 OF THESE RULES.

## **~~2.06 Eligibility for Receiving Per Pupil Operating Revenue and Tuition Costs~~**

- ~~2.06 (1) Administrative units of attendance as defined in Section 2.01(2)(b) of these Rules.~~
- ~~2.06 (2) Community centered boards as defined in Section 27-10.5-102 (3), C.R.S.~~
- ~~2.06 (3) Facilities licensed by the Department of Human Services which include the following:~~
  - ~~2.06 (3) (a) Residential child care facilities.~~
  - ~~2.06 (3) (b) Day treatment centers.~~
  - ~~2.06 (3) (c) Residential treatment centers.~~

~~2.06 (3) (d) Secure residential treatment centers.~~

~~2.06 (3) (e) Specialized group facilities.~~

~~2.06 (4) Hospitals licensed by the Colorado Department of Health.~~

## **~~2.07 Parent and Educational Surrogate Parent~~**

~~2.07(1) Parent shall mean biological parent, adoptive parent, guardian, but not the state if the child is a ward of the state, a person with appropriate legal authority acting in place of the parent (such as a legally authorized grandparent or step-parent with whom the child lives), or a person having legal custody of the child.~~

~~2.07(2) Educational surrogate parent shall mean a person who has training and is assigned to represent the child in all educational decision-making processes pertaining to the identification, evaluation, educational placement of the child and the provision of a free, appropriate public education to the child whenever the parent of a child with a disability is unknown, cannot be located, is unavailable or the child is a ward of the state.~~

## ADMINISTRATION

### 3.01 Standards For Administrative Units

- 3.01 (1) Minimum standards for special education administrative units.

To qualify as a special education administrative unit, a school district or a board of cooperative services shall satisfy the following standards.

- 3.01 (1) (a) Enrollment of 4,000 pupils in membership or at least 400 children with disabilities. Variance from this specific requirement may be requested of the Department of Education according to the procedures outlined in 7.06 of these Rules.
- 3.01 (1) (a) (i) Demonstration that the district(s) seeking a variance are able to meet the obligation to provide appropriate services to children with disabilities. If the manner in which the district(s) propose to meet this obligation is determined to be inadequate by the Department of Education, the variance will not be granted.
- 3.01 (1) (a) (ii) Demonstration that the administrative unit from which the district(s) is proposing to withdraw will be able to continue to provide appropriate educational services to children with disabilities. If such demonstration cannot be made to the satisfaction of the Department of Education, the variance will not be granted.
- 3.01 (1) (a) (iii) Commitment to comply with all other requirements of this section 3.01 of the Rules.
- 3.01 (1) (a) (iv) The establishment of additional administrative units does not create a hardship on the Department of Education. If such is determined to be the case by the Department of Education, the Department reserves the right to refuse the approval of additional administrative units.
- 3.01 (1) (b) Employment of sufficient instructional and related services staff to identify and ~~assess~~ **EVALUATE** children who are suspected of having a disability, and plan for and provide appropriate services for all children who have been determined to have a disability.
- 3.01 (1) (c) Employment of a qualified and certificated full-time professional who has the flexibility to function at least half time as director of special education and who has the authority to assure that all the duties and responsibilities of the administrative unit as specified in **THESE** ~~Section 3.01(5) of these Rules~~ are carried out.
- 3.01 (1) (d) Development and implementation of an approved special education comprehensive plan.
- 3.01 (1) (e) Accurate completion and submission of all special education student, staff, cost and revenue data on or before dates established by the Department of Education.
- 3.01 (1) (f) Governance by a board which may be a local school board of education or a Board of Cooperative Educational Services.



- 3.01 (2) Every school district and Board of Cooperative Services that provides services to children with disabilities shall be an administrative unit or a part of an administrative unit.

Small districts that do not meet the qualifications of an administrative unit and are not a part of a board of cooperative services shall contract to become part of an approved unit and shall abide by all policies and procedures contained in that unit's comprehensive plan. Such contract shall be approved by the Department of Education.

- 3.01 (2) (a) The Department of Education may disapprove an application for an administrative unit if it has excluded a contiguous district that does not meet the criterion set forth above.

- 3.01 (2) (b) The administrative unit shall provide special education services to all children with disabilities within its responsibility as defined in Section ~~2.01(3)~~ 8.00 of the Rules.

- 3.01 (3) Application for new administrative units.

Districts and boards of cooperative services desiring to form new or reorganized administrative units shall submit an application to the Department of Education by November 1 of the year preceding the fiscal year in which the new administrative unit is to begin operation. This application shall include:

- 3.01 (3) (a) A letter of intent which:

- 3.01 (3) (a) (i) specifies the objectives to be sought by the change;

- 3.01 (3) (a) (ii) outlines how the proposed administrative unit will comply with the requirements of these Rules;

- 3.01 (3) (a) (iii) explains how the proposed administrative unit will efficiently address the administration of and the provision of special education services; and

- 3.01 (3) (a) (iv) specifies the manner in which it will comply with the by-laws of the Board of Cooperative Services if it is a member of such.

- 3.01 (3) (b) Comprehensive plans for the newly reorganized administrative units.

- 3.01 (3) (c) Budget projections reflecting the anticipated revenues and expenditures for the administrative units should the request be approved, as well as projections for the existing administrative unit without the change.

- 3.01 (4) Department of Education approval.

The Department of Education shall have 60 days in which to approve or deny an application for a new administrative unit or to request other clarification.

- 3.01 (4) (a) When the formation of a new administrative unit is approved, such administrative unit shall be expected to satisfy all the qualifications for the efficient administration of and provision of services for administrative units stipulated in these Rules, including the approval of a comprehensive plan.

- 3.01 (4) (b) If the Department of Education determines that the proposed administrative unit will not be able to satisfy the qualifications for the efficient administration of and provision of services, it shall present its reasons for such finding in writing.

3.01 (4) (c) If, within 30 days of the Department's determination to disapprove the formation of a new administrative unit, the school districts or boards of cooperative services affected are unable to negotiate a satisfactory resolution of differences with the Department of Education, they may utilize standard appeal procedures in accordance with Section 7.07 of these Rules.

3.01 (4) (d) Existing units which do not meet the qualifications and/or for the efficient administration of or provision of services stipulated in these Rules shall be subject to revocation of unit status and loss of all state and federal special education funds. Notice of such revocation shall be in writing from the Department of Education and subject to the appeal process.

~~3.01 (5) Duties and responsibilities of administrative units.~~

~~An administrative unit shall carry out all applicable State and Federal statutes and regulations and shall be responsible for and provide assurances for:~~

~~3.01 (5) (a) The development and adoption of a comprehensive plan in accordance with the applicable statutes and regulations. Such plan shall also include a description of the following:~~

~~3.01 (5) (a) (i) Financial commitments and agreements of the unit and of the participating districts for special education programs and services.~~

~~3.01 (5) (a) (ii) Method or standards utilized to determine the number and types of special education personnel required to meet the needs of children with disabilities.~~

~~3.01 (5) (a) (iii) Procedures for regular, periodic evaluation of programs, services and student progress.~~

~~3.01 (5) (b) Resource allocation and management to assure adequate personnel, facilities, materials and equipment in accordance with the provisions of Section 3.03 of these Rules to meet the needs of children with disabilities.~~

~~3.01 (5) (c) Qualified personnel in accordance with the provisions of Section 3.04 of these Rules.~~

~~3.01 (5) (d) Maintenance of and access to student records in accordance with Section 7.01 of these Rules.~~

~~3.01 (5) (e) Child find, referral, assessment, planning and delivery of services in accordance with the provisions of Sections 4.00 and 5.00 of the Rules.~~

~~3.01 (5) (f) Procedures for prior notice, consent, confidentiality and due process in accordance with Section 6.00 of the Rules.~~

~~3.01 (5) (g) Staff development in accordance with Section 3.05 of these Rules.~~

~~3.01 (5) (h) Program evaluation in accordance with Section 3.06 of these Rules.~~

### **3.02 Standards for Eligible Facilities and State Operated Programs**

3.02 (1) Eligible Facilities

3.02 (1) (a) Minimum standards for special education eligible facilities.

To qualify as an approved school program, eligible facilities as determined by the State Board of Education shall satisfy the following standards:

- 3.02 (1) (a) (i) Prior licensing by appropriate state agencies.
- 3.02 (1) (a) (ii) Placements must be due to the need for mental health and/or medical treatment.
- 3.02 (1) (a) (iii) In the case of Day Treatment programs, placements must be due to the child being considered at risk for out of home placement.
- 3.02 (1) (a) (iv) The education of the children in placement at the eligible facility is the responsibility of the state or local education agency.
- 3.02 (1) (a) (v) The education of children in placement is not the responsibility of another Colorado State agency or entity.
- 3.02 (1) (a) (vi) Employment of sufficient qualified administrative, instructional and support staff to plan for and provide services for all children who are determined to have a disability.
- 3.02 (1) (a) (vii) ~~Designation of a person knowledgeable about special education regulations and services to serve as the administrator or supervisor of special education. Beginning with the 2003-2004 school year, employment of at least a part time Director of Special Education to supervise the education program~~ EACH ELIGIBLE FACILITY SHALL EMPLOY OR CONTRACT IN WRITING, ON AT LEAST A PART-TIME BASIS, FOR A DIRECTOR OF SPECIAL EDUCATION WHO MEETS THE QUALIFICATION STANDARDS ESTABLISHED BY SECTION 3.04(1)(D) OF THESE RULES.
- 3.02 (1) (a) (viii) Development and implementation of an approved comprehensive plan including quality standards as set forth in guidelines developed by the Department of Education.
- 3.02 (1) (a) (ix) Agree to carry out the duties and responsibilities identified in Section ~~3.02(3)~~ 8.01(2) of these Rules.
- 3.02 (1) (b) Approval of facilities.

Any facility wishing to obtain state or federal funds to provide education services to children with disabilities shall be approved by the State Board of Education.

- 3.02 (1) (b) (i) Facilities wishing to establish an approved school program shall submit a letter of intent to the Department of Education, Special Education Services Unit, at least 90 days prior to the day on which the facility is to begin its on-grounds school.
- 3.02 (1) (b) (ii) Facilities wishing to establish an approved school program shall submit to the Department of Education a comprehensive plan 30 days prior to the submission of its application for approval to the State Board of Education.
- 3.02 (1) (b) (iii) If the Department of Education determines that the facility meets state requirements as defined in Section 3.02(1) of these Rules, the Department shall notify the facility that it is being recommended to the State Board of Education for approval. If the Department of Education determines that the

eligible facility is unable to meet requirements as defined in Section 3.02(1) of these Rules, it shall present its reasons for such findings in writing.

3.02 (1) (b) (iv) If within 30 days of the Department's disapproval, the facility is unable to negotiate a satisfactory resolution of differences with the Department of Education, it may utilize standard appeal procedures in accordance with Section 7.07 of these Rules.

3.02 (1) (c) Maintenance of approved status.

3.02 (1) (c) (i) In order to maintain approval of its school program, each facility shall:

3.02 (1) (C) (I) (A) Comply with required policies and procedures as set forth in these rules **RULES**.

3.02 (1) (C) (I) (B) Complete an annual self-assessment based on the Quality Standards for Eligible Facilities and develop a school improvement plan.

3.02 (1) (C) (I) (C) Notify the Colorado Department of Education, ~~Special Education Services~~ **EXCEPTIONAL STUDENT LEADERSHIP** Unit, in writing in the event that:

3.02 (1) (C) (I) (C) (I) The management or administration of the facility changes,

3.02 (1) (C) (I) (C) (II) The facility is purchased by or merged with another agency, or

3.02 (1) (C) (I) (C) (III) There is a change of educational coordinator.

3.02 (1) (c) (ii) The Colorado Department of Education will review the notification and determine whether the facility will retain its eligible status.

3.02 (1) (d) Review of approved status.

Each facility shall contact the Colorado Department of Education, ~~Special Education Services~~ **EXCEPTIONAL STUDENT LEADERSHIP** Unit, to request review and approval for changes in or expansions of the school program. The following require review and request for approval:

3.02 (1) (d) (i) Any application for a new or different license from the Department of Human Services,

3.02 (1) (d) (ii) A change in location or the addition of another location,

3.02 (1) (d) (iii) Change of program focus,

3.02 (1) (d) (iv) Change in the age of students served,

3.02 (1) (d) (v) Any increase in the number of students included in the PPOR billing above the number originally approved, or

3.02 (1) (d) (vi) Other factors unique to the program or situation.

~~3.02 (1) (e) Duties and responsibilities of eligible facilities.~~

~~An eligible facility with an approved on-grounds school shall be responsible for:~~

- ~~3.02 (1) (e) (i) Development of a comprehensive plan in accordance with the provisions of Section 3.02(6) of these Rules.~~
- ~~3.02 (1) (e) (ii) Provision of resources for personnel, facilities, materials and equipment which are necessary to meet the needs of children with disabilities.~~
- ~~3.02 (1) (e) (iii) Qualified personnel in accordance with the provisions of Section 3.04 of these Rules.~~
- ~~3.02 (1) (e) (iv) Maintenance and access to student records in accordance with Section 7.01 of these Rules.~~
- ~~3.02 (1) (e) (v) Planning and delivery of services in accordance with the provisions of Sections 4.00 and 5.00 of these Rules.~~
- ~~3.02 (1) (e) (vi) Adherence to procedures for prior notice, consent, confidentiality and due process in accordance with Section 6.00 of these Rules.~~
- ~~3.02 (1) (e) (vii) Staff development.~~
- ~~3.02 (1) (e) (viii) Program evaluation.~~
- ~~3.02 (1) (f)~~
- 3.02 (1) (E) Comprehensive plan.**

Each facility seeking approval for an on-grounds school shall develop a comprehensive plan in which are stated the policies and procedures to be followed in order to be in compliance with all applicable state laws and regulations. At a minimum, the comprehensive plan shall include but not be limited to the following:

- ~~3.02 (1) (f) (i)~~  
**3.02 (1) (E) (I)** An explanation of the purpose of the eligible facility, especially as it relates to treatment, care and education of children with disabilities.
- ~~3.02 (1) (f) (ii)~~  
**3.02 (1) (E) (II)** A description of the population to be served by the facility.
- ~~3.02 (1) (f) (iii)~~  
**3.02 (1) (E) (III)** Policies and procedures to be followed to meet all appropriate federal and state statutes and regulations.
- ~~3.02 (1) (f) (iv)~~  
**3.02 (1) (E) (IV)** A description of the education curriculum and how the treatment and care support that curriculum and the child's individualized educational program (IEP).
- ~~3.02 (1) (f) (v)~~  
**3.02 (1) (E) (V)** Approval of the facility's governing body.
- ~~3.02 (1) (g)~~  
**3.02 (1) (F)** Revocation of Approved Status.

Eligible facilities with approved school programs that no longer meet state requirements shall be notified in writing by the Department of the specific areas of

noncompliance and be given a specified period of time in which to remediate the areas of noncompliance. PPOR payments will be delayed until compliance is demonstrated. Should the eligible facility fail to come into compliance, administrative units will be notified that the facility is out of compliance and that excess cost payments should be suspended and the Department of Education shall request that the State Board of Education revoke the facility's approval.

3.02 (2) State Operated Programs

3.02 (2) (a) Minimum Standards for State Operated Programs.

State Operated Programs shall satisfy the following standards.

3.02 (2) (a) (i) Employment of sufficient instructional and related services staff to identify and assess children who are suspected of having a disability, and plan for and provide appropriate services for all children who have been determined to have a disability.

3.02 (2) (a) (ii) ~~Employment of at least a half time Director of Special Education who has the authority to assure that all the duties and responsibilities of the State Operated Program as specified in these Rules are carried out.~~ EACH STATE-OPERATED PROGRAM SHALL EMPLOY OR CONTRACT IN WRITING, ON AT LEAST A PART-TIME BASIS, FOR A DIRECTOR OF SPECIAL EDUCATION WHO MEETS THE QUALIFICATION STANDARDS ESTABLISHED BY SECTION 3.04(1)(D) OF THESE RULES.

3.02 (2) (a) (iii) Development and implementation of an approved special education comprehensive plan.

3.02 (2) (a) (iv) Accurate completion and submission of all special education student, staff, cost and revenue data on or before dates established by the Department of Education.

3.02 (2) (a) (v) Provision of special education and related services to all children with disabilities placed in or committed to the State Operated Program.

~~3.02 (2) (b) Duties and Responsibilities of State Operated Programs.~~

~~A State Operated Program shall carry out all applicable State and Federal statutes and regulations and shall be responsible for and provide assurances for the development and adoption of a comprehensive plan in accordance with the applicable statutes and regulations. Such plan shall also include a description of the following:~~

~~3.02 (2) (b) (i) Method or standards utilized to determine the number and types of special education personnel required to meet the needs of children with disabilities.~~

~~3.02 (2) (b) (ii) Procedures for regular, periodic evaluation of programs, services and student progress.~~

~~3.02 (2) (b) (iii) Resource allocation and management to assure adequate personnel, facilities, materials and equipment in accordance with the provisions of these Rules to meet the needs of children with disabilities.~~

~~3.02 (2) (b) (iv) Qualified personnel in accordance with the provisions of Section 3.04 of these Rules.~~

~~3.02 (2) (b) (v) Maintenance of and access to student records in accordance with Section 7.01 of these Rules.~~

~~3.02 (2) (b) (vi) Child Find, referral, assessment, planning and delivery of services in accordance with the provisions of Sections 4.00 and 5.00 of the Rules.~~

~~3.02 (2) (b) (vii) Procedures for prior notice, consent, confidentiality and due process in accordance with Section 6.00 of the Rules.~~

~~3.02 (2) (b) (viii) Staff development in accordance with Section 3.05 of these Rules.~~

~~3.02 (2) (b) (ix) Program evaluation in accordance with Section 3.06 of these Rules.~~

### **3.03 Resource Allocation**

Sufficient personnel shall be available to provide for identification, referral, ~~assessment,~~ **EVALUATION**, determination of disability and eligibility for special education services and development and review of IEPs, and to provide appropriate special education instructional and related services to implement all IEPs for children with disabilities.

3.03 (1) Each administrative unit shall have a method or standards by which it determines the number and types of special education personnel required to meet the needs of children with disabilities. Such method or standard shall be a part of the local comprehensive plan.

3.03 (2) Each administrative unit shall assure that licensed/certificated personnel qualified in a child's identified area(s) of need will have diagnostic and ongoing instructional responsibilities and contact with the child and the child's other service providers and parents.

### **3.04 Personnel Qualifications**

All personnel providing special education services to children with disabilities shall be qualified.

3.04 (1) Personnel qualifications.

3.04 (1) (a) Teachers

3.04 (1) (a) (i) Special education.

All special education teachers shall hold Colorado teacher's certificates or licenses with appropriate endorsements in special education. **SPECIAL EDUCATION TEACHERS SHALL ALSO BE HIGHLY QUALIFIED, CONSISTENT WITH SECTION 2.20 OF THESE RULES.**

Each special education teacher will serve, at a minimum, a majority of special education students with the same identified area of need as that teacher's special education license or certification endorsement. The endorsement level must be appropriate for the age being taught.

3.04 (1) (a) (ii) Home-hospital.

Home-hospital teachers for children with disabilities shall hold Colorado teacher's certificates or licenses.

3.04 (1) (a) (iii) Specialty.

Specialty teachers in music, art, adapted physical education, home economics, industrial arts and vocational education shall possess Colorado teacher's certificates or licenses with endorsements in the area of instruction.

3.04 (1) (b) Related services personnel.

All related services personnel providing services to children with disabilities shall hold Colorado special services licenses or certificates with appropriate endorsements. For those areas for which Colorado special services licenses or certificates are not available, appropriate licenses from the state regulatory agency or professional organization registration are required.

3.04 (1) (c) Special education coordinators.

Special education coordinators shall have at least a Bachelor's degree and certification and/or licensure in a relevant field. Documentation of their expertise shall be submitted to the Department of Education.

3.04 (1) (d) Administrators.

Special education directors and assistant directors must possess a certificate or administrator's license with appropriate endorsement.

3.04 (1) (e) Paraprofessionals.

Each administrative unit or eligible facility will determine the qualifications and competencies required for paraprofessionals. Administrative units and eligible facilities shall assure and document that they meet the requirements for supervision of non-certificated personnel as mandated under Section 22-32-110(1)(ee), C.R.S.

3.04 (1) (f) Educational Interpreters

As of July 1, 2000, any person employed as an Educational Interpreter by an administrative unit or eligible facility on a full-time or part-time basis shall meet the following minimum standards, and documentation for meeting these standards must be renewed every five years:

3.04 (1) (f) (i) Demonstration of a rating of 3.5 (average) or better in the four areas of the Educational Interpreter Performance Assessment (EIPA).

3.04 (1) (f) (ii) Documented content knowledge in these areas: child development, language development, curriculum, teaching and tutoring methods, deafness and the educational process for deaf children.

The Colorado Department of Education will provide guidelines for the implementation of these minimum standards.

3.04 (2) Temporary Teacher Eligibility (TTE).

If an administrative unit or eligible facility is unable to employ an individual who is appropriately certificated/licensed and endorsed, the director of special education may apply to the Department of Education for temporary teacher eligibility. Approval shall be effective for five school years for TTEs issued through the 1998-99 school year, and beginning with



1999-2000, shall be effective for three school years. Temporary Teacher Eligibility is nonrenewable and subject to the following conditions:

- 3.04 (2) (a) The individual shall possess a Colorado certificate, educator's license, or emergency authorization.
- 3.04 (2) (b) The director of special education shall certify that, after reasonable efforts to hire an acceptable, appropriately endorsed individual, none could be found. Documentation of the search which was made to find an acceptable, appropriately endorsed individual shall be maintained by the administrative unit or eligible facility.
- 3.04 (2) (c) No later than 90 days after employment, the administrative unit or eligible facility shall provide to the Department of Education documentation of the individual's application to a program leading to endorsement in the area of request.
- 3.04 (2) (d) At least annually, the administrative unit or eligible facility shall secure evidence of satisfactory progress toward completion of the endorsement program within the specified time allowed.
- 3.04 (2) (e) If extenuating circumstances prevent the individual from meeting the requirements of Sections 3.04(2)(a) through 3.04(2)(d), the circumstances must be documented by the director of special education and submitted to the Department of Education for consideration before any decision to revoke the TTE is made.
- 3.04 (2) (f) Application for a second temporary teacher eligibility will not be approved for the same person unless the endorsement program referenced in the request for the first TTE has been completed, or both endorsement programs could be completed within the same period specified in the initial request.
- 3.04 (2) (g) Temporary teacher eligibility is issued to the administrative unit or eligibility facility for the individual. Before a TTE will be transferred for an individual by the Department of Education from one unit or eligible facility to another, the second unit or eligible facility shall submit to the Department of Education verification that satisfactory progress was made toward the required endorsement during the last school year the individual was employed on the basis of a TTE.
- 3.04 (2) (h) If an individual only needs recent credit and/or successful completion of the basic skills or content area examinations to qualify for the appropriate Colorado educator's license and endorsement, the administrative unit or eligible facility shall apply for both an emergency authorization and a TTE. Verification of enrollment in an appropriate university program is not required, but the Department of Education will only approve a TTE for one school year.

### **3.05 Staff Development**

Administrative units and eligible facilities shall provide for staff development to assure opportunities for appropriate educational services to children with disabilities.

- 3.05 (1) Opportunities for staff development shall be provided to foster the continuing development of the awareness, skills and knowledge of each staff member.
- 3.05 (1) (a) Opportunities for staff development shall be furnished to all staff providing direct or indirect services to children with disabilities.

- 3.05 (1) (b) Opportunities for staff development activities shall be designed to bring about changes in knowledge, attitudes, actual performance skills and interpersonal relations of staff members.
- 3.05 (2) Staff development shall include an evaluation component to determine its effectiveness.

### **3.06 Program Evaluation**

Each administrative unit or eligible facility shall maintain records of results of all qualitative and quantitative evaluations of special education services rendered. Evaluations of special education services shall occur annually and within a period of five years systematically cover aspects of services to children with disabilities. Such evaluations shall review:

- 3.06 (1) Extent to which quality special education policies and practices are in place and where improvements can occur.
- 3.06 (2) Degree to which children with disabilities are achieving their individual goals as well as school, district, and state standards and student outcomes.

**CHILD FIND, EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS****4.01 PARENTAL CONSENT**

EXCEPT FOR IDEA PART C CHILD FIND, THE PARENTAL CONSENT REQUIREMENTS AND PROCEDURES SET FORTH IN 34 CFR §300.300 SHALL APPLY IN THEIR ENTIRETY TO THIS SECTION 4.00.

~~4.01~~**4.02 Child Identification Process****4.02 (1) GENERAL REQUIREMENTS****4.02 (1) (A) ADMINISTRATIVE UNITS.**

Each administrative unit shall ~~have a procedure~~ **DEVELOP AND IMPLEMENT PROCEDURES** for locating, identifying and evaluating all children ages birth to 21 who may have a disability and ~~be~~ **ARE** eligible for **EARLY INTERVENTION SERVICES UNDER EITHER IDEA PART C CHILD FIND (BIRTH THROUGH AGE 2); OR ARE ELIGIBLE FOR** special education services **UNDER IDEA PART B (AGES 3 TO 21) EVEN THOUGH SUCH CHILDREN ARE ADVANCING FROM GRADE TO GRADE.** ~~These~~ **SUCH** procedures shall be available **THROUGHOUT THE YEAR** to all children including children who have not yet entered school, children who discontinue their education, children who are placed in **ATTENDING** private schools, children ~~who~~ **WHOSE PARENTS** choose home schooling, **CHILDREN WHO ARE WARDS OF THE STATE** or children who are highly mobile (such as migrant or homeless children) and may be suspected of having a disability. ~~Child identification shall include child find, special education referral, assessment and determination of disability and eligibility for special education and shall be the responsibility of the administrative unit in which the child attends school or, if (s)he is not enrolled in school, it shall be the responsibility of the administrative unit in which the child resides.~~

**4.02 (1) (A) (I) IDEA PART C CHILD FIND**

**4.02 (1) (A) (I) (A) FOR CHILDREN AGES BIRTH THROUGH 2 YEARS OF AGE, EACH ADMINISTRATIVE UNIT OF RESIDENCE IS RESPONSIBLE FOR CERTAIN CHILD FIND ACTIVITIES UNDER PART C OF THE IDEA CONSISTENT WITH SECTION 22-20-118 (2), C.R.S.**

**4.02 (1) (A) (I) (B) SCREENING AND EVALUATION ACTIVITIES REQUIRED BY SECTION 22-20-118 (2) (B), C.R.S., SHALL BE CONSISTENT WITH PART C OF THE IDEA AND ITS IMPLEMENTING REGULATIONS AT 34 CFR PART 303.**

**4.02 (1) (A) (II) IDEA PART B CHILD IDENTIFICATION**

**PART B** ~~Child~~ **CHILD** identification shall include child find, special education referral, ~~assessment~~ **INITIAL EVALUATION**, and determination of disability and eligibility for special ~~education~~ **and EDUCATION.** **CHILD IDENTIFICATION** shall be the responsibility of the administrative unit in which the child attends **PUBLIC OR PRIVATE** school or, if (s)he is not

enrolled in school, it shall be the responsibility of the administrative unit in which the child resides. **FOR CHILDREN AGES 3 TO 21 UNDER IDEA PART B, CHILD IDENTIFICATION SHALL BE CONSISTENT WITH SECTIONS 4.01 AND 4.02 OF THESE RULES.**

**4.02 (1) (B) STATE-OPERATED PROGRAMS – PART B CHILD IDENTIFICATION.**

**FOR CHILDREN FOR WHOM A STATE-OPERATED PROGRAM IS RESPONSIBLE, AS ESTABLISHED IN SECTION 8.00 OF THESE RULES, EACH STATE-OPERATED PROGRAM SHALL ADOPT AND IMPLEMENT PROCEDURES FOR LOCATING, IDENTIFYING AND EVALUATING ALL CHILDREN WHO MAY HAVE A DISABILITY AND BE ELIGIBLE FOR SPECIAL EDUCATION, EVEN THOUGH THEY ARE ADVANCING FROM GRADE TO GRADE. CHILD IDENTIFICATION, WHEN USED IN CONNECTION WITH STATE-OPERATED PROGRAMS, INCLUDES RELEVANT COMPONENTS OF CHILD FIND; SPECIAL EDUCATION REFERRAL; INITIAL EVALUATION; AND DETERMINATION OF DISABILITY AND ELIGIBILITY.**

~~4.01(1)~~

**4.02 (2) IDEA PART B Child Find.**

~~4.01(1)(a)~~

**4.02 (2) (A) The IDEA PART B child find process in each administrative unit shall:**

~~4.01(1)(a)(i)~~

**4.02 (2) (A) (I) Be a process designed to inform the public and to identify children ages birth 3 to 21 who may be eligible to receive special education services. Notice shall be published or announced in newspapers or other media with adequate circulation to notify parents throughout the administrative unit. ~~In the case of infants and toddlers the notice shall inform families that such services voluntary.~~**

~~4.01(1)(a)(ii)~~

**4.02 (2) (A) (II) Be designed to utilize available resources within the community.**

~~4.01(1)(a)(iii)~~

**4.02 (2) (A) (III) Involve families and provide information to the families.**

~~4.01(1)(b)~~

**4.02 (2) (B) Each administrative unit AND STATE-OPERATED PROGRAM shall have one person designated as the child find coordinator who shall be responsible for an ongoing child identification process.**

~~4.01(1)(c)~~

**4.02 (2) (C) The child find process shall include specific strategies for children from birth 3 through five years of age, children in school, and children out of school who are discontinuers or dropouts. It shall be available throughout the year and shall include the following components:**

~~4.01(1)(c)(i)~~

**4.02 (2) (C) (I) Planning and development in the areas of public awareness, community referral systems, community and building based screening, diagnostic evaluations, service coordination and staff development.**

4.01(1)(c)(ii)

4.02 (2) (C) (II) Coordination and implementation in the areas of interagency collaboration, public awareness, referral, screening and resource coordination.

4.01(1)(c)(iii)

4.02 (2) (C) (III) Screening procedures for identifying from the total population of children ages birth 3 to 21 years those who may need more in-depth evaluation in order to determine eligibility for special education and related services, or in the case of infants and toddlers early intervention services.

Follow up to vision and hearing screening shall interface with the vision and hearing screenings which occur for all children in public preschool, kindergarten, grades 1, 2, 3, 5, 7 and 9 yearly in accordance with ~~C.R.S. 22-1-116~~ SECTION 22-1-116, C.R.S. Appropriate educational or early intervention referrals shall be made if the child is suspected of having an educationally significant vision or hearing loss and parents shall be informed of any need for further medical evaluation.

4.01(1)(c)(iv)

4.02 (2) (C) (IV) A systematic procedure for considering those children ages 46 17 to 21 who are out of school and who may have a disability.

4.01(1)(c)(v)

4.02 (2) (C) (V) Referral procedures to ensure that parents of children are given information about all public and private resources that can meet identified needs. This may include a process for either a building level or early intervention referral. The PURPOSE OF THE building level process is to consider all pertinent information, the unique needs of the child and to generate alternative strategies STRATEGIES, SUCH AS RESPONSE TO INTERVENTION (RTI), for meeting these needs in non-special education settings or to determine the need for special education referral. These procedures may include dropout prevention strategies and recruitment of special education discontinuers.

4.01(1)(c)(vi)

4.02 (2) (C) (VI) Evaluation of the effectiveness and efficiency of child identification procedures.

4.01(2)

4.02 (3) Special Education Referral Process

A special education referral shall be clearly distinguished from a building level referral or a referral for screening both of which are regular education processes. The administrative unit OR STATE-OPERATED PROGRAM shall establish and follow procedures for referring a child for assessment and AN INITIAL EVALUATION to determine whether or not the child has a disability AND NEEDS SPECIAL EDUCATION AND RELATED SERVICES. The referral process shall be accessible to any person, organization or agency having an interest in the education of the child.

4.01(2)(a)

4.02 (3) (A) A special education referral may be initiated BY EITHER:

4.01(2)(a)(i)

4.02 (3) (A) (I) AN ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM As AS a result of a building level screening and/or referral process; or

4.01(2)(a)(ii)

4.02 (3) (A) (II) ~~Directly by a~~ THE parent OF THE CHILD ~~or other interested person.~~

ANY OTHER INTERESTED PERSON WHO BELIEVES THAT A CHILD IS IN NEED OF AN INITIAL EVALUATION MUST WORK WITH THE PARENT OR THE APPROPRIATE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM.

4.01(2)(b)

4.02 (3) (B) A parent of any child referred shall be informed of the referral and be provided with a **PRIOR** written notice **CONSISTENT WITH SECTION 6.02(3) and 34 CFR §300.503** ~~of all procedural safeguards relevant to children with disabilities, including procedures for resolving disputes~~ **AND A COPY OF THE PROCEDURAL SAFEGUARDS NOTICE CONSISTENT WITH SECTION 6.02(4) AND 34 CFR §300.504.**

4.01(2)(c)

4.02 (3) (C) Once a written special education referral has been initiated, ~~assessment~~ **THE INITIAL EVALUATION**, ~~planning, determination of disability, and, if disabled, IEP development~~ shall be completed within ~~45 school~~ **60 CALENDAR** days from the point of initiation of the special education referral. The special education referral process is initiated when one of the following occurs:

4.01(2)(c)(i)

4.02 (3) (C) (I) The parent is informed of the special education referral as a result of the building level process or screening and ~~written permission to assess is obtained~~ **THE PARENT PROVIDES WRITTEN CONSENT TO CONDUCT THE INITIAL EVALUATION**; or

4.01(2)(c)(ii)

4.02 (3) (C) (II) The request for ~~special education referral~~ **AN INITIAL EVALUATION** is received from the parent ~~or other interested person as a direct referral and written permission to assess is obtained~~ **AND THE PARENT PROVIDES WRITTEN CONSENT TO CONDUCT THE INITIAL EVALUATION.**

~~4.01(2)(d) In the case of children birth through two years of age, the evaluation must be completed (and if determined to be an infant/toddler with a disability, an IFSP developed) within 45 calendar days of the referral being received and documented by the designated agency.~~

4.01(2)(e)

4.02 (3) (C) (III) **EXCEPTION. THE TIME FRAME DESCRIBED IN SECTION 4.02(3)(C) WITHIN WHICH TO CONDUCT AN INITIAL EVALUATION SHALL NOT APPLY TO THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM IF:**

4.02 (3) (C) (III) (A) **THE PARENT OF A CHILD REPEATEDLY FAILS OR REFUSES TO PRODUCE THE CHILD FOR EVALUATION; OR**

4.02 (3) (C) (III) (B) **A CHILD ENROLLS IN A SCHOOL OF ANOTHER AU OR STATE-OPERATED PROGRAM AFTER THE RELEVANT TIMEFRAME IN SECTION 4.02(3)(C) OF THESE RULES HAS BEGUN, AND PRIOR TO A DETERMINATION BY THE CHILD'S PREVIOUS AU OR STATE-OPERATED PROGRAM AS TO WHETHER THE CHILD IS CHILD WITH A DISABILITY UNDER SECTION 2.08 OF THESE RULES.**

4.02 (3) (C) (IV) THE EXCEPTION IN SECTION 4.02(3)(C)(III) APPLIES ONLY IF THE SUBSEQUENT AU OR STATE-OPERATED PROGRAM IS MAKING SUFFICIENT PROGRESS TO ENSURE A PROMPT COMPLETION OF THE EVALUATION, AND THE PARENT AND SUBSEQUENT AU OR STATE-OPERATED PROGRAM AGREE TO A SPECIFIC TIME WHEN THE EVALUATION WILL BE COMPLETED.

4.02 (3) (D) A record shall be maintained of the disposition of each special education referral.

~~4.01(3) Assessment Process~~

4.02 (4) INITIAL EVALUATION PROCESS.

An ~~assessment~~ INITIAL EVALUATION process for children ages three to twenty-one shall be provided for the purposes of ~~evaluation for eligibility and for planning~~ DETERMINING WHETHER THE CHILD IS A CHILD WITH A DISABILITY UNDER SECTION 2.08 OF THESE RULES AND WHAT THE EDUCATIONAL NEEDS OF THE CHILD ARE. THE REQUIREMENTS AND PROCEDURES FOR INITIAL EVALUATIONS SHALL BE IN ACCORDANCE WITH 34 CFR §300.301, §300.304 AND §300.305 AND SHALL ENSURE THAT THE INITIAL EVALUATION IS SUFFICIENTLY COMPREHENSIVE TO APPROPRIATELY IDENTIFY ALL OF THE CHILD'S SPECIAL EDUCATION AND RELATED SERVICES NEEDS, WHETHER OR NOT COMMONLY LINKED TO THE DISABILITY CATEGORY IN WHICH THE CHILD HAS BEEN CLASSIFIED.

~~The evaluation process shall include an assessment by a person with expertise in the child's suspected area of disability. In addition, personnel representing various disciplines shall conduct assessments in all areas outlined in Section 4.01(3)(i) of these Rules. In the case of infants and toddlers an assessment shall be conducted in conjunction with the local interagency effort and an appropriate individualized plan developed.~~

~~4.01(3)(a) The assessment process shall include a review of all pertinent information provided by the referring party or already available to the administrative unit.~~

4.02 (4) (A) PARENTAL CONSENT.

PRIOR TO CONDUCTING AN INITIAL EVALUATION, THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM SHALL COMPLY WITH THE PARENTAL CONSENT REQUIREMENTS SET FORTH IN 34 CFR §300.300.

~~4.01(3)(b) Prior to the assessment process, the parent(s) of any child referred shall be notified in writing of their procedural safeguards and of the types and reasons for any assessments which may be conducted. Prior to the assessment, the parent(s) shall have the opportunity for a face-to-face conference with administrative unit personnel in the primary language of the parent(s).~~

4.02 (4) (B) SCREENING FOR INSTRUCTIONAL PURPOSES IS NOT AN EVALUATION.

THE SCREENING OF A STUDENT BY A TEACHER OR A SPECIALIST TO DETERMINE APPROPRIATE INSTRUCTIONAL STRATEGIES FOR CURRICULUM IMPLEMENTATION SHALL NOT BE CONSIDERED TO BE AN EVALUATION FOR ELIGIBILITY FOR SPECIAL EDUCATION AND RELATED SERVICES.

~~4.01(3)(c) Parental Consent~~

~~4.01(3)(c)(i) Prior to conducting any initial assessment for determination of eligibility for special education services, administrative unit personnel shall give written notice to the parent(s) and obtain written informed consent from the parent(s) to conduct the assessment.~~

~~4.01(3)(c)(ii) Prior to any subsequent assessments for eligibility purposes the parent(s) shall be given written notification, and administrative unit personnel shall make reasonable efforts to obtain written informed consent from the parent(s). If the parent(s) fail to respond, the administrative unit shall document efforts made to obtain consent, such as detailed records of phone calls made or attempted and the results of those calls, copies of correspondence sent to the parents and any responses received, and/or detailed records of visits made to the parent and the results of those visits.~~

~~4.01(3)(c)(iii) If the parent(s) refuses to give consent for any evaluation for eligibility purposes, the administrative unit may continue to pursue those evaluations by using the due process procedures outlined in these Rules, or other dispute resolution methods, such as mediation, if appropriate. The administrative unit cannot proceed with the contested evaluation until and unless the issue is resolved.~~

~~4.01(3)(d) Assessment procedures shall protect the interests of the child.~~

~~4.01(3)(d)(i)~~

**4.02 (4) (C) PERSONNEL SHALL BE APPROPRIATELY LICENSED AND ENDORSED.**

Administrative unit **AND STATE-OPERATED PROGRAM** personnel evaluating children for the purpose of determining eligibility for special education services shall be appropriately licensed and endorsed. For those areas where CDE licensure and endorsement are not available, appropriate professional licensure, registration or credentials is required. Any standardized test shall be administered by trained personnel in accordance with any instructions provided by the producer of the test. If an evaluation is not conducted under standard conditions, a description of the extent to which it varied from standard conditions shall be included in the evaluation report or IEP.

~~4.01(3)(d)(ii) The instruments used for evaluation of a child shall be selected and administered so as not to be discriminatory on a cultural, ethnic, religious or gender basis.~~

~~4.01(3)(d)(iii) Children shall be evaluated in their primary language and/or through the use of nonverbal techniques. Children who cannot read, write, speak or understand the English language as determined through appropriate testing may not be determined eligible for special education services on the basis of criteria developed solely upon the command of the English language.~~

~~4.01(3)(d)(iv) Evaluation instruments shall be valid and reliable. 300.304c1iii These instruments shall be selected and administered so as to ensure that if an instrument is administered to a child with impaired sensory, manual or speaking skills, the results accurately reflect the child's aptitude or achievement level or other factors the instrument 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).~~

~~4.01(3)(e) Each administrative unit shall develop procedures that describe the general nature of the assessment procedures to be followed by its staff, including the selection of instruments.~~

~~4.01(3)(f) Assessment procedures used for the determination of eligibility shall have been completed no more than 12 months prior to the meeting at which eligibility is determined.~~

~~4.01(3)(g) Appropriately certificated, endorsed, registered or licensed personnel shall complete assessment procedures appropriate to the suspected area of disability in sufficient scope and intensity to determine whether the child meets the criteria for eligibility and to identify~~



~~the nature of the child's special education needs. Assessments shall include information related to enabling the child to be involved in, and progress in the general curriculum or, for preschool children, to participate in appropriate activities. When the assessment/planning team determines, on an individual basis, that a specific formal assessment procedure is not appropriate an informal assessment may replace a formal assessment procedure.~~

- 4.01(3)(h) ~~The assessment shall include both formal and informal measures and shall include a review of appropriate existing data. It shall be sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category identified or suspected.~~
- 4.01(3)(h)(i) ~~Formal measures are Individually administered standardized test instruments and/or normative data. Formal evaluations conducted by the administrative unit shall be administered by individuals appropriately licensed/certificated and endorsed in the areas being assessed. For those disciplines in which licensure/certification and/or endorsement is not available, other appropriate licensure or registration is required. In order to be considered by the planning team, formal independent or private evaluations shall be conducted by appropriately licensed/certificated and endorsed, or other appropriately registered or licensed personnel. Upon written request from the administrative unit, the parents of the child shall have the responsibility to secure information regarding the credentials of the individual(s) completing the independent or private evaluation. This request shall provide the state's criteria for licensure/certification and endorsement, or other licensure or registration.~~
- 4.01(3)(h)(ii) ~~Informal measures include but are not limited to observation, anecdotal records, behavior sampling, review of records, interviews, and checklists.~~
- 4.01(3)(i) ~~An shall be completed and documented in the following areas prior to the meeting at which a disability is determined. Persons may contribute assessment information in more than one of the following areas:~~
- 4.01(3)(i)(i) ~~Cognitive (intellectual and perceptual functioning).~~
- ~~Assessment of cognitive functioning shall include the psychological processes involved in intelligence and perception.~~
- 4.01(3)(i)(ii) ~~Social/emotional functioning (including adaptive behavior).~~
- ~~Assessment of social/emotional functioning shall include a sampling of behaviors in the home, school and community using one or more of the following: standardized measures, observation, behavior counts, interview(s), performance samples, checklists, projective techniques and record reviews.~~
- 4.01(3)(i)(iii) ~~Physical functioning.~~
- ~~Assessment of physical functioning shall include a health history, current health status, observations of the child and screening of vision and hearing acuity. Assessment of motor functioning may also be included. If vision or hearing screening is failed, formal assessment of vision or hearing shall be completed. A variety of procedures and processes may be used to obtain a health history and current health status.~~
- 4.01(3)(i)(iv) ~~Communicative (speech and language) functioning.~~

~~Assessment of communicative functioning shall include one or more of the following: language samples, observations, checklists, interview(s), performance sampling, record review and/or standardized tests and may occur in a variety of environments.~~

~~4.01(3)(i)(v) Educational achievement.~~

~~Assessment of educational performance shall include standard measures or other appropriate means devised by the examiner. For some children developmental and/or functional assessment may substitute for educational assessments.~~

~~4.01(3)(i)(vi) Life skills/career/transitional performance.~~

~~Assessment of functional life skills and vocational skills shall include one or more of the following: standardized measures, observation, behavior counts, interview(s), performance samples, interest inventories, skill analysis, checklists and record reviews and may occur in a variety of environments including home, school and community.~~

~~Information for younger children may be more appropriately obtained by developmental and/or environmental assessment techniques and/or through utilization of nationally or professionally recognized instruments.~~

~~4.01(3)(j)~~

~~4.02 (5) Re-evaluations~~ **REEVALUATIONS.**

**THE REQUIREMENTS AND PROCEDURES FOR CONDUCTING AND COMPLETING REEVALUATIONS SHALL BE CONSISTENT WITH 34 CFR §300.303 AND SECTION 4.02(4) OF THESE RULES. THE ADDITIONAL PROCEDURES FOR IDENTIFYING SPECIFIC LEARNING DISABILITY SHALL ALSO BE UTILIZED CONSISTENT WITH SECTION 4.02(7) OF THESE RULES.**

~~4.01(3)(j)(i) Comprehensive evaluations must be completed in accordance with these Rules:~~

~~4.01(3)(j)(i)(A) every three years;~~

~~4.01(3)(j)(i)(B) prior to change of disability and eligibility, including termination from special education due to ineligibility; or~~

~~4.01(3)(j)(i)(C) in appropriate areas prior to a significant change in placement; and may be conducted more frequently if conditions unique to the child warrant or if requested by the child's parent or teacher.~~

~~4.01(3)(j)(ii) Prior to the re-evaluation, the parent(s) shall be notified of the re-evaluation in writing and shall be provided with a copy of a document explaining the procedural safeguards set forth in Section 6.00 of these Rules. Administrative unit personnel must demonstrate that they have taken reasonable measures to obtain written informed consent from the parent(s) in accordance with Section 4.01(3)(c) of these Rules. Consent is not required to review existing data or prior to administering a test or other assessment that is given to all children at that grade level unless parental consent is required for all children.~~

~~4.01(3)(j)(iii) Responsibility for initial assessment and re-evaluation shall be with the administrative unit in which the child attends school, or, if (s)he is not enrolled in school, it shall be the responsibility of the administrative unit in which the child resides. The administrative unit of attendance shall invite the special education director or designee of the administrative unit of residence to participate in the process of the initial assessment or re-evaluation. State operated programs and eligible facilities shall be excepted from this Rule as follows:~~

- ~~4.01(3)(j)(iii)(A) Initial assessment and re-evaluation for children residing at the Colorado School for the Deaf and the Blind and the Mental Health Institutes, and the Division of Youth Corrections shall be the responsibility of those agencies which shall invite the administrative unit of residence to participate.~~
- ~~4.01(3)(j)(iii)(B) Initial assessment and re-evaluation for incarcerated children shall be the responsibility of the Department of Corrections.~~
- ~~4.01(3)(j)(iii)(C) Re-evaluation for children at eligible facilities shall be the responsibility of the administrative unit of residence.~~
- ~~4.01(3)(j)(iv) The IEP team and other qualified professionals as appropriate shall review existing assessment data on the child and identify what additional data, if any, are needed to determine disability, present level of performance, needs, and/or additions or modifications to the IEP which are needed to enable the child to meet the goals in the IEP and participate, as appropriate, in the general curriculum. If this group determines that no additional data are needed, the administrative unit:~~
- ~~4.01(3)(j)(iv)(A) shall notify the child's parent(s) of that determination and the reasons for it, and the right of such parent(s) to request an assessment to determine whether the child continues to be a child with a disability; and~~
- ~~4.01(3)(j)(iv)(B) shall not be required to conduct such an assessment unless requested to do so by the child's parent(s) or teacher.~~

~~4.01(4)-~~

**4.02 (6) Determination of Disability and Eligibility.**

**REQUIREMENTS AND PROCEDURES FOR DETERMINING DISABILITY AND ELIGIBILITY SHALL BE CONSISTENT WITH 34 CFR §300.306.** Once a special education referral has been made and ~~assessment~~ **THE INITIAL EVALUATION HAS BEEN** completed, a meeting shall be held to determine if the child has a disability and if the child is eligible for special education. If the child is determined to have a disability and is eligible, an IEP shall be developed **FOR THE CHILD IN ACCORDANCE WITH SECTION 4.03 OF THESE RULES.** These functions may occur at the same meeting or at different meetings.

~~4.01(4)(a)~~

**4.02 (6) (A) Timeline.**

~~4.01(4)(a)(i)~~

**4.02 (6) (A) (I)** A meeting to discuss the **INITIAL** evaluation of the child and to determine if the child has a disability and is eligible for special education shall be held within a **REASONABLE PERIOD OF** time frame ~~to allow the IEP to be developed within 45 school days of the date of the special education referral~~ **AFTER THE INITIAL EVALUATION IS COMPLETED.**

~~4.01(4)(a)(ii)~~

**4.02 (6) (A) (II)** **A FOLLOWING A REEVALUATION,** A meeting shall be held **WITHIN A REASONABLE PERIOD OF TIME** to discuss the ~~re-evaluation~~ **REEVALUATION** of the child ~~as required in 4.01(3)(j) of these Rules,~~ to determine if the child continues to have a disability, and to determine if the child continues to be eligible for special education **AND/OR TO IDENTIFY ALL OF THE CHILD'S SPECIAL EDUCATION AND RELATED SERVICES NEEDS.**

4.01(4)(b) Responsibility.

~~Meetings during which a disability or eligibility is initially considered shall be the responsibility of the administrative unit in which the child attends school or, if (s)he is not enrolled in school, it shall be the responsibility of the administrative unit in which the child resides.~~

~~4.01(4)(b)(i) If the administrative unit in which the parent resides would be different from the unit of attendance, the administrative unit of attendance shall notify the administrative unit in which the child's parent resides prior to the assessment process so that the administrative unit of residence can choose to participate in the process.~~

~~4.01(4)(b)(ii) If the administrative unit in which the parent resides disagrees with the determination of disability, the unit may elect to initiate an informal process such as negotiation or mediation or it may request the Commissioner of Education to review the process of determination.~~

~~4.01(4)(b)(iii) Except for state operated programs and eligible facilities, review meetings in which the determination of disability and eligibility is reconsidered shall be the responsibility of the administrative unit of attendance. This includes review meetings for children with disabilities attending on-line programs within the administrative unit of attendance. For state operated programs, review meetings in which the determination of disability and eligibility are reconsidered shall be the responsibility of the state operated programs. For eligible facilities, review meetings in which the determination of disability and eligibility are reconsidered shall be the responsibility of the administrative unit of residence.~~

~~4.01(4)(b)(iv) When the charter contract between a charter school and its chartering district allows the charter school to provide the special education services, and to conduct the meetings required by these Rules, the charter school shall be responsible for meetings concerning the determination of disability and eligibility.~~

~~4.01(4)(c)~~

4.02 (6) (B) Participants.

Meetings to determine if the child has a disability and is eligible for special education, whether held separately or in connection with a meeting to develop an IEP, must include:

~~4.01(4)(c)(i)~~

4.02 (6) (B) (I) A multidisciplinary team knowledgeable about the child and about the meaning of the evaluation data. **THE MULTIDISCIPLINARY TEAM SHALL INCLUDE:**

4.02 (6) (B) (I) (A) **AT LEAST ONE TEACHER OR OTHER SPECIALIST WITH KNOWLEDGE IN THE AREA OF THE CHILD'S SUSPECTED DISABILITY;**

4.02 (6) (B) (I) (B) **AS NECESSARY, OTHER QUALIFIED PROFESSIONALS, E.G., AN OCCUPATIONAL THERAPIST; A SPEECH LANGUAGE PATHOLOGIST; A PHYSICAL THERAPIST; AND A SCHOOL PSYCHOLOGIST; AND**

4.02 (6) (B) (I) (C) **THE PARENT OF THE CHILD.**

~~4.01(4)(c)(ii) At least one teacher or other specialist with knowledge in the area of suspected disability.~~

~~4.01(4)(c)(iii) Parents must also be given the opportunity to consult with the team or a representative thereof prior to determination that their child has a disability.~~

~~4.01(4)(c)(iv)~~

4.02 (6) (B) (II) At the discretion of the special education director for the administrative unit of residence, the special education director or designee for that THE administrative unit of residence.

~~4.01(4)(d)~~

4.02 (6) (C) Change of disability and/or eligibility.

A change of disability and/or eligibility may only be made after reassessment REEVALUATION CONDUCTED IN ACCORDANCE WITH SECTION 4.02(5) OF THESE RULES and at a meeting in which the results of reassessment REEVALUATION are considered IN ACCORDANCE WITH SECTION 4.02(6)(A)(II). IN ADDITION, A CHANGE INVOLVING A SPECIFIC LEARNING DISABILITY SHALL BE MADE CONSISTENT WITH THE ADDITIONAL PROCEDURES SET FORTH IN SECTION 4.02(7) OF THESE RULES.

~~4.01(4)(d)(i) Parents must be provided with written notice of the meeting and the proposed change of disability and/or eligibility and informed of their procedural safeguards.~~

~~4.01(4)(d)(ii) Should a child no longer meet eligibility criteria and no longer be eligible for special education and related services, such services shall be terminated by the team.~~

4.02 (6) (C) (I) THE EVALUATION DESCRIBED IN SECTION 4.02(6)(C) IS NOT REQUIRED BEFORE THE TERMINATION OF A CHILD'S ELIGIBILITY FOR SPECIAL EDUCATION DUE TO GRADUATION FROM SECONDARY SCHOOL WITH A REGULAR DIPLOMA, OR DUE TO REACHING AGE 21.

4.02 (6) (C) (II) FOR A CHILD WHOSE ELIGIBILITY TERMINATES UNDER CIRCUMSTANCES DESCRIBED IN SECTION 4.02(6)(C)(I), THE ADMINISTRATIVE UNIT/STATE-OPERATED PROGRAM MUST PROVIDE THE CHILD WITH A SUMMARY OF THE CHILD'S ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE, WHICH SHALL INCLUDE RECOMMENDATIONS ON HOW TO ASSIST THE CHILD IN MEETING THE CHILD'S POSTSECONDARY GOALS.

4.02 (7) ADDITIONAL PROCEDURES FOR IDENTIFYING CHILDREN WITH SPECIFIC LEARNING DISABILITIES

THE DEFINITION AND CRITERIA FOR THE SPECIFIC LEARNING DISABILITY CATEGORY ARE SET FORTH IN SECTION 2.08(6) OF THESE RULES. THE ADDITIONAL REQUIREMENTS AND PROCEDURES FOR IDENTIFYING CHILDREN WITH SPECIFIC LEARNING DISABILITIES SHALL BE CONSISTENT WITH 34 CFR §300.307(B), §300.308, §300.309(B) – (C), §300.310 AND §300.311.

4.02 (7) (A) EXCEPTION: THE OPTIONAL DOCUMENTARY STATEMENT CONTAINED IN 34 CFR §300.311(A)(5)(II)(B) SHALL NOT APPLY.

4.01(4)(e)

4.02 (8) Record of meeting.

If the determination of disability and eligibility occur at a separate meeting from the IEP meeting, a record of the meeting shall be maintained which must include, when applicable, a statement of the child's disability and the criteria utilized to determine eligibility as identified in Section 2.02 of these Rules. ~~Such record should be a part of the IEP, when developed.~~

#### 4.02

#### 4.03 ~~Individualized Education Planning Resulting in an Individualized Education Program (IEP)~~ **INDIVIDUALIZED EDUCATION PROGRAMS**

The ~~IEP~~ TERM "INDIVIDUALIZED EDUCATION PROGRAM" OR "IEP" IS MEANS a written statement FOR EACH CHILD WITH A DISABILITY that is developed, reviewed and/or revised ~~as a result of an individualized planning process~~ in accordance with these Rules. EXCEPT AS IS OTHERWISE SET FORTH IN THIS SECTION 4.03, THE REQUIREMENTS REGARDING IEPS SHALL BE CONSISTENT WITH 34 CFR §300.320 THROUGH §300.325.

4.02(1) ~~Timelines for Meetings.~~

4.02(1)(a) ~~If a child is determined to have a disability, an shall be developed within 45 school days of the date of the special education referral~~

4.02(1)(b) ~~If separate meetings are held for the determination of disability and the development of an IEP, the meeting to develop the IEP must be held within 30 calendar days of the determination that the child has a disability and is in need of special education services. This must, however fall within the 45 school day timeline.~~

4.02(1)(c) ~~Meetings to review and revise each child's IEP and determine the child's placement shall be initiated and conducted periodically, at least once a year. An IEP shall be in effect at the beginning of each school year for each child with a disability.~~

4.02(1)(d) ~~Additional meetings may be held any time throughout the school year at a mutually convenient time at the request of the parent(s), the child and/or the administrative unit or eligible facility, and the IEP may be revised so long as the planning is done in accordance with these Rules.~~

4.03 (1) THE REQUIREMENTS GOVERNING WHEN IEPS MUST BE IN EFFECT SHALL BE CONSISTENT WITH 34 CFR §300.323. THE TOPICS ADDRESSED BY 34 CFR §300.323 INCLUDE:

4.03 (1) (A) THE GENERAL REQUIREMENT THAT AN IEP FOR EACH CHILD WITH A DISABILITY MUST BE IN EFFECT AT THE BEGINNING OF EACH SCHOOL YEAR;

4.03 (1) (B) OPTIONS FOR UTILIZING AN IEP OR IFSP FOR CHILDREN AGED THREE THROUGH FIVE;

4.03 (1) (C) THE ADMINISTRATIVE UNIT OF RESIDENCE SHALL PARTICIPATE IN MEETINGS REGARDING THE TRANSITION PLANNING PROCESS FROM INFANT/TODDLER TO SPECIAL EDUCATION PRESCHOOL SERVICES CONSISTENT WITH THE REQUIREMENTS OF 34 CFR §300.124;

4.03 (1) (D) THE INITIAL PROVISION OF SERVICES, INCLUDING TIMELINES;

- 4.03 (1) (D) (I) EXCEPTION: THE INITIAL IEP FOR A CHILD SHALL BE DEVELOPED WITHIN 90 CALENDAR DAYS OF THE DATE THAT PARENTAL CONSENT WAS OBTAINED TO CONDUCT THE INITIAL EVALUATION.
- 4.03 (1) (E) ACCESSIBILITY OF THE CHILD'S IEP TO TEACHERS AND OTHERS;
- 4.03 (1) (F) IEPs FOR CHILDREN WHO TRANSFER PUBLIC AGENCIES WITHIN THE STATE;
- 4.03 (1) (G) IEPs FOR CHILDREN WHO TRANSFER FROM ANOTHER STATE; AND
- 4.03 (1) (H) TRANSMITTAL OF RECORDS.
- 4.03 (2) THE REQUIREMENTS FOR THE DEVELOPMENT, REVIEW, AND REVISION OF THE IEP SHALL BE CONSISTENT WITH 34 CFR §300.324. THE TOPICS COVERED BY 34 CFR §300.324 INCLUDE:
- 4.03 (2) (A) GENERAL FACTORS THAT THE IEP TEAM MUST CONSIDER;
- 4.03 (2) (B) SPECIAL FACTORS THAT THE IEP TEAM MUST CONSIDER;
- 4.03 (2) (C) REQUIREMENTS WITH RESPECT TO THE GENERAL EDUCATION TEACHER;
- 4.03 (2) (D) IEP CHANGES MUTUALLY AGREED TO BY THE PARENT AND THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM AFTER THE ANNUAL IEP REVIEW MEETING AND WITHOUT CONVENING THE IEP TEAM;
- 4.03 (2) (E) CONSOLIDATION OF IEP TEAM MEETINGS;
- 4.03 (2) (F) AMENDMENTS TO THE IEP;
- 4.03 (2) (G) REVIEW AND REVISION OF THE IEP;
- 4.03 (2) (H) FAILURE TO MEET TRANSITION OBJECTIVES;
- 4.03 (2) (I) RULE OF CONSTRUCTION;
- 4.03 (2) (J) CHILDREN WITH DISABILITIES IN ADULT PRISONS;
- 4.03 (3) MEETINGS TO REVIEW AND REVISE EACH CHILD'S IEP AND TO DETERMINE THE CHILD'S PLACEMENT SHALL BE INITIATED AND CONDUCTED AT LEAST ONCE EVERY 365 DAYS.

~~4.02(2)~~

4.03 (4) Responsibility for IEP Meetings.

THE RELATIVE RESPONSIBILITIES OF ADMINISTRATIVE UNITS, STATE-OPERATED PROGRAMS AND ELIGIBLE FACILITIES FOR IEP DEVELOPMENT, REVIEW AND REVISION ARE ESTABLISHED IN RULE 8.00.

~~4.02(2)(a)~~

~~If the determination is made that the child has a disability and is eligible for special education, all meetings to initially develop or to subsequently review the child's individualized educational program (IEP) shall be the responsibility of the administrative unit of attendance which shall timely invite the administrative unit of residence to participate as~~



~~an IEP team member. This includes on-line programs operated within the administrative unit of attendance. Exceptions to this Rule are as follows:~~

- ~~4.02(2)(a)(i) All meetings for children residing at the Colorado School for the Deaf and the Blind and the Mental Health Institutes, and the Division of Youth Corrections shall be the responsibility of those agencies which shall invite the administrative unit of residence to participate.~~
- ~~4.02(2)(a)(ii) All meetings for incarcerated children at the Department of Corrections shall be the responsibility of that agency.~~
- ~~4.02(2)(a)(iii) Meetings to develop the initial individualized educational program (IEP) for children at eligible facilities shall be the responsibility of the administrative unit of attendance (the administrative unit in which the facility is located). Thereafter IEP review meetings and re-determination of eligibility shall be the responsibility of the administrative unit of residence.~~
- ~~4.02(2)(a)(iv) When the charter contract between a charter school and its chartering district allows the charter school to provide the special education services and to conduct the meetings required by these Rules, the charter school shall be responsible for meetings to initially develop and subsequently review the IEP.~~

~~4.02(3)~~

~~4.03 (5) Participants in meetings.~~

~~4.02(3)(a) Meetings EXCEPT AS IS OTHERWISE PROVIDED FOR IN THIS SECTION 4.03(5), THE IEP TEAM REQUIREMENTS CONTAINED IN 34 CFR §300.321 SHALL APPLY IN THEIR ENTIRETY TO MEETINGS held for the development of an initial IEP or for the review of an IEP based on reevaluation and determination of disability and eligibility, shall include the following participants IEP.~~

~~4.02(3)(a)(i) The child unless the child's age or preference of the parent(s) indicates otherwise.~~

~~4.02(3)(a)(ii) The child's parent(s), as identified in Section 2.07(1) of these Rules, unless they decide not to attend.~~

~~4.02(3)(a)(iii) A regular education teacher who is knowledgeable about the general curriculum.~~

~~4.02(3)(a)(iv)~~

~~4.03 (5) (A) THE Director of special education or designee who is knowledgeable about the availability of resources of the administrative unit and has the authority to commit those resources SHALL BE A REQUIRED AGENCY REPRESENTATIVE CONSISTENT WITH 34 CFR 300.321(A)(4). THE REQUIREMENTS CONTAINED IN 34 CFR §300.321(E) REGARDING THE NON-ATTENDANCE OR EXCUSAL OF CERTAIN IEP TEAM MEMBERS SHALL NOT APPLY TO THIS IEP TEAM MEMBER.~~

~~4.02(3)(a)(v) Persons with authority to make building level decisions regarding service delivery.~~

~~4.02(3)(a)(vi) Administrative unit or eligible facility personnel who collectively have the following qualifications:~~

~~4.02(3)(a)(vi)(A) A staff member qualified to provide or supervise instructional and/or related services in the area of the child's suspected disability.~~



- 4.02(3)(a)(vi)(B) ~~Persons who have information relevant to the functioning, achievement and performance of the child.~~
- 4.02(3)(a)(vi)(C) ~~Persons knowledgeable about the results and meaning of the assessment information when new assessment is to be considered.~~
- 4.02(3)(a)(vi)(D) ~~Persons knowledgeable about service delivery options including out-of-district options where appropriate.~~
- 4.02(3)(a)(vii) ~~At the discretion of the parent or unit/facility, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate.~~
- 4.02(3)(a)(viii) ~~Representatives of other agencies, facilities, private schools or administrative units when determined appropriate by the administrative unit of residence. This includes a representative of a public agency that is likely to be responsible for providing or paying for transition services.~~
- 4.02(3)(a)(ix) ~~At least one special education teacher or service provider of the child.~~
- 4.02(3)(a)(x)
- 4.03 (5) (B) If the meeting is not the responsibility of the administrative unit of residence, the special education director or designee for that **THE** administrative unit of residence may, at his/her discretion, participate in the meeting.
- 4.02(3)(b) ~~Should a meeting be held only for the review of the IEP, the meeting shall include the following participants:~~
- 4.02(3)(b)(i) ~~The director of special education or designee who is knowledgeable about the availability of resources of the administrative unit and has the authority to commit those resources.~~
- 4.02(3)(b)(ii) ~~The child unless the child's age or preference of the parent(s) indicates otherwise.~~
- 4.02(3)(b)(iii) ~~The child's parent(s), as identified in Section 2.07(1) of these Rules, unless they decide not to attend.~~
- 4.02(3)(b)(iv) ~~The child's regular education teacher. If the child's regular education teacher is not knowledgeable about the general curriculum, then a regular education teacher who is knowledgeable about the general curriculum must also attend.~~
- 4.02(3)(b)(v) ~~The child's licensed special educators.~~
- 4.02(3)(b)(vi) ~~Other persons at the discretion of the parent or unit/facility.~~
- 4.02(3)(b)(vii)
- 4.03 (5) (C) **Representatives IF THE CHILD HAS BEEN PUBLICLY PLACED AT AN ELIGIBLE FACILITY OR A PRIVATE SCHOOL, A REPRESENTATIVE** of the **ELIGIBLE** facility or private school which the child attends, if applicable **MUST ATTEND THE IEP TEAM MEETING**. If the representative is unable to attend, their **HIS OR HER** participation is **MUST BE** ensured through other methods, including individual or conference telephone calls **METHODS CONSISTENT WITH 34 CFR §300.328**.

- 4.02(3)(b)(viii) ~~If the meeting is not the responsibility of the administrative unit of residence, the special education director or designee for the administrative unit of residence may, at his/her discretion, participate in the meeting.~~
- 4.02(4)
- 4.03 (6) Content of IEP/Record of Meeting.
- ~~Except for state operated programs and eligible facilities, the IEP team of the child's administrative unit of attendance shall develop a written IEP for the child. In the context of parental school choice, the proposed administrative unit of attendance is responsible for convening the IEP team when needed if there is a question whether the school of choice is an appropriate placement for the child. Each state operated program is responsible for developing the written IEPs for children with disabilities in its program. The IEP team of the administrative unit of attendance shall develop the initial IEPs for children placed in eligible facilities. Subsequent IEP reviews for children placed in eligible facilities shall be developed by the administrative unit of residence. The written IEP for each child shall include the following:~~ **THE IEP MUST MEET THE IEP CONTENT REQUIREMENTS ESTABLISHED BY 34 CFR §300.320(A) AND §300.320(C). IN ADDITION, THE FOLLOWING IEP CONTENT IS REQUIRED:**
- 4.02(4)(a) ~~Statements of the child's present level of functioning, achievement and performance based on information from the meeting to determine disability and eligibility, if held separately.~~
- 4.02(4)(b) ~~Statements of the child's educational needs, including the strengths of the child and the concerns of the parent(s) for enhancing the education of their child.~~
- 4.02(4)(b)(i) ~~In the case of a child with limited English proficiency, the IEP team shall consider the language needs of the child as such needs relate to the child's IEP.~~
- 4.02(4)(b)(ii) ~~Beginning at age 14 and updated annually, the IEP shall contain a statement of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced-placement courses or vocational education program).~~
- 4.02(4)(c) ~~Statement of the child's disability and the criteria utilized to determine inability to receive reasonable educational benefit from regular education as identified in Section 2.02 of these Rules.~~
- ~~Note: — If the determination of disability and eligibility occurred at a separate meeting from the IEP meeting, that information is recorded as part of the IEP.~~
- 4.02(4)(d) ~~Statement of how the child's disability affects the child's progress in the general curriculum; or for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities.~~
- 4.02(4)(e) ~~Statements of measurable annual goals and short-term instructional objectives which:~~
- 4.02(4)(e)(i) ~~are related to meeting the child's needs that result from the child's disability;~~
- 4.02(4)(e)(ii) ~~are designed to enable the child to be involved in and progress in the general curriculum;~~
- 4.02(4)(e)(iii) ~~measure progress toward the goals with objective criteria and evaluation procedures and schedules; and~~

- 4.02(4)(f) ~~A statement of:~~
- 4.02(4)(f)(i) ~~how the child's progress toward the annual goals will be measured; and~~
- 4.02(4)(f)(ii) ~~how the child's parent(s) will be regularly informed (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.~~
- 4.02(4)(g) ~~Statements of:~~
- ~~4.02(4)(g)(i) specific special education and related services:~~
- ~~• including transition services beginning at age 16, or younger when appropriate; and~~
  - ~~• including a statement of the interagency responsibilities or any needed linkages, if appropriate; and~~
- 4.02(4)(g)(ii) ~~supplementary aids and services to be provided to the child, or on behalf of the child.~~
- ~~Such statements shall include the specified amount of services to be provided so that the commitment of resources and the manner in which services will be delivered will be clear to all who are involved in both the development and implementation of the IEP. If transition services that have been agreed to by another agency are subsequently not provided, the administrative unit must reconvene the IEP team to identify alternative strategies to meet the student's transition needs.~~
- 4.02(4)(h) ~~Projected dates for initiation of services and the anticipated duration of services, including consideration of the need for services beyond the regular school year.~~
- 4.02(4)(i) ~~Recommendations as to where the services will be provided and the extent to which the child will participate in regular education programs.~~
- 4.02(4)(j) ~~Determination and description of any special transportation needs for the child.~~
- 4.02(4)(k)  
4.03 (6) (A) The written IEP for each child with a hearing disability shall also include a Communication Plan as developed by the IEP team. The Plan shall include the following:
- 4.02(4)(k)(i)  
4.03 (6) (A) (I) A statement identifying the child's primary communication mode as one or more of the following: Aural, Oral, Speech-based, English Based Manual or Sign System, American Sign Language. Further, there should be no denial of opportunity for instruction in a particular communication mode based on:
- 4.03 (6) (A) (I) (A) residual hearing,
- 4.03 (6) (A) (I) (B) the parents' inability to communicate in the child's communication mode or language, nor

4.03 (6) (A) (I) (C) the child's experience with another mode of communication or language.

~~4.02(4)(k)(ii)~~

4.03 (6) (A) (II) A statement documenting that an explanation was given of all educational options provided by the school district and available to the child.

~~4.02(4)(k)(iii)~~

4.03 (6) (A) (III) A statement documenting that the IEP team, in addressing the child's needs, considered the availability of deaf/hard of hearing adult role models and a deaf/hard of hearing peer group of the child's communication mode or language.

~~4.02(4)(k)(iv)~~

~~The teachers, interpreters, and other specialists delivering the communication plan to the student must have demonstrated proficiency in, and be able to accommodate for, the child's primary communication mode or language.~~

~~4.02(4)(k)(v)~~

4.03 (6) (A) (IV) The communication-accessible academic instruction, school services, and extracurricular activities the student will receive must be identified.

THE TEACHERS, INTERPRETERS, AND OTHER SPECIALISTS DELIVERING THE COMMUNICATION PLAN TO THE STUDENT MUST HAVE DEMONSTRATED PROFICIENCY IN, AND BE ABLE TO ACCOMMODATE FOR, THE CHILD'S PRIMARY COMMUNICATION MODE OR LANGUAGE.

~~4.02(4)(l)~~

4.03 (6) (B) The written IEP for each child with a vision disability shall ~~also~~ include a ~~Literacy Modality~~ **LEARNING MEDIA** Plan as developed by the IEP team based on comprehensive assessment of the student's **LEARNING AND** literacy modalities by a licensed teacher endorsed in the area of visual impairment. Braille shall be the literacy ~~modality~~ **MEDIUM** selected unless the IEP team determines, based on the comprehensive literacy ~~modality~~ **LEARNING MEDIA** assessment that instruction in Braille is not appropriate. The plan shall include the following:

~~4.02(4)(l)(i)~~

4.03 (6) (B) (I) a statement of how the selected **LEARNING AND** literacy mode or modes will be implemented as the student's primary or secondary mode for achieving literacy and why such mode or modes have been selected,

~~4.02(4)(l)(ii)~~

4.03 (6) (B) (II) a statement of how the student's instruction in the selected **LEARNING AND** literacy mode or modes will be integrated into educational activities.

~~4.02(4)(l)(iii)~~

4.03 (6) (B) (II) the date on which the student's instruction in the selected mode or modes shall commence, the amount of instructional time to be dedicated to each **LEARNING AND** literacy mode, and the service provider responsible for each area of instruction, and

~~4.02(4)(l)(iv)~~

4.03 (6) (B) (IV) a statement of the level of competency in each selected **LEARNING AND** literacy mode or modes which the student should achieve by the end of the period covered by the IEP.

- 4.02(4)(l)(v) ~~When Braille is a selected literacy mode, the teacher delivering Braille instruction to the student~~ **COLORADO TEACHERS LICENSED AND ENDORSED IN THE AREA OF VISUAL IMPAIRMENT** must have demonstrated competency in reading and writing **LITERARY Braille PER THE GUIDELINES DEVELOPED BY THE COLORADO DEPARTMENT OF EDUCATION.**
- 4.02(4)(m) ~~In the case of a child whose behavior impedes his or her learning or that of others, document that the team considered, when appropriate, strategies, including positive behavioral interventions, and supports to address that behavior.~~
- 4.02(4)(n) ~~Document whether the child requires assistive technology devices and services.~~
- 4.02(4)(o) ~~A statement specifying whether the student shall achieve the content standards adopted by the district in which the student is enrolled or whether the student shall achieve individualized standards which would indicate the student has met the requirements of the individual educational program.~~
- 4.03 (6) (C) ACADEMIC CONTENT STANDARDS**
- 4.03 (6) (C) (I) THE IEP FOR A CHILD ENROLLED IN A SCHOOL DISTRICT OR THE STATE CHARTER SCHOOL INSTITUTE SHALL SPECIFY:**
- 4.03 (6) (C) (I) (A) WHETHER THE CHILD SHALL ACHIEVE THE CONTENT STANDARDS ADOPTED BY THE DISTRICT IN WHICH THE CHILD IS ENROLLED OR BY THE STATE CHARTER SCHOOL INSTITUTE; OR**
- 4.03 (6) (C) (I) (B) WHETHER THE CHILD SHALL ACHIEVE INDIVIDUALIZED STANDARDS WHICH WOULD INDICATE THAT THE CHILD HAS MET THE REQUIREMENTS OF HIS OR HER IEP:**
- 4.03 (6) (C) (II) FOR EACH CHILD ATTENDING SCHOOL IN AN ELIGIBLE FACILITY OR STATE-OPERATED PROGRAM, THE IEP SHALL SPECIFY:**
- 4.03 (6) (C) (II) (A) WHETHER THE CHILD SHALL ACHIEVE STATE OR LOCAL CONTENT STANDARDS; OR**
- 4.03 (6) (C) (II) (B) WHETHER THE CHILD SHALL ACHIEVE INDIVIDUALIZED STANDARDS WHICH WOULD INDICATE THAT THE CHILD HAS MET THE REQUIREMENTS OF HIS OR HER IEP.**
- 4.02(4)(p) ~~Description of modifications, if necessary, that will be provided, for a child with a disability:~~
- 4.02(4)(p)(i) ~~to advance appropriately toward attaining the annual goals;~~
- 4.02(4)(p)(ii) ~~to be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities; and~~
- 4.02(4)(p)(iii) ~~to be educated and participate with other children with disabilities and nondisabled children, provided that the child does not impede the learning, welfare or safety of others.~~
- 4.02(4)(q) ~~A statement:~~

- ~~4.02(4)(q)(i)- of any individual modifications in the administration of state or districtwide assessments of student achievement that are needed in order for the child to participate in such assessment; and~~
- ~~4.02(4)(q)(ii) of why that assessment is not appropriate for the child and how the child will be assessed, if the IEP team determines that the child will not participate in a particular state or districtwide assessment of student achievement (or part of such an assessment)~~
- ~~4.02(4)(r)- An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class; rationale for providing services outside of the regular classroom if accomplishment of IEP goals and objectives cannot be achieved satisfactorily there; and documentation of options considered.~~
- 4.03 (6) (D) EXCEPTION: IN LIEU OF 34 CFR §300.320(B), THE IEP CONTENT REQUIREMENT FOR TRANSITION SERVICES SHALL BE AS FOLLOWS:
- 4.03 (6) (D) (I) BEGINNING WITH THE FIRST IEP DEVELOPED WHEN THE CHILD IS AGE 15, BUT NO LATER THAN THE END OF 9<sup>TH</sup> GRADE, OR EARLIER IF DEEMED APPROPRIATE BY THE IEP TEAM, AND UPDATED ANNUALLY, THEREAFTER, THE IEP MUST INCLUDE:
- 4.03 (6) (D) (II) APPROPRIATE MEASURABLE POSTSECONDARY GOALS BASED UPON AGE APPROPRIATE TRANSITION ASSESSMENTS RELATED TO TRAINING, EDUCATION, EMPLOYMENT, AND, WHERE APPROPRIATE, INDEPENDENT LIVING SKILLS; AND;
- 4.03 (6) (D) (III) THE TRANSITION SERVICES (AS DEFINED IN SECTION 2.51 OF THESE RULES AND INCLUDING COURSES OF STUDY) NEEDED TO ASSIST THE CHILD IN REACHING THOSE GOALS.
- 4.03 (6) (E) BEGINNING NOT LATER THAN ONE YEAR BEFORE THE CHILD REACHES THE AGE OF MAJORITY (I.E., AGE 21), THE IEP MUST INCLUDE A STATEMENT THAT THE CHILD HAS BEEN INFORMED OF THE CHILD'S RIGHTS UNDER 6.02(9) OF THESE RULES AND 34 CFR §300.520.
- 4.03 (6) (F) BENCHMARKS AND SHORT-TERM OBJECTIVES.
- 4.03 (6) (F) (I) CONSISTENT WITH 34 CFR §300.320(A)(2)(II), FOR STUDENTS WITH DISABILITIES WHO TAKE ALTERNATE ASSESSMENTS ALIGNED TO ALTERNATE ACHIEVEMENT STANDARDS, THE IEP SHALL CONTAIN A DESCRIPTION OF BENCHMARKS OR SHORT-TERM OBJECTIVES.
- 4.03 (6) (F) (II) RULE OF CONSTRUCTION: NOTHING IN THESE RULES SHALL BE CONSTRUED TO PROHIBIT AN ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM FROM INCLUDING BENCHMARKS OR SHORT TERM OBJECTIVES IN A CHILD'S IEP.
- ~~4.02(5) Notice of meetings.~~
- 4.03 (7) PARENT PARTICIPATION
- 4.03 (7) (A) THE REQUIREMENTS FOR ENSURING PARENT PARTICIPATION IN THE DEVELOPMENT OF IEPs SHALL BE CONSISTENT WITH 34 CFR §300.322.

- 4.03 (7) (B) EXCEPTION: IN LIEU OF 34 CFR §300.322(B)(2), THE REQUIREMENTS REGARDING PARENT PARTICIPATION AT MEETINGS INVOLVING POSTSECONDARY GOALS AND SERVICES FOR A CHILD SHALL BE AS FOLLOWS:
- 4.03 (7) (B) (I) BEGINNING WITH THE FIRST IEP DEVELOPED WHEN THE CHILD IS AGE 15, BUT NO LATER THAN THE END OF 9<sup>TH</sup> GRADE, OR EARLIER IF DEEMED APPROPRIATE BY THE IEP TEAM, AND UPDATED ANNUALLY, THEREAFTER, THE NOTICE OF MEETING MUST:
- 4.03 (7) (B) (I) (A) INDICATE THAT A PURPOSE OF THE MEETING WILL BE THE CONSIDERATION OF THE POSTSECONDARY GOALS AND TRANSITION SERVICES IN ACCORDANCE WITH SECTION 4.03(6)(D) OF THESE RULES;
- 4.03 (7) (B) (I) (B) INDICATE THAT THE RESPONSIBLE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM WILL INVITE THE STUDENT; AND
- 4.03 (7) (B) (I) (C) IDENTIFY ANY OTHER AGENCY THAT WILL BE INVITED TO SEND A REPRESENTATIVE. CONSISTENT WITH 34 CFR §300.321(B)(3), THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM MUST OBTAIN THE CONSENT OF THE PARENT TO INVITE SUCH REPRESENTATIVE.
- 4.03 (8) THE REQUIREMENTS FOR PARENT INVOLVEMENT IN EDUCATIONAL PLACEMENT DECISIONS SHALL BE CONSISTENT WITH 34 CFR §300.327 AND §300.501(C).
- 4.03 (8) (A) THE DETERMINATION OF PLACEMENT MUST BE BASED ON THE CHILD'S IEP AND MADE BY THE IEP TEAM. THE TERMS "PLACEMENT" OR "EDUCATIONAL PLACEMENT" ARE USED INTERCHANGEABLY AND MEAN THE PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES AND DO NOT MEAN A SPECIFIC PLACE, SUCH AS A SPECIFIC CLASSROOM OR SPECIFIC SCHOOL. DECISIONS REGARDING THE LOCATION IN WHICH A CHILD'S IEP WILL BE IMPLEMENTED AND THE ASSIGNMENT OF SPECIAL EDUCATION STAFF RESPONSIBILITIES SHALL BE MADE BY THE DIRECTOR OF SPECIAL EDUCATION OR DESIGNEE.
- 4.03 (8) (B) CHANGE IN PLACEMENT.
- 4.03 (8) (B) (I) NONSIGNIFICANT CHANGE IN PROGRAM/SERVICES.
- WHEN A CHILD'S EDUCATIONAL PROGRAM IS ALTERED, SUCH AS A CHANGE IN THE AMOUNT OF A GIVEN SERVICE, THE CHANGE IN PROGRAM/SERVICES IS A NONSIGNIFICANT CHANGE IN PROGRAM/SERVICES.
- 4.03 (8) (B) (I) (A) PRIOR WRITTEN NOTICE OF SUCH CHANGES MUST BE PROVIDED TO THE PARENT.
- 4.03 (8) (B) (I) (B) CONSENT IS NOT REQUIRED.
- 4.03 (8) (B) (I) (C) A NON-SIGNIFICANT CHANGE IN PROGRAM/SERVICES MUST BE MADE BY THE IEP TEAM UNLESS THE PARENT AND THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM MUTUALLY AGREE TO CHANGE THE IEP AFTER THE ANNUAL

IEP MEETING IN A SCHOOL YEAR CONSISTENT WITH 34 CFR §300.324(A)(4). HOWEVER, REEVALUATION IS NOT REQUIRED.

4.03 (8) (B) (II) SIGNIFICANT CHANGE IN PLACEMENT:

4.03 (8) (B) (II) (A) A SIGNIFICANT CHANGE IN PLACEMENT FOR EDUCATIONAL PURPOSES INCLUDES PLACEMENT OR REFERRAL TO A PRIVATE SCHOOL OR ELIGIBLE FACILITY BY THE ADMINISTRATIVE UNIT, THE ADDITION OR TERMINATION OF AN INSTRUCTIONAL OR RELATED SERVICE OR ANY CHANGE WHICH WOULD RESULT IN THE FOLLOWING:

4.03 (8) (B) (II) (A) (I) THE CHILD HAVING DIFFERENT OPPORTUNITIES TO PARTICIPATE IN NONACADEMIC AND EXTRACURRICULAR SERVICES,

4.03 (8) (B) (II) (A) (II) THE NEW PLACEMENT OPTION IS A CHANGE IN THE EDUCATIONAL ENVIRONMENT CATEGORIES REQUIRED FOR REPORTING DATA TO THE SECRETARY OF THE U.S. DEPARTMENT OF EDUCATION PURSUANT TO SECTION 618 OF THE IDEA.

4.03 (8) (B) (II) (A) (III) THE CHILD TRANSFERS FROM A BRICK AND MORTAR SCHOOL TO AN ON-LINE PROGRAM OR VICE VERSA. THE ADMINISTRATIVE UNIT FOR THE ENTITY SPONSORING THE ON-LINE PROGRAM IS RESPONSIBLE FOR CONDUCTING THE REEVALUATION AND CONVENING THE IEP TEAM TO DETERMINE WHETHER THE ON-LINE PROGRAM IS AN APPROPRIATE PLACEMENT FOR THE CHILD.

4.03 (8) (B) (II) (B) A SIGNIFICANT CHANGE IN PLACEMENT SHALL BE MADE UPON CONSIDERATION OF REEVALUATION. SUCH CHANGE SHALL BE MADE ONLY BY AN IEP TEAM WITH THE ADDITION OF THOSE PERSONS CONDUCTING SUCH REEVALUATION UNLESS THE PARENT AND THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM MUTUALLY AGREE TO CHANGE THE IEP AFTER THE ANNUAL IEP MEETING IN A SCHOOL YEAR CONSISTENT WITH 34 CFR §300.324(A)(4).

4.03 (8) (B) (III) A CHANGE IN BUILDING OR LOCATION

A CHANGE IN BUILDING OR LOCATION THAT IS NOT A CHANGE IN PLACEMENT, AS DESCRIBED IN SECTION 4.03 (8) (B), MAY BE ACCOMPLISHED WITHOUT CONVENING THE CHILD'S IEP TEAM OR CONDUCTING A REEVALUATION. DECISIONS CHANGING LOCATION OR BUILDING SHOULD BE MADE WITH DUE CONSIDERATION FOR THE IMPACT ON THE CHILD'S TOTAL EDUCATION PROGRAM. A LOCATION OR BUILDING DECISION THAT DOES NOT CONSTITUTE A CHANGE IN PLACEMENT DOES NOT REQUIRE PRIOR WRITTEN NOTICE OR AN IEP TEAM MEETING.



4.03 (8) (B) (IV) PUBLIC SCHOOL CHOICE.

WHEN A STUDENT TRANSFERS TO A NEW SCHOOL OR PROGRAM, INCLUDING AN ON-LINE PROGRAM, UNDER PUBLIC SCHOOL CHOICE, THE TRANSFER REQUIREMENTS CONTAINED IN 34 CFR §300.323(E) APPLY. IF THE TRANSFER CONSTITUTES A SIGNIFICANT CHANGE IN PLACEMENT, AS DESCRIBED IN SECTION 4.03(8)(B)(II) OF THESE RULES, THE ADMINISTRATIVE UNIT IN WHICH THE RECEIVING SCHOOL OR PROGRAM IS LOCATED MUST CONDUCT A REEVALUATION CONSISTENT WITH SECTION 4.03(8)(B)(II)(B) AND ALSO CONVENE AN IEP TEAM TO ENSURE THAT THE RECEIVING SCHOOL OR PROGRAM IS AN APPROPRIATE PLACEMENT FOR THE STUDENT. WHEN THE CHARTER CONTRACT BETWEEN A CHARTER SCHOOL AND ITS AUTHORIZER ALLOWS THE CHARTER SCHOOL TO PROVIDE THE SPECIAL EDUCATION SERVICES AND TO CONDUCT THE IEP MEETING REQUIRED BY THIS RULE, THE CHARTER SCHOOL SHALL BE RESPONSIBLE FOR THE EVALUATION AND IEP MEETING. HOWEVER, THE ADMINISTRATIVE UNIT OF THE AUTHORIZER REMAINS ULTIMATELY RESPONSIBLE FOR ENSURING COMPLIANCE WITH ALL SPECIAL EDUCATION REQUIREMENTS.

4.03 (8) (C) THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM SHALL CONSIDER THE COST TO THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM WHEN CHOOSING BETWEEN TWO OR MORE APPROPRIATE PLACEMENTS.

4.03 (9) PARTICIPATION OF THE ADMINISTRATIVE UNIT OF RESIDENCE

IF THE ADMINISTRATIVE UNIT OF RESIDENCE IS NOT RESPONSIBLE FOR A MEETING, AS SET FORTH IN SECTION 8.00 OF THESE RULES, THE ADMINISTRATIVE UNIT OF ATTENDANCE OR STATE-OPERATED PROGRAM SHALL TIMELY NOTIFY THE SPECIAL EDUCATION DIRECTOR/DESIGNEE FOR THE ADMINISTRATIVE UNIT OF RESIDENCE. SUCH NOTIFICATION SHALL BE PROVIDED AT THE SAME TIME AND IN THE SAME MANNER THAT THE PARENT IS NOTIFIED OF THE MEETING.

4.03 (10) PRIVATE PLACEMENTS MADE BY ADMINISTRATIVE UNITS AND PUBLIC AGENCIES

EVERY ADMINISTRATIVE UNIT AND EVERY PUBLIC AGENCY, AS THAT TERM IS DEFINED IN SECTION 9.01(5) OF THESE RULES, SHALL COMPLY WITH THE OUT-OF-HOME AND OUT-OF-DISTRICT PLACEMENT REQUIREMENTS SET FORTH IN 34 CFR §300.325 AND SECTION 9.00 OF THESE RULES.

~~4.02(5)(a) Written notification of the meeting shall be provided to the parent(s).~~

~~4.02(5)(a)(i) Parent(s) shall be notified of the meeting in a timely manner to insure that they will have the opportunity to attend.~~

~~4.02(5)(a)(ii) Written notification shall indicate the purpose, time, location of the meeting and who will be in attendance.~~

~~4.02(5)(a)(iii) Written notification shall indicate that parent(s) have the right to reschedule the meeting at a mutually agreed upon time and place if such can be found.~~

- ~~4.02(5)(a)(iv) If neither parent can attend, the unit shall use other methods to insure parent participation including individual or conference telephone calls, and maintain a record of its attempts to arrange a meeting at a mutually agreed upon time and place.~~
- ~~4.02(5)(b) For meetings regarding the transition planning process from infant/toddler to special education preschool services:~~
- ~~4.02(5)(b)(i) with the approval of the family, a meeting shall be held with the public agency responsible for ensuring the provision of infant/toddler services, the family and the administrative unit of residence, at least 90 days or at the discretion of those involved, six months prior to the child's third birthday. The meeting shall result in a written transition plan and be designed to provide a smooth and effective transition to preschool services;~~
- ~~4.02(5)(b)(ii) by the child's third birthday an Individualized Education Plan (IEP) or Individual Family Service Plan (IFSP) must have been developed and implemented (if the child's third birthday occurs during the summer, the IEP team determines the date services will begin); and~~
- ~~4.02(5)(b)(iii) the administrative unit must participate in the planning process which includes the development of the IEP or IFSP.~~
- ~~4.02(5)(b)(iv) An IFSP may serve as the IEP for a child with a disability age 3-5 (or at the discretion of the administrative unit, for a two year old child who will turn three during the school year) under the following conditions:~~
- ~~4.02(5)(b)(iv)(A) the parent is given a detailed explanation of the differences between an IEP and an IFSP;~~
- ~~4.02(5)(b)(iv)(B) both the parent and the administrative unit agree to use an IFSP;~~
- ~~4.02(5)(b)(iv)(C) written informed consent is obtained from the parent; and~~
- ~~4.02(5)(b)(iv)(D) the IFSP is developed in accordance with sections 4.01 and 4.02 of these Rules and contains the content required in an IFSP.~~
- ~~4.02(5)(c) Meetings regarding the consideration of transition needs and services to prepare for transition from school to post school activities, the administrative unit shall:~~
- ~~4.02(5)(c)(i) invite the student to his/her own meeting and document the invitation in the student's record;~~
- ~~4.02(5)(c)(ii) take other steps to ensure that the student's preferences and interests are considered if the student does not attend;~~
- ~~4.02(5)(c)(iii) invite a representative of any other agency that is likely to be responsible for providing or paying for transition services; and~~
- ~~4.02(5)(c)(iv) take other steps to obtain the participation of the agency in the planning of any transition services, if the agency invited to send a representative to a meeting does not do so.~~
- ~~4.02(5)(d) If the administrative unit of attendance is responsible for the meeting, when the parent(s) is notified of the initial IEP development meeting and each subsequent IEP review meeting,~~

~~the special education director or designee for the administrative unit of residence shall also be notified of the meeting in the same manner that the parent is notified.~~

- ~~4.02(5)(e) Each meeting notice to the parents shall be accompanied by a copy of a document explaining the procedural safeguards set forth in Section 6.00 of these Rules.~~
- ~~4.02(6) When developing, reviewing or revising an IEP, required participants in the planning meeting shall:~~
  - ~~4.02(6)(a) Draw upon and consider information from a variety of sources including: aptitude and achievement tests, parent input, teacher recommendations and reports on physical condition, social or cultural background and adaptive behavior.~~
  - ~~4.02(6)(b) Insure that information obtained from all of these sources is documented and carefully considered.~~
  - ~~4.02(6)(c) Reach decisions through group discussion and consensus. Should consensus not be reached, the majority and minority opinions of the participants shall be recorded as part of the IEP and made available to the director of special education.~~
- ~~4.02(7) Each administrative unit, state operated program, and eligible facility shall assure the provision of special education instructional and related services in accordance with the IEP, and shall make a good faith effort to assist the child to achieve the goals and objectives listed in the IEP. Prior to the initial provision of special education and related services, parent(s) shall receive written notification and provide written permission for such services. Services shall then commence immediately or at least within 3 days of the IEP meeting or in accordance with other arrangements agreed to by the parent. The administrative unit/facility shall ensure that all teachers/service providers are informed of their responsibilities related to implementing the child's IEP and that they have access to the IEP.~~
- ~~4.02(8) Prior to a significant change in placement for educational purposes, a re-evaluation Section 4.01(3)(j) of these Rules shall be conducted.~~
  - ~~4.02(8)(a) Parental consent requirements outlined in sections 4.01(3)(c)(ii) and (iii) of these Rules shall apply.~~
  - ~~4.02(8)(b) Once the re-evaluations are completed, an IEP meeting shall be held to determine if the change in placement is appropriate.~~

#### **4.03 Procedures for Transfer Students**

~~The transfer procedures in this section shall apply if a child moves into an administrative unit from another administrative unit in Colorado, or from another state and is known to have been receiving special education services. This section shall also apply when a child enrolls in a public school of choice which is located outside of the child's administrative unit of residence, including a charter school or an on-line program. However, for a child transferring into an on-line program from a brick and mortar school, or vice versa, Section 4.03(1)(c) of these Rules is the only option available because such transfer constitutes a significant change in placement, and the procedures set forth in Section 5.04(2) of these Rules must be followed. The director of special education or designee, shall pursue one of the following options:~~

- ~~4.03(1) For students transferring within the state:~~

- ~~4.03(1)(a) Provide services immediately in accordance with the child's IEP. All requirements for reviews shall be followed and a copy of the IEP shall be on file.~~
- ~~4.03(1)(b) Provide the child with interim special education and related services agreed to by the parent(s) and the director of special education or designee, while waiting for the record of the IEP. Should the record of the IEP not be received within a reasonable amount of time, the administrative unit must refer the child for complete assessment and planning in accordance with these Rules. The referral and assessment process must be initiated so as to allow the completion of the IEP within 30 school days from the date enrollment was requested.~~
- ~~4.03(1)(c) Refer the child for a complete assessment and planning in accordance with these Rules in the meantime providing services as indicated on the last agreed upon IEP or providing special education and related services as agreed to by the parents and the director of special education and documented in the student's record. Such assessment and planning shall be completed within 30 school days. If the school or on-line program bills the district of residence for tuition costs, billing may occur for services provided during the 30 school days. If the transfer is to an on-line program from a brick and mortar school, or vice versa, the assessment required by this section may be a re-evaluation as set forth in Section 4.01(3)(j) of these Rules.~~
- ~~4.03(1)(d) Services to a child moving into an administrative unit and known to have been receiving special education services, utilizing one of the above three options, shall commence according to the following:~~
- ~~4.03(1)(d)(i) immediately, if the services/program are available,~~
- ~~4.03(1)(d)(ii) within 3 school days of requested enrollment if the services/program need to be developed, or~~
- ~~4.03(1)(d)(iii) other options agreed to in writing by the parent(s).~~
- ~~4.03(1)(e) When a child transfers to a public school of choice which is located outside the child's administrative unit of residence, including a charter school or an on-line program, a written notice of the child's enrollment shall be provided to the district of residence and the administrative unit of residence in accordance with Section 4.06 of these Rules.~~
- ~~4.03(2) For students transferring from another state:~~
- ~~4.03(2)(a) The administrative unit must ascertain whether it will adopt the most recent evaluation and IEP developed in the previous state;~~
- ~~4.03(2)(b) If the administrative unit elects to adopt the most recent evaluation and IEP from another state and determines that the IEP meets Colorado's education standards that IEP can be implemented;~~
- ~~4.03(2)(c) If the administrative unit elects not to adopt the out of state evaluations and IEP it must seek consent to conduct an initial evaluation;~~
- ~~4.03(2)(d) While the evaluation is in process the administrative unit shall provide the student with interim special education and related services agreed to by the parent, unless the parent and administrative unit are unable to agree upon interim services, in which case the student shall be placed in the regular school program;~~

4.03(2)(e) ~~If the parent disagrees with the new evaluation or the proposed IEP a due process hearing can be requested. During the pendency of the hearing, the student could be placed in the program proposed by the administrative unit, with the parents' agreement, or another placement on which the parent and administrative unit agree. However, if the parent does not agree to place the student in the program proposed by the administrative unit and no other interim placement can be agreed upon the administrative unit shall place the student in the regular educational program.~~

4.03(2)(f) ~~If the child is transferring from an out-of-state brick and mortar school to a public on-line program, the procedures set forth in 4.03(1)(c) shall apply because the transfer constitutes a significant change in placement.~~

#### **4.04      ~~Diagnostic Services~~**

~~If an administrative unit places a child for diagnostic purposes as part of an initial evaluation, the following requirements shall be met:~~

4.04(1) ~~The administrative unit shall obtain written permission for assessment as well as written permission for temporary special education and related services for diagnostic purposes from the child's parent(s) or guardian(s), and documentation of this permission shall be maintained in the child's file.~~

4.04(2) ~~An initial eligibility meeting shall be held within 30 school days of the diagnostic placement.~~

4.04(3) ~~The child shall not be reported as having a disability for state and federal funds during the period of provision of services for diagnostic purposes.~~

#### **4.05      ~~Manner of Meetings~~**

##### **4.03    (11)    ~~ALTERNATIVE MEANS OF MEETING PARTICIPATION~~**

~~The meetings required by these Rules may be conducted face-to-face, via telephone conferencing, electronically, or a combination thereof as long as the confidentiality of the child is maintained and meeting participants are provided with documentation necessary to allow them to meaningfully participate in the meeting.~~

~~ALTERNATIVE MEANS OF MEETING PARTICIPATION AND CARRYING OUT ADMINISTRATIVE MATTERS INVOLVING PROCEDURAL SAFEGUARDS SHALL BE CONSISTENT WITH 34 CFR §300.328.~~

**REQUIREMENTS FOR FUNDING ELIGIBILITY****5.01 Free Appropriate Public Education**

~~Each administrative unit shall provide a free appropriate public education in the least restrictive environment to children with disabilities within its jurisdiction, including children with disabilities who have been suspended or expelled from school. Each administrative unit shall ensure that FAPE is available to any individual child with a disability who needs special education and related services, even if the child is advancing from grade to grade. A "free appropriate public" education shall be defined as:~~

- ~~5.01(1) "Free" education shall be the provision of special education without cost to the child or to his/her parent(s) or guardian except for those fees that are imposed on non-disabled children or their parent(s).~~
- ~~5.01(2) "Appropriate" education shall be the provision of educational services that meet the individual needs of children with disabilities as identified on the individualized educational programs (IEPs).~~
- ~~5.01(3) "Public" education shall be the provision of educational services at public expense, under public supervision and direction and without charge to the family, that meets the standards of the Department of Education and are provided in conformity with an IEP.~~

**5.02 Least Restrictive Environment**

~~Least restrictive environment shall mean an environment in which a child with disabilities is educated with children who do not have disabilities, unless:~~

~~the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily, or when provided with supplementary aides and services, the nature or severity of the disability is so disruptive that the education of other children in such classes would be significantly impaired.~~

~~This also applies to any student with a disability placed by a public agency, including those placed in state operated programs or eligible facilities.~~

- ~~5.02(1) Placement of children with disabilities in a school or setting other than the home school by the administrative unit shall be as close as possible to the child's home.~~
- ~~5.02(2) The administrative unit shall ensure that opportunities are provided for children with disabilities to participate with children without disabilities in academic, nonacademic and extra-curricular activities as determined by the needs of the child.~~
- ~~5.02(3) The rationale for placement of a child with a disability in an alternative to the home school shall be documented on the IEP form.~~
- ~~5.02(4) When choosing between two or more appropriate placements, the administrative unit shall consider the cost.~~
- ~~5.02(5) The rationale for providing services outside of the regular classroom shall be based on student needs and shall be documented on the IEP.~~

**5.03 Special Education Services**

- ~~5.03(1) Each administrative unit shall make available special education and related services for the education of any child with disabilities between the ages of three and twenty-one and may~~

~~make such services available below the age of three. Special education services shall mean specially designed instruction to meet the unique needs of a child with a disability.~~

- ~~5.03(1)(a) "Specially Designed Instruction" shall mean that instruction which is specifically designed according to the guidelines developed by the Department of Education.~~
- ~~5.03(1)(b) Related services shall mean transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education instructional services.~~
- ~~5.03(1)(c) Special education instructional and related services are those services required to enable a child with disabilities to receive an appropriate education.~~
- ~~5.03(2) Each administrative unit shall have a written description of its comprehensive delivery system.~~
- ~~5.03(3) The comprehensive delivery system shall include a continuum of special education services. Such continuum shall include:~~
  - ~~5.03(3)(a) Regular education with supports and/or modifications, that is, either the curriculum, method of presentation, instructional strategies or classroom environments are modified.~~
  - ~~5.03(3)(b) Special classes in which educational services are provided for part or all of the school day in order to meet the identified needs of the child.~~
  - ~~5.03(3)(c) Special programs on or off campus in which educational services are provided in order to meet the identified educational needs of the child.~~
  - ~~5.03(3)(d) Options of providing services in existing out-of-unit locations as dictated by child's' needs when such services are not available within the unit. These services may include but not be limited to:~~
    - ~~5.03(3)(d)(i) Special programs off campus in which educational services are provided in order to meet the identified educational needs of the child.~~
    - ~~5.03(3)(d)(ii) Residential facilities, hospitals or institutional settings when the child's condition and/or the home environment precludes the child from attending a public school facility.~~
    - ~~5.03(3)(d)(iii) Home and community services.~~
- ~~5.03(4) The delivery system shall include services in:~~
  - ~~5.03(4)(a) Academics: those services which are defined by each district for all its students with appropriate adaptations and modifications for students with disabilities.~~
  - ~~5.03(4)(b) Developmental/Compensatory Skill Development: those services which enhance cognitive, communicative, physical and social-emotional development and teach students the skills critical to compensate for their disability.~~
  - ~~5.03(4)(c) Transition/Life Skill/Career Development: those services which are necessary to teach students to function independently or interdependently in current and future environments including school, home, employment and the community.~~
- ~~5.03(5) The delivery system shall also include:~~

5.03(5)(a) ~~Services which are provided directly (to the child with disabilities), indirectly (to the providers of services or to the parent(s) and families of the children with disabilities) and in combination.~~

5.03(5)(b) ~~An explanation of how these service providers are organized to meet the needs of students.~~

**5.04 Placement**

~~Placement of a child for special education services as stated on the IEP and assignment of special staff responsibilities shall be made by the director of special education or designee, who shall place the child with disabilities in the least restrictive environment consistent with the placement decision of the individualized education planning team, including the parents and other persons who are knowledgeable about the child, the meaning of the evaluations and the placement options.~~

5.04(1) ~~Change in placement.~~

5.04(1)(a) ~~Change in Location/Facility.~~

~~A change in class location, a change in program location, a change of location of a related service and a transfer from one school to another with the same district are administrative decisions and may or may not constitute a change in placement. Such decisions should be made on a case by case basis with consideration for the impact programs and services and with consideration for the impact on the child's total education. Such changes do not require written notice in accordance with section 6.02 of these Rules nor an IEP meeting.~~

5.04(1)(b) ~~Change in program/services.~~

~~When a child's educational program is materially altered, such as a change in the amount of a given service, and not an instance which involves only a change in the physical location of the program, the change in program/services is considered a change in placement and must be determined by an IEP team.~~

5.04(1)(b)(i) ~~Written notice of such changes must be provided to the parent.~~

5.04(1)(b)(ii) ~~Consent is not required.~~

5.04(1)(b)(iii) ~~A non-significant change in placement may be made by an IEP team without reassessment.~~

5.04(1)(c) ~~Change in building level.~~

~~When a child changes level (i.e. from elementary school to middle school) this may be considered either a change in location or a change in program/services, depending on the circumstances.~~

5.04(2) ~~Significant change in placement.~~

5.04(2)(a) ~~A significant change in placement for educational purposes includes placement or referral to a private school or facility by the administrative unit, addition or termination of an instructional or related service or any change which would result in the following:~~

5.04(2)(a)(i) ~~the child being educated with non-disabled children for an additional or lesser period of time,~~



- 5.04(2)(a)(ii) ~~the child having different opportunities to participate in nonacademic and extracurricular services;~~
- 5.04(2)(a)(iii) ~~the new placement option being a different option on the continuum of alternative placements in accordance with Section 5.03 (3) of these Rules, or~~
- 5.04(2)(a)(iv) ~~the child transfers from a brick and mortar school to an on-line program or vice versa.~~
- 5.04(2)(b) ~~A significant change in placement shall be made upon consideration of reassessment. Such change shall be made only by an IEP team with the addition of those persons conducting such assessment. However, reassessment is not required before termination of a student's eligibility due to graduation with a regular high school diploma or exceeding the age of eligibility.~~
- 5.04(3) **Placements in Private Schools or Eligible Facilities by the Administrative Unit**
- 5.04(3)(a) ~~Prior to an administrative unit placing a child with a disability in, or referring a child to, a private school or facility, the administrative unit shall initiate and conduct a meeting to develop an IEP in accordance with these Rules.~~
- 5.04(3)(b) ~~The administrative unit shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the administrative unit shall use other methods to ensure participation, including individual or conference telephone calls.~~
- 5.04(3)(c) ~~After a child with a disability enters a private school or eligible facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or eligible facility at the discretion of the administrative unit.~~
- 5.04(3)(d) ~~If the private school or eligible facility initiates and conducts these meetings, the administrative unit shall ensure:~~
- 5.04(3)(d)(i) ~~That the parents and an administrative unit 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; and~~
- 5.04(3)(d)(ii) ~~That the IEP meeting is conducted in accordance with these Rules.~~
- 5.04(3)(e) ~~It is the responsibility of the administrative unit of residence to ensure that special education and related services are provided consistent with the IEP and at no cost to the parent.~~
- 5.04(4) **Placements of Children in Private Schools by Their Parents**
- 5.04(4)(a) ~~If the parents of a child with a disability, who previously received special education and related services in an administrative unit, enroll the child in a private school without the consent of or referral by the administrative unit, the administrative unit is not responsible for the cost of that enrollment, unless a court or hearing officer determines that the private school placement is appropriate and requires the administrative unit to reimburse the parents because it finds that the administrative unit had not made a free appropriate public education available to the child in a timely manner. A hearing officer or court may find a placement to be appropriate even if it does not meet the standards that apply to education provided by the administrative unit.~~

- ~~5.04(4)(b)- The cost of reimbursement may be reduced or denied if:~~
- ~~5.04(4)(b)(i)- At the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP team that they were rejecting the placement proposed by the administrative unit, including stating their concerns and their intent to enroll their child in a private school; or~~
- ~~5.04(4)(b)(ii)- If at least ten calendar days prior to removal of the child from the public school, the parents did not give written notice to the administrative unit of their rejection of the placement proposed by the administrative unit, their concerns and their intent to enroll their child in a private school; or~~
- ~~5.04(4)(b)(iii)- If, prior to the parent's removal of the child from the public school, the public agency informed the parents, through the procedures described in 6.02 of these Rules, of its intent to evaluate the child, including a statement of the purpose of the evaluation, but the parents did not make the child available for the evaluation; or~~
- ~~5.04(4)(b)(iv)- If the court or hearing officer makes a judicial finding of unreasonableness with respect to actions taken by the parents.~~
- ~~5.04(4)(c)- The cost of reimbursement may not be reduced or denied for failure to provide the notice if:~~
- ~~5.04(4)(c)(i)- the parent is illiterate and cannot write in English; or~~
- ~~5.04(4)(c)(ii)- the school prevented the parent from providing the notice; or~~
- ~~5.04(4)(c)(iii)- the parents had not received a statement of parental rights describing the notification requirement; or~~
- ~~5.04(4)(c)(iv)- if taking the actions described in Section 5.04(4)(b)(i) and (ii) would likely have resulted in physical or serious emotional harm to the child~~

## **5.01 STATE ELIGIBILITY**

THE STATE OF COLORADO ("STATE") IS ELIGIBLE FOR ASSISTANCE UNDER PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT ("IDEA") IF THE STATE HAS IN EFFECT POLICIES AND PROCEDURES TO ENSURE THAT THE STATE MEETS THE CONDITIONS OF 34 CFR §§300.101 THROUGH 300.176 AS FOLLOWS:

- 5.01 (1) FAPE REQUIREMENTS AS ESTABLISHED BY:
- 5.01 (1) (A) 34 CFR §300.101 WHICH ADDRESSES THE FOLLOWING TOPICS:
- 5.01 (1) (A) (I) GENERAL REQUIREMENTS FOR FAPE;
- 5.01 (1) (A) (II) FAPE FOR CHILDREN BEGINNING AT AGE 3; AND
- 5.01 (1) (A) (III) CHILDREN ADVANCING FROM GRADE TO GRADE.
- 5.01 (1) (B) 34 CFR §300.102 WHICH ESTABLISHES THE LIMITATIONS AND EXCEPTIONS TO FAPE REQUIREMENTS INCLUDING:

- 5.01 (1) (B) (I) CHILDREN WHO DO NOT MEET THE STATE'S AGE REQUIREMENTS FOR FAPE;
- 5.01 (1) (B) (II) CHILDREN INCARCERATED IN ADULT CORRECTIONAL FACILITIES;
- 5.01 (1) (B) (III) CHILDREN WITH DISABILITIES WHO HAVE GRADUATED FROM HIGH SCHOOL WITH A REGULAR DIPLOMA; AND
- 5.01 (1) (B) (IV) CHILDREN WHO ARE ELIGIBLE UNDER SUBPART 34 CFR §300.800 THROUGH §300.818 (PRESCHOOL GRANTS FOR CHILDREN WITH DISABILITIES);
- 5.01 (1) (C) 34 CFR §300.103 - METHODS AND PAYMENTS;
- 5.01 (1) (D) 34 CFR §300.104 - RESIDENTIAL PLACEMENT;
- 5.01 (1) (E) 34 CFR §300.105 - ASSISTIVE TECHNOLOGY;
- 5.01 (1) (F) 34 CFR §300.106 - EXTENDED SCHOOL YEAR SERVICES;
- 5.01 (1) (G) 34 CFR §300.107 – NONACADEMIC SERVICES;
- 5.01 (1) (H) 34 CFR §300.108 – PHYSICAL EDUCATION;
- 5.01 (1) (I) 34 CFR §300.109 – FULL EDUCATIONAL OPPORTUNITY GOAL;
- 5.01 (1) (J) 34 CFR §300.110 – PROGRAM OPTIONS;
- 5.01 (1) (K) 34 CFR §300.111 –CHILD FIND;
- 5.01 (1) (L) 34 CFR §300.112 – IEPS;
- 5.01 (1) (M) 34 CFR §300.113 – ROUTINE CHECKING OF HEARING AIDS AND EXTERNAL COMPONENTS OF SURGICALLY IMPLANTED MEDICAL DEVICES;
- 5.01 (2) LEAST RESTRICTIVE ENVIRONMENT (LRE) REQUIREMENTS AS ESTABLISHED BY:
  - 5.01 (2) (A) 34 CFR §300.114 –GENERAL REQUIREMENTS;
  - 5.01 (2) (B) 34 CFR §300.115 – CONTINUUM OF ALTERNATIVE PLACEMENTS;
  - 5.01 (2) (C) 34 CFR §300.116 – PLACEMENTS;
  - 5.01 (2) (D) 34 CFR §300.117 – NONACADEMIC SETTINGS;
  - 5.01 (2) (E) 34 CFR §300.118 – CHILDREN IN PUBLIC OR PRIVATE INSTITUTIONS;
  - 5.01 (2) (F) 34 CFR §300.119 – TECHNICAL ASSISTANCE AND TRAINING ACTIVITIES; AND
  - 5.01 (2) (G) 34 CFR §300.120 – MONITORING ACTIVITIES.
- 5.01 (3) REQUIREMENTS FOR PROCEDURAL SAFEGUARDS AS ESTABLISHED BY 34 CFR §300.121 AND §300.500 THROUGH §300.536 EXCEPT AS IS OTHERWISE PROVIDED FOR IN SECTION 6.02 OF THESE RULES.

- 5.01 (4) REQUIREMENTS FOR EVALUATION AS ESTABLISHED BY 34 CFR §300.122 AND §300.300 THROUGH §300.311 EXCEPT AS IS OTHERWISE PROVIDED FOR IN SECTION 4.03 OF THESE RULES.
- 5.01 (5) REQUIREMENTS FOR SAFEGUARDING THE CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION AS ESTABLISHED BY 34 CFR §300.123 AND §300.610 THROUGH §300.626 AND SECTION 6.01 OF THESE RULES.
- 5.01 (6) REQUIREMENTS REGARDING THE TRANSITION OF CHILDREN FROM PART C PROGRAMS TO PRESCHOOL PROGRAMS UNDER PART B OF IDEA AS ESTABLISHED BY 34 CFR §300.124.
- 5.01 (7) REQUIREMENTS REGARDING CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOLS AS ESTABLISHED BY 34 CFR §300.129 THROUGH §300.144.
- 5.01 (8) REQUIREMENTS REGARDING CHILDREN WITH DISABILITIES PLACED IN OR REFERRED TO PRIVATE SCHOOLS OR FACILITIES BY AN ADMINISTRATIVE UNIT OR A STATE-OPERATED PROGRAM AS MEANS OF PROVIDING SPECIAL EDUCATION SERVICES AS ESTABLISHED BY 34 CFR §300.145 THROUGH §300.147.
- 5.01 (9) REQUIREMENTS REGARDING CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOLS WHEN FAPE IS AT ISSUE AS ESTABLISHED BY 34 CFR §300.148.
- 5.01 (10) REQUIREMENTS REGARDING THE DEPARTMENT'S RESPONSIBILITIES FOR GENERAL SUPERVISION AS ESTABLISHED BY 34 CFR §300.149 AND §300.150.
- 5.01 (11) REQUIREMENTS REGARDING STATE COMPLAINT PROCEDURES AS ESTABLISHED BY 34 CFR §300.151 THROUGH §300.153 AND THE DEPARTMENT'S SPECIFIC PROCEDURES.
- 5.01 (12) REQUIREMENTS REGARDING METHODS FOR ENSURING SERVICES AS ESTABLISHED BY 34 CFR §300.154.
- 5.01 (13) REQUIREMENTS REGARDING HEARINGS RELATED TO LEA ELIGIBILITY AS ESTABLISHED BY 34 CFR §300.155 AND SECTION 7.07 OF THESE RULES.
- 5.01 (14) REQUIREMENTS REGARDING PERSONNEL QUALIFICATIONS AS ESTABLISHED BY 34 CFR §300.156 AND SECTIONS 2.20 AND 3.04 OF THESE RULES.
- 5.01 (15) REQUIREMENTS REGARDING PERFORMANCE GOALS AND INDICATORS AS ESTABLISHED BY 34 CFR §300.157.
- 5.01 (16) REQUIREMENTS REGARDING THE SUPPLEMENTATION OF STATE, LOCAL AND OTHER FEDERAL FUNDS AS ESTABLISHED BY 34 CFR §300.162 THROUGH §300.164 AND §300.166.
- 5.01 (17) REQUIREMENTS REGARDING PUBLIC PARTICIPATION AS ESTABLISHED BY 34 CFR §300.165.
- 5.01 (18) REQUIREMENTS REGARDING THE COLORADO SPECIAL EDUCATION ADVISORY COMMITTEE AS ESTABLISHED BY 34 CFR §300.168 AND §300.169.

- 5.01 (19) REQUIREMENTS REGARDING SUSPENSION AND EXPULSION RATES AS ESTABLISHED BY 34 CFR §300.170.
- 5.01 (20) REQUIREMENTS REGARDING AN ANNUAL DESCRIPTION OF PART B FUNDS AS ESTABLISHED BY 34 CFR §300.171.
- 5.01 (21) REQUIREMENTS REGARDING ACCESS TO INSTRUCTIONAL MATERIALS, INCLUDING THE DEPARTMENT’S ADOPTION OF THE NATIONAL INSTRUCTIONAL MATERIALS ACCESSIBILITY STANDARD (NIMAS) AS ESTABLISHED BY 34 CFR §300.172.
- 5.01 (21) (A) THE DEPARTMENT ADOPTS THE NIMAS, PUBLISHED AS APPENDIX C TO PART 300 OF 34 CFR.
- 5.01 (21) (B) THE DEPARTMENT SHALL COORDINATE WITH THE NATIONAL INSTRUCTIONAL MATERIALS ACCESS CENTER (NIMAC) FOR PURPOSES OF PROVIDING INSTRUCTIONAL MATERIALS IN A TIMELY MANNER TO CHILDREN WITH DISABILITIES WHO MAY QUALIFY TO RECEIVE BOOKS AND OTHER PUBLICATIONS IN SPECIALIZED FORMATS.
- 5.01 (21) (C) DEFINITIONS APPLICABLE TO THIS SUBSECTION AND SECTION 5.02(10) OF THESE RULES:
- 5.01 (21) (C) (I) “IN A TIMELY MANNER” MEANS THAT ALL REASONABLE STEPS HAVE BEEN TAKEN TO PROVIDE CHILDREN WITH DISABILITIES INSTRUCTIONAL MATERIALS AT THE SAME TIME THAT INSTRUCTIONAL MATERIALS ARE PROVIDED TO NONDISABLED PEERS;
- 5.01 (21) (C) (II) WHEN USED IN 34 CFR §300.172, THE TERM “BLIND PERSONS OR OTHER PERSONS WITH PRINT DISABILITIES” HAS THE MEANING GIVEN IT IN 34 CFR §300.172(E)(1)(ii);
- 5.01 (21) (C) (III) “NATIONAL INSTRUCTIONAL MATERIALS ACCESS CENTER” OR “NIMAC” HAS THE MEANING GIVEN THE TERM IN 34 CFR §300.172(E)(1)(ii);
- 5.01 (21) (C) (IV) “NATIONAL INSTRUCTIONAL MATERIALS ACCESSIBILITY STANDARD” OR “NIMAS” HAS THE MEANING GIVEN THE TERM IN 34 CFR §300.172(E)(1)(iii).
- 5.01 (22) REQUIREMENTS REGARDING OVERIDENTIFICATION AND DISPROPORTIONALITY AS ESTABLISHED IN 34 CFR §300.173.
- 5.01 (23) REQUIREMENTS, INCLUDING THE RULE OF CONSTRUCTION, REGARDING THE PROHIBITION ON MANDATORY MEDICATION AS ESTABLISHED BY 34 CFR §300.174.
- 5.01 (23) (A) PERSONNEL OF THE DEPARTMENT, AN ADMINISTRATIVE UNIT, A SCHOOL DISTRICT OR A STATE-OPERATED PROGRAM ARE PROHIBITED FROM REQUIRING PARENTS TO OBTAIN A PRESCRIPTION FOR SUBSTANCES IDENTIFIED IN 34 CFR §300.174(A) AS A CONDITION OF ATTENDING SCHOOL, RECEIVING AN EVALUATION UNDER SECTION 4.02 OF THESE RULES, OR RECEIVING SPECIAL EDUCATION SERVICES.

## **5.02 ADMINISTRATIVE UNIT ELIGIBILITY**

AN ADMINISTRATIVE UNIT IS ELIGIBLE FOR ASSISTANCE UNDER PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (“IDEA”) IF THE ADMINISTRATIVE UNIT SUBMITS A PLAN THAT PROVIDES ASSURANCE TO THE DEPARTMENT THAT THE ADMINISTRATIVE UNIT MEETS EACH OF THE CONDITIONS ESTABLISHED BY 34 CFR §300.200 THROUGH §300.213 AS FOLLOWS:

- 5.02 (1) CONSISTENCY WITH STATE POLICIES ESTABLISHED UNDER THE RELEVANT SUBSECTIONS OF SECTION 5.01 OF THESE RULES AND 34 CFR §300.101 THROUGH §300.163, AND §300.165 THROUGH §300.174 AND §300.201;
- 5.02 (2) REQUIREMENTS REGARDING THE USE OF AMOUNTS OF PART B FUNDS AS ESTABLISHED IN 34 CFR §300.202;
- 5.02 (3) REQUIREMENTS REGARDING MAINTENANCE OF EFFORT AS ESTABLISHED IN 34 CFR §300.203;
- 5.02 (4) REQUIREMENTS REGARDING EXCEPTIONS TO MAINTENANCE OF EFFORT ESTABLISHED IN 34 CFR §300.204;
- 5.02 (5) REQUIREMENTS REGARDING ADJUSTMENT OF LOCAL FISCAL EFFORTS IN CERTAIN FISCAL YEARS AS ESTABLISHED IN 34 CFR §300.205;
- 5.02 (6) REQUIREMENTS REGARDING SCHOOLWIDE PROGRAMS UNDER TITLE I OF THE ESEA AS ESTABLISHED IN 34 CFR §300.206;
- 5.02 (7) REQUIREMENTS REGARDING PERSONNEL DEVELOPMENT AS ESTABLISHED IN 34 CFR §300.207;
- 5.02 (8) REQUIREMENTS REGARDING PERMISSIVE USE OF FUNDS AS ESTABLISHED IN 34 CFR §300.208;
- 5.02 (9) REQUIREMENTS REGARDING THE TREATMENT OF CHARTER SCHOOLS AS ESTABLISHED IN 34 CFR §300.209;
- 5.02 (10) REQUIREMENTS REGARDING THE PURCHASE OF INSTRUCTIONAL MATERIALS AS ESTABLISHED IN 34 CFR §300.210;
- 5.02 (11) REQUIREMENTS REGARDING THE PROVISION OF INFORMATION TO THE DEPARTMENT AS ESTABLISHED IN 34 CFR §300.211;
- 5.02 (12) REQUIREMENTS REGARDING THE ACCESSIBILITY OF ALL PART B ELIGIBILITY DOCUMENTS TO PARENTS AND THE GENERAL PUBLIC AS ESTABLISHED IN 34 CFR §300.212;
- 5.02 (13) REQUIREMENTS REGARDING RECORDS PERTAINING TO MIGRATORY CHILDREN WITH DISABILITIES AS ESTABLISHED IN 34 CFR §300.213;
- 5.02 (14) REQUIREMENTS REGARDING PRIOR LOCAL PLANS AS ESTABLISHED BY 34 CFR §300.220;
- 5.02 (15) REQUIREMENTS REGARDING ADMINISTRATIVE UNIT AND STATE-OPERATED COMPLIANCE WITH 34 CFR §§300.200 THROUGH 300.221; AND
- 5.02 (16) REQUIREMENTS REGARDING EARLY INTERVENING SERVICES.

### **5.03 STATE-OPERATED PROGRAM ELIGIBILITY**

A STATE-OPERATED PROGRAM IS ELIGIBLE FOR ASSISTANCE UNDER PART B OF THE IDEA IF THE STATE-OPERATED PROGRAM DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT THAT IT MEETS THE REQUIREMENTS SET FORTH IN 34 CFR §300.228.

### **5.04 ADDITIONAL FUNDING AND REPORTING REQUIREMENTS**

- 5.04 (1) IN ORDER TO BE RECEIVE FUNDING UNDER PART B OF THE IDEA, ADMINISTRATIVE UNITS AND STATE-OPERATED UNITS MUST TIMELY PROVIDE THE INFORMATION REQUIRED BY SECTION 618 OF THE ACT, 20 USC §1418.
- 5.04 (2) IN ORDER TO RECEIVE FUNDING UNDER THE EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT, ADMINISTRATIVE UNITS AND STATE-OPERATED PROGRAMS MUST TIMELY PROVIDE THE INFORMATION REQUIRED BY SECTION 22-20-114(4) AND (6), C.R.S.

## **SPECIAL EDUCATION ~~CONFIDENTIALITY OF INFORMATION AND~~ PROCEDURAL SAFEGUARDS DUE PROCESS PROCEDURES FOR PARENTS AND CHILDREN**

### **6.01—Confidentiality of Information**

~~Each administrative unit or eligible facility shall designate one or more employees to serve as official special education records custodian who shall be responsible for the maintenance, care and keeping of records on children with disabilities and who shall insure the confidentiality of any personally identifiable information.~~

#### **6.01(1)——Parents rights to review records.**

~~Each administrative unit or eligible facility shall permit parent(s) to inspect and review any education records relating to their children which are collected, maintained or used by the agency in accordance with the above.~~

#### **6.01(2)——Record of access.**

~~Each administrative unit or eligible facility shall keep a record of parties, as allowed by law, obtaining access to education records collected, maintained or used under this part (except access by parent(s)), and authorized employees of the administrative unit, including the name of the party, the date access was given, and the purpose for which the party was authorized to use the records.~~

~~Parties allowed by law to access records are: school officials, including teachers, who have a legitimate educational interest; officials of other schools in which the student seeks to enroll; authorized representatives of the Comptroller General of the U.S. Secretary of Education, an administrative agency; State Education Agency authorities; testing organizations (if anonymous); accrediting organizations; a student at the age of eighteen; parents of a dependent student, even if the student is of majority; those protecting the health and safety of the student; and others in emergency.~~

#### **6.01(3)——Opportunity for a hearing.**

~~Each administrative unit or eligible facility shall, on request, provide an opportunity for a hearing to parents who believe that data collected or maintained by the agency is inaccurate or misleading, or violates the privacy or other rights of the child.~~

#### **6.01(4)——Prior consent for disclosure.**

~~The special education records custodian shall obtain written parental consent before permitting personally identifiable information to be disclosed, except for those person(s) allowed by law.~~

#### **6.01(5)——Transfer of records.**

~~Special education records shall be transferred as part of the general school records from one administrative unit, private school or approved facility to another upon written or verbal request of the parent or school official when the child has transferred. Written consent of the parent is not required to transfer education records (including assessment information and the IEP) from one education agency to another for the purpose of provision of appropriate educational services. When a child transfers from one administrative unit or facility to another and special education records are transferred:~~



~~6.01(5)(a) — All applicable timelines shall transfer.~~

~~6.01(5)(b) — All items of written consent shall transfer.~~

~~6.01(6) — Destruction of information.~~

~~Each administrative unit or eligible facility shall establish procedures for destruction of information.~~

~~6.01(7) — The rights of the parents regarding educational records shall be transferred to the child at the age of 18 unless the parents have been awarded legal guardianship by the court. When the rights of the parents regarding educational records have been transferred to the child, the administrative unit, state operated program or eligible facility must provide the notices required by Sections 4.01(2)(b), 4.01(3)(j)(ii), 4.02(5)(e), 6.02, and 6.03(2)(d) of these Rules to both the child and the parents.~~

## **6.01 CONFIDENTIALITY OF INFORMATION**

PROCEDURES REGARDING THE CONFIDENTIALITY OF INFORMATION SHALL BE CONSISTENT WITH 34 CFR §300.611 THROUGH §300.626 WHICH ADDRESS THE FOLLOWING TOPICS:

- 6.01 (1) 34 CFR §300.611—DEFINITIONS;
- 6.01 (2) 34 CFR §300.612—NOTICE TO PARENTS;
- 6.01 (3) 34 CFR §300.613—PARENT ACCESS TO RECORDS;
- 6.01 (4) 34 CFR §300.614—RECORD OF ACCESS;
- 6.01 (5) 34 CFR §300.615—RECORDS ON MORE THAN ONE CHILD;
- 6.01 (6) 34 CFR §300.616—LIST OF TYPES AND LOCATIONS OF INFORMATION;
- 6.01 (7) 34 CFR §300.617—FEES;
- 6.01 (8) 34 CFR §300.618—AMENDMENT OF RECORDS AT PARENT'S REQUEST;
- 6.01 (9) 34 CFR §300.619—OPPORTUNITY FOR A HEARING;
- 6.01 (10) 34 CFR §300.620—RESULT OF HEARING;
- 6.01 (11) 34 CFR §300.621—HEARING PROCEDURES;
- 6.01 (12) 34 CFR §300.622—CONSENT;
- 6.01 (13) 34 CFR §300.623—SAFEGUARDS;
- 6.01 (14) 34 CFR §300.624—DESTRUCTION OF INFORMATION;
- 6.01 (15) 34 CFR §300.625—CHILDREN'S RIGHTS; AND
- 6.01 (16) 34 CFR §300.626—ENFORCEMENT.

## **6.02 ~~Prior Written Notice and Written Consent~~**

- ~~6.02(1) Each administrative unit or eligible facility shall provide prior written notice to parent(s) a reasonable time before the unit/facility:~~
- ~~6.02(1)(a) proposes to or refuses to initiate or change the identification, evaluation or educational program of the child or the provision of a free appropriate public education to the child, or~~
- ~~6.02(1)(b) proposes to terminate services due to graduation with a regular high school diploma, or~~
- ~~6.02(1)(c) proposes to terminate services due to the student exceeding the age of eligibility as defined in these Rules, or~~
- ~~6.02(1)(d) proposes to transfer rights regarding educational records to the student at the age of 18 (in this situation, both the parents and the student shall be notified).~~
- ~~6.02(2) Each administrative unit shall obtain written informed consent from the parent(s) prior to conducting assessments in accordance with Section 4.01(3)(c) and 4.01(3)(j) of these Rules and prior to initial placement of the child with disabilities into special education.~~
- ~~6.02(3) Written notice shall be communicated in the native language of the child's parents.~~

## **6.02 PROCEDURAL SAFEGUARDS AND DUE PROCESS PROCEDURES FOR PARENTS AND CHILDREN**

EXCEPT AS OTHERWISE PROVIDED FOR IN THIS SECTION 6.02, EACH ADMINISTRATIVE UNIT AND STATE-OPERATED PROGRAM SHALL ESTABLISH, MAINTAIN, AND IMPLEMENT PROCEDURAL SAFEGUARDS THAT MEET THE REQUIREMENTS OF 34 CFR §§300.500 THROUGH 300.536. THE TOPICS ADDRESSED BY SUCH REGULATIONS INCLUDE:

- 6.02 (1) 34 CFR §300.501—OPPORTUNITY TO EXAMINE RECORDS AND PARENT PARTICIPATION IN MEETINGS.
- 6.02 (2) 34 CFR §300.502—INDEPENDENT EDUCATIONAL EVALUATION.
- 6.02 (3) 34 CFR §300.503—PRIOR WRITTEN NOTICE AND CONTENT OF PRIOR WRITTEN NOTICE.
- 6.02 (4) 34 CFR §300.504—PROCEDURAL SAFEGUARDS NOTICE.
- 6.02 (5) 34 CFR §300.505—ELECTRONIC MAIL.
- 6.02 (6) 34 CFR §300.506—MEDIATION.

## **6.03 Due Process Hearings**

### **6.02 (7) DUE PROCESS COMPLAINTS AND APPEALS**

- ~~6.03(1) Each administrative unit shall adopt and implement procedures for conducting due process hearings when there is disagreement regarding any of the following matters:~~
- ~~6.03(1)(a) Determination of eligibility for services under ECEA.~~
- ~~6.03(1)(b) Placement of a child into an educational program.~~

- ~~6.03(1)(c) — Failure to obtain written parental consent prior to conducting an initial assessment and/or prior to providing a child with disabilities initial special education services.~~
- ~~6.03(1)(d) — The provision of a free appropriate public education.~~
- ~~6.03(2) — A parent, administrative unit, or a local school board that is a member of an administrative unit may request a due process hearing on any matter set forth above.~~
- ~~6.03(2)(a) — Disclosure of evaluations and recommendations.~~
- ~~6.03(2)(a)(i) — At least 5 business days (two business days for an expedited hearing) prior to the hearing, all evaluations completed by that date, and recommendations based on those evaluations that will be used at the hearing, must be disclosed to all parties.~~
- ~~6.03(2)(a)(ii) — The hearing officer may prevent any party that fails to comply with prior disclosure from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.~~
- ~~6.03(2)(b) — Not later than 45 days after receipt of a written request for a hearing, a final decision must be reached and a copy of that decision mailed to the parents, administrative unit and local board of education unless the timeline is appropriately extended.~~
- ~~6.03(2)(c) — Expedited due process hearings~~
- ~~6.03(2)(c)(i) — An expedited due process hearing may be requested by a parent when there is a disagreement regarding a manifestation determination or an interim alternative educational placement; or by an administrative unit when it maintains that it is dangerous for the child to be in the current placement.~~
- ~~6.03(2)(c)(ii) — Hearing officers for expedited due process hearings are those referenced in 6.03(7) and 6.03(8) of these Rules.~~

**6.02 (7) (A) GENERAL.**

EXCEPT AS IS OTHERWISE PROVIDED FOR IN THIS SECTION 6.02(7), THE REQUIREMENTS REGARDING RESOLUTION MEETINGS, DUE PROCESS HEARINGS AND APPEALS SHALL BE CONSISTENT WITH 34 CFR §300.507 THROUGH §300.515.

6.02 (7) (A) (I) PROCEDURES REGARDING THE DUE PROCESS COMPLAINT, INCLUDING THE CONTENT OF THE DUE PROCESS COMPLAINT AND FILING REQUIREMENTS, SHALL BE CONSISTENT WITH 34 CFR §300.507 AND §300.508.

6.02 (7) (A) (II) CONSISTENT WITH 34 CFR §300.509, A PARENT OR THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM MAY USE THE MODEL DUE PROCESS COMPLAINT FORM DEVELOPED BY THE DEPARTMENT, OR ANOTHER FORM OR OTHER DOCUMENT, SO LONG AS THE FORM OR DOCUMENT THAT IS USED MEETS THE DUE PROCESS COMPLAINT CONTENT REQUIREMENTS SET FORTH IN 34 CFR §300.508(B).

~~6.03(2)(d)~~  
6.02 (7) (A) (III) ~~Whenever a due process hearing is requested, the special education director for the administrative unit requesting or responding to the due process~~

~~hearing request shall provide the parent(s) with a copy of a document explaining the procedural safeguards set forth in Section 6.00 of these Rules~~  
UPON RECEIPT OF THE FIRST DUE PROCESS COMPLAINT FILED BY A PARENT IN A SCHOOL YEAR, THE SPECIAL EDUCATION DIRECTOR OF THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM MUST PROVIDE THE PARENT WITH A COPY OF THE PROCEDURAL SAFEGUARDS AVAILABLE TO PARENTS CONSISTENT WITH 34 CFR §300.504.

6.02 (7) (B) DUE PROCESS COMPLAINT – SPECIFIC FILING REQUIREMENTS.

- 6.02 (7) (B) (I) THE PARTY FILING A DUE PROCESS COMPLAINT SHALL FILE A COPY OF THE DUE PROCESS COMPLAINT WITH THE DEPARTMENT AT THE SAME TIME THAT THE DUE PROCESS COMPLAINT IS FILED WITH THE OPPOSING PARTY TO ENSURE THAT THE DEPARTMENT TIMELY ASSIGNS AN IMPARTIAL HEARING OFFICER TO THE CASE.
- 6.02 (7) (B) (II) IF THE PARTY FILING THE COMPLAINT IS A PARENT, THE PARTY SHALL FILE THE DUE PROCESS COMPLAINT WITH THE SPECIAL EDUCATION DIRECTOR OF THE AFFECTED ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM.
- 6.02 (7) (B) (III) REGARDLESS OF WHETHER THE ADMINISTRATIVE UNIT/STATE-OPERATED PROGRAM OR THE PARENT HAS INITIATED THE DUE PROCESS COMPLAINT, WHEN THE SPECIAL EDUCATION DIRECTOR OF THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM KNOWS THAT A DUE PROCESS COMPLAINT HAS BEEN FILED, IT IS THE RESPONSIBILITY OF THE SPECIAL EDUCATION DIRECTOR TO:
- 6.02 (7) (B) (III) (A) BY PHONE, IMMEDIATELY NOTIFY THE DEPARTMENT OF THE EXISTENCE OF THE DUE PROCESS COMPLAINT; AND
- 6.02 (7) (B) (III) (B) BY FACSIMILE, IMMEDIATELY PROVIDE A COPY OF THE DUE PROCESS COMPLAINT TO THE DEPARTMENT ACCOMPANIED BY A WRITTEN STATEMENT DOCUMENTING THE DATE WHEN THE DUE PROCESS COMPLAINT WAS FILED.
- 6.02 (7) (B) (IV) UNDER NO CIRCUMSTANCE MAY THE PARTY RECEIVING A DUE PROCESS COMPLAINT UNILATERALLY DETERMINE THAT THE DUE PROCESS COMPLAINT IS INSUFFICIENT OR THAT IT FAILS TO STATE A CLAIM UNDER FEDERAL OR STATE SPECIAL EDUCATION LAW. A NOTICE OF INSUFFICIENCY MAY BE PRESENTED TO THE IMPARTIAL HEARING OFFICER PURSUANT TO 34 CFR §300.508(D).

~~6.03(3) Request for hearing by parent.~~

~~6.03(3)(a) Hearings shall be initiated by a parent submitting a written request to the director of special education of an administrative unit or district that is a member of an administrative unit. The written request shall include:~~

~~6.03(3)(a)(i) the name of the child, the address of the residence of the child, and the name of the school the child is attending;~~

~~6.03(3)(a)(ii) a description of the nature of the problem, including relevant facts;~~

- ~~6.03(3)(a)(iii) a proposed resolution of the problem to the extent known and available to the parent(s) at the time; and~~
- ~~6.03(3)(a)(iv) A parent's right to a due process hearing shall not be delayed or denied for failing to provide the above information.~~
- ~~6.03(3)(b) Upon receipt of request, within ten calendar days or the first business day after the tenth day, the hearing officer shall be designated according to the following procedures:~~
- ~~6.03(3)(b)(i) The district shall notify the special education director or designee of the administrative unit of a request for hearing.~~
- ~~6.03(3)(b)(ii) The district or administrative unit shall telephone the Department of Education with a request for available hearing officers and confirm the request in writing accompanied by a copy of the request for the due process hearing.~~
- ~~6.03(3)(b)(iii) The Department of Education shall provide by telephone to each party within four calendar days the names of three available hearing officers and will confirm the names in writing accompanied by biographical information about the available hearing officers.~~
- ~~6.03(3)(b)(iv) The parent shall notify the district or administrative unit of the name of the individual that the parent eliminates from the list of three. This action shall occur so as to allow the district or administrative unit at least two days out of the total of ten days during which to strike another one of the remaining two names and to select the hearing officer.~~
- ~~6.03(3)(b)(v) The district or administrative unit shall notify the parent and the Department of Education as to whom was selected. The Department of Education will notify the hearing officer of his/her selection. If such notification is by telephone it must be confirmed in writing.~~
- ~~6.03(3)(b)(vi) For expedited due process hearings, the hearing officer shall be appointed by the Colorado Department of Education from the registry of hearing officers on a rotating basis depending on availability.~~
- ~~6.03(3)(c) If either the district, administrative unit or parent fails to eliminate a name from the hearing officer list in a timely manner the other party will notify the Department of Education which will determine if there is unwarranted delay. The Department of Education will then allow the party not responsible for the delay to select the hearing officer. If such notification is by telephone it must be confirmed in writing.~~

**6.02 (7) (C) ASSIGNMENT OF AN IMPARTIAL HEARING OFFICER.**

**THE DEPARTMENT SHALL ASSIGN AN IMPARTIAL HEARING OFFICER FROM THE REGISTRY OF IMPARTIAL HEARING OFFICERS ON A ROTATING BASIS, DEPENDING ON AVAILABILITY, WITHIN TWO BUSINESS DAYS AFTER THE DEPARTMENT'S RECEIPT OF A DUE PROCESS COMPLAINT.**

- ~~6.03(4) Request for a hearing by an administrative unit or district that is a member of an administrative unit.~~
- ~~6.03(4)(a) Hearings shall be initiated by an administrative unit or district submitting a written request to the Department of Education, Special Education Services Unit and the parent (and the administrative unit if a member district is making the request). The 45 day timeline commences upon receipt of the request by the Department of Education.~~

~~6.03(4)(b) Within ten calendar days or the first business day after the tenth day, a hearing officer shall be designated according to the following procedures:~~

~~6.03(4)(b)(i) The Department of Education shall provide by telephone to each party within four calendar days the names of three available hearing officers and will confirm the names in writing accompanied by biographical information about the available hearing officers.~~

~~6.03(4)(b)(ii) The requesting party shall notify the parent of the name of the individual that it eliminates from the list of three. This action shall occur so as to allow the parent at least two days out the total of ten days during which to strike another one of the remaining two names and to select the hearing officer.~~

~~6.03(4)(b)(iii) The parent shall notify the district or administrative unit of the name the parent eliminates.~~

~~6.03(4)(b)(iv) The district or administrative unit shall notify the Department of Education and the Department of Education will notify the hearing officer of his/her selection. If such notification is by telephone it must be confirmed in writing.~~

~~6.03(4)(b)(v) For expedited due process hearings, the hearing officer shall be appointed by the Colorado Department of Education from the registry of hearing officers on a rotating basis depending on availability.~~

~~6.03(4)(c) If either the district, administrative unit or parent fails to eliminate a name from the hearing officer list in a timely manner the other party will notify the Department of Education which will determine if there is unwarranted delay. The Department of Education will then allow the party not responsible for the delay to select the hearing officer. If such notification is by telephone it must be confirmed in writing.~~

~~6.03(5) Request for a hearing by a child with disabilities.~~

~~A child with disabilities or suspected of having a disability, who is 18 years of age, and has not been declared incompetent, may request a hearing. In such instances the procedures described in Section 6.03 (3) of these Rules shall apply.~~

~~6.03(6) Due process hearing procedures.~~

~~6.03(6)(a) The hearing officer shall:~~

~~6.03(6)(a)(i) Set forth the procedures and timelines to be followed during the hearing.~~

~~6.03(6)(a)(ii) Schedule the time and place for the hearing.~~

~~6.03(6)(a)(iii) Schedule a prehearing conference at which the issues will be identified and the specific requests of the parties determined.~~

~~6.03(6)(a)(iv) At the request of either party secure subpoenas from the Department of Administration, Division of Administrative Hearings, administrative law judges to compel attendance of witnesses at the hearing.~~

~~6.03(6)(a)(v) Ensure that a written or electronic verbatim account of the hearing is kept.~~

~~6.03(6)(a)(vi) Notify the Department of Education, in writing, of any disposition of a request for a hearing prior to the issuance of a decision.~~

- ~~6.03(6)(b) — The hearing officer may, at the request of either party, grant specific extensions of the time beyond the 45 day timeline (except in an expedited due process hearing) in which to reach a final decision and mail a copy of the decision to the parties.~~
- ~~6.03(6)(c) — Any party to a hearing has the right to:~~
- ~~6.03(6)(c)(i) — Be accompanied and advised by counsel and by individuals with special knowledge and training with respect to problems of children with disabilities.~~
  - ~~6.03(6)(c)(ii) — Present evidence (including the results of an evaluation obtained at private expense) and confront and cross-examine witnesses.~~
  - ~~6.03(6)(c)(iii) — Request the hearing officer to secure subpoenas pursuant to Section 6.03(6)(a)(iv) of these Rules, to compel the attendance of witnesses.~~
  - ~~6.03(6)(c)(iv) — Prohibit the introduction of any evidence, either through witnesses or documents, at the hearing if the witness has not been identified or the document has not been disclosed at least five business days before the hearing (two business days for an expedited hearing).~~
  - ~~6.03(6)(c)(v) — Obtain a written or, at the option of the parent, electronic verbatim record of the hearing. The cost for transcription of the record of the hearing is the responsibility of the administrative unit and shall be at no cost to the parent.~~
  - ~~6.03(6)(c)(vi) — Obtain a written or electronic copy of the findings of fact and decision, at no cost.~~
- ~~6.03(6)(d) — Decision of the hearing officer.~~
- ~~6.03(6)(d)(i) — The hearing officer shall render, in writing, all findings of fact and the decision based upon the evidence. The hearing officer shall mail it by certified mail to the parents, administrative unit, local board of education and the Department of Education within 45 days after receipt of the request for hearing or within the timeline established pursuant to Section 6.03(6)(b) of these Rules. In an expedited due process hearing, the written decision shall be mailed to the parties within 45 days of the administrative unit's receipt of the request for the hearing, without exceptions or extensions. The timelines are the same whether the hearing was requested by the administrative unit or the parent.~~
  - ~~6.03(6)(d)(ii) — Along with the decision mailed to the parties, the hearing officer shall include a copy of the portion of these Rules regarding state level review.~~
  - ~~6.03(6)(d)(iii) — The decision shall be written so that it does not contain the name of the child or parent(s) other than as contained in a cover page.~~
  - ~~6.03(6)(d)(iv) — The record of the hearing shall include all findings of fact, the decision, and tape recording of the hearing, if available. The record shall be forwarded to the Department of Education 45 days after the conclusion of the proceedings if no appeal has been made.~~
  - ~~6.03(6)(d)(v) — The grounds of the decision shall be within the scope of the issues presented on the record.~~
  - ~~6.03(6)(d)(vi) — The Department of Education shall transmit the hearing officer's findings and decision to the State Special Education Advisory Committee and other Department of Education trained hearing officers.~~
  - ~~6.03(6)(d)(vii) — If there is no appeal, the decision of the hearing officer is final and binding upon the parties.~~
- ~~6.03(6)(e) — Authority of Hearing Officers~~

- ~~6.03(6)(e)(i) A hearing officer may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 days if the hearing officer in an expedited due process hearing:~~
- ~~• Determines that the public agency has demonstrated by substantial evidence/beyond a preponderance of the evidence that maintaining the current placement of the child is substantially likely to result in injury to the child or to others;~~
  - ~~• Considers the appropriateness of the child's current placement;~~
  - ~~• Considers whether the public agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and~~
  - ~~• Determines that the interim alternative educational setting that is proposed by school personnel who have consulted with the child's special education teacher, has been determined by the IEP team; enables the child to continue to progress in the general curriculum and to continue to receive services and modifications to enable the child to meet the goals set out in the IEP; and that it includes services and modifications to address the behavior and is designed to prevent the behavior from recurring.~~
- ~~6.03(6)(e)(ii) A hearing officer shall apply these same standards in reviewing a decision by the administrative unit to place a child in an interim alternative educational setting or a manifestation determination.~~
- ~~6.03(6)(e)(iii) In reviewing a manifestation determination, the hearing officer shall determine whether the administrative unit demonstrated that the child's behavior was not a manifestation of the child's disability consistent with the following requirements:~~
- ~~• All relevant information including assessment information, other relevant information supplied by the parents of the child, observations of the child and the child's IEP and placement were considered;~~
  - ~~• A determination was made that in relation to the behavior subject to disciplinary action, the child's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement; and~~
  - ~~• A determination was made that the child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action and that the child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.~~
- ~~6.03(7) Registry of due process hearing officers.~~
- ~~The Department of Education, Special Education Services Unit, shall keep a list of persons trained by the Department of Education who may serve as due process hearing officers. The list must include a statement of the qualifications of each of these persons. Parties to a hearing shall select hearing officers from this list. A person who otherwise qualifies as a hearing officer is not an employee of a public agency solely because that hearing officer is paid by the agency to conduct a hearing.~~
- ~~6.03(8) Individuals described by the following criteria shall not be eligible as hearing officers:~~
- ~~6.03(8)(a) Officers and employees of the State Board of Education.~~



~~6.03(8)(b) — Officers and employees of school districts and administrative units.~~

~~6.03(8)(c) — Any person having a personal or professional interest, including persons involved with the care of the child, which would conflict with his or her objectivity in a hearing.~~

~~6.03(8)(d) — Parents of children with disabilities from birth to 21.~~

6.02 (7) (D) TIMELINES APPLICABLE TO RESOLUTION MEETINGS AND MEDIATION.

6.02 (7) (D) (I) RESOLUTION MEETING

6.02 (7) (D) (I) (A) WITHIN 15 DAYS OF RECEIVING NOTICE OF THE PARENT'S DUE PROCESS COMPLAINT, AND PRIOR TO THE COMMENCEMENT OF A DUE PROCESS HEARING, THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM MUST CONVENE A RESOLUTION MEETING WITH THE PARENT AND THE RELEVANT MEMBER OR MEMBERS OF THE IEP TEAM WHO HAVE SPECIFIC KNOWLEDGE OF THE FACTS IDENTIFIED IN THE DUE PROCESS COMPLAINT THAT—

6.02 (7) (D) (I) (A) (I) INCLUDES A REPRESENTATIVE OF THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM WHO HAS DECISION-MAKING AUTHORITY ON BEHALF OF THAT AGENCY; AND

6.02 (7) (D) (I) (A) (II) MAY NOT INCLUDE AN ATTORNEY OF THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM UNLESS THE PARENT IS ACCOMPANIED BY AN ATTORNEY.

6.02 (7) (D) (I) (B) THE PURPOSE OF THE RESOLUTION MEETING IS FOR THE PARENT OF THE CHILD TO DISCUSS THE DUE PROCESS COMPLAINT, AND THE FACTS THAT FORM THE BASIS OF THE DUE PROCESS COMPLAINT, SO THAT THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM HAS THE OPPORTUNITY TO RESOLVE THE DISPUTE THAT IS THE BASIS FOR THE DUE PROCESS COMPLAINT.

6.02 (7) (D) (I) (C) THE RESOLUTION MEETING DESCRIBED NEED NOT BE HELD IF—

6.02 (7) (D) (I) (C) (I) THE PARENT AND THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM AGREE IN WRITING TO WAIVE THE RESOLUTION MEETING; OR

6.02 (7) (D) (I) (C) (II) THE PARENT AND THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM AGREE TO USE THE MEDIATION PROCESS DESCRIBED IN 34 CFR §300.506 AND SECTION 6.02(6) OF THESE RULES.

6.02 (7) (D) (I) (D) THE PARENT AND THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM DETERMINE THE RELEVANT MEMBERS OF THE IEP TEAM TO ATTEND THE RESOLUTION MEETING.

6.02	(7)	(D)	(II)	RESOLUTION PERIOD	
6.02	(7)	(D)	(II)	(A)	IF THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM HAS NOT RESOLVED THE DUE PROCESS COMPLAINT TO THE SATISFACTION OF THE PARENT WITHIN 30 DAYS OF THE RECEIPT OF THE DUE PROCESS COMPLAINT, THE DUE PROCESS HEARING MAY OCCUR.
6.02	(7)	(D)	(II)	(B)	EXCEPT AS PROVIDED IN SECTION 6.02(7)(D)(II)(C), BELOW, THE TIMELINE FOR ISSUING A FINAL DUE PROCESS DECISION BEGINS AT THE EXPIRATION OF THE 30-DAY RESOLUTION PERIOD.
6.02	(7)	(D)	(II)	(C)	EXCEPT WHERE THE PARTIES HAVE JOINTLY AGREED TO WAIVE THE RESOLUTION PROCESS OR TO USE MEDIATION, THE FAILURE OF THE PARENT FILING A DUE PROCESS COMPLAINT TO PARTICIPATE IN THE RESOLUTION MEETING WILL DELAY THE TIMELINES FOR THE RESOLUTION PROCESS AND DUE PROCESS HEARING UNTIL THE MEETING IS HELD.
6.02	(7)	(D)	(II)	(D)	IF THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM IS UNABLE TO OBTAIN THE PARTICIPATION OF THE PARENT IN THE RESOLUTION MEETING AFTER REASONABLE EFFORTS HAVE BEEN MADE AND DOCUMENTED (USING THE PROCEDURES IN 34 CFR §300.322(D)), THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM MAY, AT THE CONCLUSION OF THE 30-DAY RESOLUTION PERIOD, REQUEST THAT THE IMPARTIAL HEARING OFFICER DISMISS THE PARENT'S DUE PROCESS COMPLAINT.
6.02	(7)	(D)	(II)	(E)	IF THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM FAILS TO HOLD THE RESOLUTION MEETING WITHIN 15 DAYS OF RECEIVING NOTICE OF A PARENT'S DUE PROCESS COMPLAINT OR FAILS TO PARTICIPATE IN THE RESOLUTION MEETING, THE PARENT MAY SEEK THE INTERVENTION OF THE IMPARTIAL HEARING OFFICER TO BEGIN THE DUE PROCESS HEARING 45-DAY TIMELINE.
6.02	(7)	(D)	(III)	ADJUSTMENTS TO 30-DAY RESOLUTION PERIOD. THE 45-DAY TIMELINE FOR THE DUE PROCESS HEARING STARTS THE DAY AFTER ONE OF THE FOLLOWING EVENTS:	
6.02	(7)	(D)	(III)	(A)	BOTH PARTIES AGREE IN WRITING TO WAIVE THE RESOLUTION MEETING;
6.02	(7)	(D)	(III)	(B)	AFTER EITHER THE MEDIATION OR RESOLUTION MEETING STARTS BUT BEFORE THE END OF THE 30-DAY PERIOD, THE PARTIES AGREE IN WRITING THAT NO AGREEMENT IS POSSIBLE;
6.02	(7)	(D)	(III)	(C)	IF BOTH PARTIES AGREE IN WRITING TO CONTINUE THE MEDIATION AT THE END OF THE 30-DAY RESOLUTION PERIOD, BUT LATER, THE PARENT OR THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM WITHDRAWS FROM THE MEDIATION PROCESS.

- 6.02 (7) (E) TIMELINES APPLICABLE TO DUE PROCESS HEARINGS AND CONVENIENCE OF HEARINGS.
- 6.02 (7) (E) (I) THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM MUST ENSURE THAT NOT LATER THAN 45 DAYS AFTER THE EXPIRATION OF THE 30 DAY RESOLUTION PERIOD, OR THE ADJUSTED TIME PERIODS DESCRIBED IN SECTION 6.02(7)(D)(III), ABOVE—
- 6.02 (7) (E) (I) (A) A FINAL DECISION IS REACHED IN THE HEARING; AND
- 6.02 (7) (E) (I) (B) A COPY OF THE DECISION IS MAILED TO EACH OF THE PARTIES.
- 6.02 (7) (E) (II) AT THE REQUEST OF EITHER PARTY, THE IMPARTIAL HEARING OFFICER MAY GRANT SPECIFIC EXTENSIONS OF TIME BEYOND THE 45 DAY DUE PROCESS HEARING PERIOD, OR THE ADJUSTED TIME PERIODS DESCRIBED IN SECTION 6.02(7)(D)(III), ABOVE. ANY SUCH EXTENSION OF TIME SHALL BE ACCOMPLISHED IN ACCORDANCE WITH THE REQUIREMENTS FOR TIME EXTENSIONS SET FORTH IN SECTION 6.02(7)(F)(V), BELOW.
- 6.02 (7) (E) (III) EACH HEARING MUST BE CONDUCTED AT A TIME AND PLACE THAT IS REASONABLY CONVENIENT TO THE PARENTS AND CHILD INVOLVED.
- 6.02 (7) (F) CONDUCT OF DUE PROCESS HEARINGS
- THE PROCEDURES REGARDING THE CONDUCT OF DUE PROCESS HEARINGS SHALL BE CONSISTENT WITH THE REQUIREMENTS ESTABLISHED BY 34 CFR §300.511. THE TOPICS ADDRESSED IN 34 CFR §300.511 INCLUDE:
- 6.02 (7) (F) (I) THE QUALIFICATIONS OF IMPARTIAL HEARING OFFICERS.
- THE DEPARTMENT SHALL MAINTAIN A REGISTRY OF PERSONS TRAINED BY THE DEPARTMENT WHO MAY SERVE AS DUE PROCESS HEARING OFFICERS. THE REGISTRY SHALL INCLUDE A STATEMENT OF THE QUALIFICATIONS OF EACH IMPARTIAL HEARING OFFICER. AT A MINIMUM, AN IMPARTIAL HEARING OFFICER MUST MEET THE QUALIFICATIONS ESTABLISHED BY 34 CFR §300.511(C). THE DEPARTMENT, AT ITS DISCRETION, MAY REQUIRE ADDITIONAL QUALIFICATIONS.
- 6.02 (7) (F) (II) THE SUBJECT MATTER OF DUE PROCESS HEARINGS; AND
- 6.02 (7) (F) (III) THE TIMELINE AND EXCEPTIONS TO THE TIMELINE FOR REQUESTING A HEARING.
- 6.02 (7) (F) (IV) SPECIFIC PROCEDURES
- THE HEARING OFFICER SHALL:
- 6.02 (7) (F) (IV) (A) CONSISTENT WITH THE TIMELINES IN SECTION 6.02(7)(E), ABOVE, ESTABLISH THE PROCEDURES AND TIMELINES TO BE FOLLOWED DURING THE HEARING.
- 6.02 (7) (F) (IV) (B) SCHEDULE THE TIME AND PLACE FOR THE HEARING.

- 6.02 (7) (F) (IV) (C) SCHEDULE A PREHEARING CONFERENCE AT WHICH THE ISSUES WILL BE IDENTIFIED AND THE SPECIFIC REQUESTS OF THE PARTIES DETERMINED.
- 6.02 (7) (F) (IV) (D) AT THE REQUEST OF EITHER PARTY, SECURE SUBPOENAS FROM THE DEPARTMENT OF PERSONNEL AND ADMINISTRATION, OFFICE OF ADMINISTRATIVE COURTS, TO COMPEL ATTENDANCE OF WITNESSES AT THE HEARING.
- 6.02 (7) (F) (IV) (E) ENSURE THAT A WRITTEN OR ELECTRONIC VERBATIM ACCOUNT OF THE HEARING IS KEPT.
- 6.02 (7) (F) (IV) (F) PROVIDE, TO THE DEPARTMENT A COPY OF ANY ORDER OR DECISION ISSUED.
- 6.02 (7) (F) (V) EXTENSION OF TIMELINES
- 6.02 (7) (F) (V) (A) ANY REQUEST BY A PARTY TO EXTEND A DUE PROCESS HEARING DECISION TIMELINE SHALL BE MADE WITHIN A REASONABLE PERIOD OF TIME PRIOR TO THE EXPIRATION OF THE 45 DAY PERIOD OR PREVIOUSLY EXTENDED TIME PERIOD;
- 6.02 (7) (F) (V) (B) THE IMPARTIAL HEARING OFFICER'S DECISION REGARDING THE REQUESTED EXTENSION OF A DUE PROCESS DECISION TIMELINE SHALL BE ISSUED ON OR BEFORE THE DATE OF THE EXPIRATION OF THE EXISTING TIMELINE AND DOCUMENTED IN A WRITTEN ORDER; AND
- 6.02 (7) (F) (V) (C) THE IMPARTIAL HEARING OFFICER SHALL PROVIDE A COPY OF SUCH WRITTEN ORDER TO THE PARTIES AND TO THE DEPARTMENT.
- 6.02 (7) (F) (V) (D) EXCEPTION. IN THE CASE OF AN EXPEDITED DUE PROCESS HEARING REQUESTED AS A RESULT OF A DISCIPLINARY CHANGE OF PLACEMENT PURSUANT TO 34 CFR § 300.532(C), THE TIMELINES ESTABLISHED IN SECTION 6.02(7)(I)(II), BELOW, SHALL APPLY.
- 6.02 (7) (G) HEARING RIGHTS
- GENERALLY, HEARING RIGHTS ACCORDED TO PARTIES SHALL BE CONSISTENT WITH 34 CFR §300.512.
- 6.02 (7) (H) HEARING DECISIONS
- 6.02 (7) (H) (I) GENERAL. DUE PROCESS HEARING DECISIONS SHALL BE CONSISTENT WITH THE REQUIREMENTS ESTABLISHED BY 34 §300.513. THE TOPICS ADDRESSED BY 34 CFR §300.513 INCLUDE:
- 6.02 (7) (H) (I) (A) THE DECISION OF THE HEARING OFFICER ON THE PROVISION OF FAPE;
- 6.02 (7) (H) (I) (B) SEPARATE REQUEST FOR A DUE PROCESS HEARING; AND

- 6.02 (7) (H) (I) (C) TRANSMITTAL OF THE FINDINGS AND DECISION TO THE COLORADO SPECIAL EDUCATION ADVISORY COMMITTEE AND TO THE GENERAL PUBLIC.
- 6.02 (7) (H) (II) SPECIFIC REQUIREMENTS FOR DUE PROCESS DECISIONS.
- 6.02 (7) (H) (II) (A) THE IMPARTIAL HEARING OFFICER SHALL RENDER, IN WRITING, ALL FINDINGS OF FACT AND THE DECISION BASED UPON THE EVIDENCE.
- 6.02 (7) (H) (II) (B) THE HEARING OFFICER SHALL MAIL THE DECISION BY CERTIFIED MAIL TO THE PARTIES AND THE DEPARTMENT WITHIN THE TIMELINES SPECIFIED BY SECTION 6.02(7)(E) OR, IN THE CASE OF AN EXPEDITED HEARING, WITHIN THE TIMELINES SPECIFIED BY 6.02(7)(I)(II).
- 6.02 (7) (H) (II) (C) THE HEARING OFFICER SHALL INCLUDE WITH THE DECISION MAILED TO THE PARTIES A COPY OF SECTION 6.02(7)(J) OF THESE RULES REGARDING STATE LEVEL REVIEW (I.E., APPEAL) OF THE DECISION.
- 6.02 (7) (H) (II) (D) EXCEPT FOR THE CAPTION OF THE CASE, THE DECISION SHALL BE WRITTEN SUCH THAT IT DOES NOT DISCLOSE PERSONALLY IDENTIFIABLE INFORMATION OF THE CHILD OR THE PARENT(S).
- 6.02 (7) (H) (II) (E) THE RECORD OF THE HEARING SHALL INCLUDE ALL FINDINGS OF FACT, EVIDENCE ADMITTED DURING THE HEARING, THE DECISION, AND THE TAPE RECORDING OF THE HEARING, IF AVAILABLE. THE RECORD SHALL BE FORWARDED TO THE DEPARTMENT WITHIN 45 DAYS AFTER THE CONCLUSION OF ALL PRECEEDINGS IF NO APPEAL IS TAKEN.
- 6.02 (7) (I) EXPEDITED DUE PROCESS HEARINGS
- 6.02 (7) (I) (I) GENERAL.
- CONSISTENT WITH 34 CFR §300.532(A), THE PARENT OF A CHILD WITH A DISABILITY WHO DISAGREES WITH ANY DECISION REGARDING A DISCIPLINARY PLACEMENT UNDER 34 CFR §§300.530 AND 300.531, OR THE MANIFESTATION DETERMINATION UNDER §300.530(E), OR AN ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM THAT BELIEVES THAT MAINTAINING THE CURRENT PLACEMENT OF THE CHILD IS SUBSTANTIALLY LIKELY TO RESULT IN INJURY TO THE CHILD OR OTHERS, MAY APPEAL THE DECISION BY REQUESTING A HEARING, AND MUST HAVE THE OPPORTUNITY FOR AN EXPEDITED HEARING. THE REQUIREMENTS FOR EXPEDITED DUE PROCESS HEARINGS, INCLUDING TIMELINES, SHALL BE IN ACCORDANCE WITH 34 CFR §300.532.
- 6.02 (7) (I) (II) SPECIFIC TIMELINES
- 6.02 (7) (I) (II) (A) THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM IS RESPONSIBLE FOR ARRANGING THE EXPEDITED DUE PROCESS HEARING, WHICH MUST OCCUR WITHIN 20 SCHOOL

DAYS OF THE DATE THE COMPLAINT REQUESTING THE HEARING IS FILED. THE HEARING OFFICER MUST MAKE A DETERMINATION WITHIN 10 SCHOOL DAYS AFTER THE HEARING.

6.02 (7) (I) (II) (B) UNLESS THE PARENTS AND ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM AGREE IN WRITING TO WAIVE THE RESOLUTION MEETING, OR AGREE TO USE THE MEDIATION PROCESS DESCRIBED IN 34 CFR §300.506—

6.02 (7) (I) (II) (B) (I) THE RESOLUTION MEETING MUST OCCUR WITHIN SEVEN DAYS OF RECEIVING NOTICE OF THE DUE PROCESS COMPLAINT; AND

6.02 (7) (I) (II) (B) (II) THE DUE PROCESS HEARING MAY PROCEED UNLESS THE MATTER HAS BEEN RESOLVED TO THE SATISFACTION OF BOTH PARTIES WITHIN 15 DAYS OF THE RECEIPT OF THE DUE PROCESS COMPLAINT.

6.02 (7) (I) (III) THE REQUIREMENTS AND PROCEDURES CONTAINED IN THIS SECTION 6.02(7)(A) THROUGH 6.02(7)(H) SHALL APPLY TO EXPEDITED DUE PROCESS HEARINGS TO THE EXTENT THAT SUCH REQUIREMENTS AND PROCEDURES ARE NOT IN CONFLICT WITH 34 CFR §300.532.

6.02 (7) (J) APPEALS

~~6.03(9)~~

6.02 (7) (J) (I) Right to appeal decision of impartial hearing officer.

6.02 (7) (J) (I) (A) GENERAL.

THE PROCEDURES GOVERNING THE APPEAL OF A DUE PROCESS HEARING DECISION, INCLUDING A DECISION RENDERED IN AN EXPEDITED DUE PROCESS HEARING, SHALL BE CONSISTENT WITH 34 CFR §300.514.

6.02 (7) (J) (I) (B) SPECIFIC REQUIREMENTS.

Either party may obtain state level review of the decision of the impartial hearing officer including a decision rendered in an expedited due process hearing. The state level review shall be conducted on behalf of the Commissioner of Education by an administrative law judge of the Colorado ~~State Government, General Support Services, Division of Administrative Hearings~~ DEPARTMENT OF PERSONNEL AND ADMINISTRATION, OFFICE OF ADMINISTRATIVE COURTS.

~~6.03(10)~~

6.02 (7) (J) (II) Procedure for appealing THE decision of AN impartial hearing officer.

~~6.03(10)(a)~~

6.02 (7) (J) (II) (A) Any party who seeks to appeal the decision of an impartial hearing officer shall file with or mail to the ~~Division~~ OFFICE of Administrative Hearings COURTS within 30 days after receipt of the impartial hearing officer's decision:

<del>6.03(10)(a)(i)</del>	6.02	(7)	(J)	(II)	(A)	(I)	A notice of appeal.
<del>6.03(10)(a)(ii)</del>	6.02	(7)	(J)	(II)	(A)	(II)	A designation of the transcript. A party may designate a portion of the tape recorded record or arrange for a transcript of the tape recorded record.
<del>6.03(10)(b)</del>	6.02	(7)	(J)	(II)	(B)		Simultaneously with mailing or filing the notice of appeal and designation of transcript with the <del>Division</del> <b>OFFICE</b> of Administrative <del>Hearings</del> <b>COURTS</b> , the appealing party shall mail copies of these documents to the Department of Education and to all other parties in the proceeding before the impartial hearing officer at their last known addresses.
							Within five days of receipt of a notice of appeal, any other party may file a cross appeal.
<del>6.03(10)(c)</del>	6.02	(7)	(J)	(II)	(C)		The notice of appeal shall contain the following:
<del>6.03(10)(c)(i)</del>	6.02	(7)	(J)	(II)	(C)	(I)	The caption of the case, including case number and names of all parties.
<del>6.03(10)(c)(ii)</del>	6.02	(7)	(J)	(II)	(C)	(II)	The party or parties initiating the appeal.
<del>6.03(10)(c)(iii)</del>	6.02	(7)	(J)	(II)	(C)	(III)	A brief description of the nature of the case and the order being appealed.
<del>6.03(10)(c)(iv)</del>	6.02	(7)	(J)	(II)	(C)	(IV)	A list of the issues to be raised on appeal.
<del>6.03(10)(c)(v)</del>	6.02	(7)	(J)	(II)	(C)	(V)	A copy of the findings of fact and decision of the impartial hearing officer being appealed.
<del>6.03(10)(c)(vi)</del>	6.02	(7)	(J)	(II)	(C)	(VI)	A certificate of service showing the date <b>THAT</b> the copy of the notice of appeal was mailed to the Department of Education and to all parties in the proceeding before the impartial hearing officer. All subsequent documents and pleadings filed with the <del>Division</del> <b>OFFICE</b> of Administrative <del>Hearings</del> <b>COURTS</b> shall similarly contain a certificate of service showing that a copy was mailed to all parties.
<del>6.03(10)(d)</del>	6.02	(7)	(J)	(II)	(D)		A notice of cross appeal shall contain those items listed in <del>6.03(10)(c)(i-iv)</del> —above, <b>SECTION 6.02(7)(J)(II)(C) OF THESE RULES</b> , along with a certificate of service.

- ~~6.03(10)(e)~~  
6.02 (7) (J) (II) (E) At the time **THAT** the notice of appeal is filed or mailed, the appealing party shall also file with or mail to the ~~Division~~ **OFFICE** of Administrative ~~Hearings~~ **COURTS** either a statement that no transcript is necessary for the appeal and a review of the tape recorded record is ~~sufficient~~ **SUFFICIENT**; or a designation of all portions of the transcript necessary for resolution of the appeal. No transcript is required if the issues on appeal are limited to pure questions of law.
- ~~6.03(10)(f)~~  
6.02 (7) (J) (II) (F) Within five days after the receipt of the notice of appeal and designation of transcript or tape recording, the other party may file with the ~~Division~~ **OFFICE** of Administrative ~~Hearings~~ **COURTS** a designation of any additional portions of the transcript which the party believes are necessary for resolution of the appeal.
- ~~6.03(10)(g)~~  
6.02 (7) (J) (II) (G) Whichever party appeals the decision shall insure that such transcript is filed with the ~~Division~~ **OFFICE** of Administrative ~~Hearings~~ **COURTS** within 15 days of the date the notice of appeal is mailed or filed.
- ~~6.03(10)(g)(i)~~  
6.02 (7) (J) (II) (G) (I) Whichever party appeals the decision shall, simultaneously with filing or mailing the notice of appeal and designation of record, contact the court reporter and order the transcript or arrange for the transcription of a tape recorded record or submit the entire tape recorded record.
- ~~6.03(10)(g)(ii)~~  
6.02 (7) (J) (II) (G) (II) Immediately upon filing any additional designations pursuant to Section ~~6.03(10)(f)~~ **6.02(7)(J)(II)(A)(II)** of these Rules, any party submitting designations shall order from the court reporter the transcript or arrange for transcription in the case of a tape recorded record and shall insure that such transcript is filed with the ~~Division~~ **OFFICE** of Administrative ~~Hearings~~ **COURTS** within 15 days, or submit the entire tape recording.
- ~~6.03(10)(g)(iii)~~  
6.02 (7) (J) (II) (G) (III) A party requesting a written transcript is responsible for paying for it. A party requesting parts of a written transcript by filing an additional designation is responsible to pay for those portions of the transcript. Parent(s) shall not be required to pay for the cost of a copy of the tape recorded record for an appeal. The transcript or portions thereof shall be made available to any party at reasonable times for inspection or copying at the copier's expense.
- ~~6.03(10)(h)~~  
6.02 (7) (J) (II) (H) Upon receipt of the notice of appeal, the administrative law judge assigned to hear the appeal shall direct the impartial hearing officer to certify and transmit to the administrative law judge, within seven days, all pleadings and documents filed with the impartial hearing officer, all exhibits and the decision of the impartial hearing officer.



~~6.03(11)~~

6.02 (7) (J) (III) State level review procedures.

~~6.03(11)(a)~~

6.02 (7) (J) (III) (A) Unless otherwise ordered by the administrative law judge, briefs shall be filed and oral argument held within 20 days after the filing or mailing of the notice of appeal.

~~6.03(11)(b)~~

6.02 (7) (J) (III) (B) In conducting a state level review, the administrative law judge shall:

~~6.03(11)(b)(i)~~

6.02 (7) (J) (III) (B) (I) Examine the ~~transcript~~ ENTIRE HEARING RECORD and INCLUDING THE certified record received from the impartial hearing officer.

6.02 (7) (J) (III) (B) (II) ENSURE THAT THE PROCEDURES USED AT THE DUE PROCESS HEARING WERE CONSISTENT WITH THE REQUIREMENTS OF DUE PROCESS;

~~6.03(11)(b)(ii)~~

6.02 (7) (J) (III) (B) (III) Seek or accept additional evidence, if needed NECESSARY. IF A HEARING IS HELD TO RECEIVE EVIDENCE, THE RIGHTS IN 34 CFR §300.512 APPLY;

~~6.03(11)(b)(iii)~~

6.02 (7) (J) (III) (B) (IV) Afford the parties an opportunity for oral or written argument, or both, ~~if appropriate, at a time and place reasonably convenient to the parties~~ AT THE DISCRETION OF THE ADMINISTRATIVE LAW JUDGE. EACH APPEAL INVOLVING AN EVIDENTIARY HEARING OR ORAL ARGUMENTS MUST BE CONDUCTED AT A TIME AND PLACE THAT IS REASONABLY CONVENIENT TO THE PARENTS AND CHILD INVOLVED.

~~6.03(11)(b)(iv) Determine and assure that the procedure at the hearing before the impartial hearing officer was in accordance with the requirements of due process.~~

~~6.03(11)(b)(v)~~

6.02 (7) (J) (III) (B) (V) Make a final and AN independent decision and mail such to all parties within 30 days after the request for a review is received.

6.02 (7) (J) (III) (B) (VI) PRIOR TO ISSUING THE DECISION, THE ADMINISTRATIVE LAW JUDGE SHALL TRANSMIT A COPY OF THE DECISION TO THE DEPARTMENT.

6.02 (7) (J) (III) (B) (VII) GIVE A COPY OF THE WRITTEN, OR, AT THE OPTION OF THE PARENTS, ELECTRONIC FINDINGS OF FACT AND DECISION TO THE PARTIES.

6.02 (7) (J) (III) (C) THE DEPARTMENT SHALL TRANSMIT THE FINDINGS AND DECISIONS TO THE COLORADO STATE ADVISORY COMMITTEE AND THE GENERAL PUBLIC CONSISTENT WITH THE REQUIREMENTS OF 34 CFR §300.514(C).

6.02 (7) (J) (III) (D) THE DECISION MADE BY THE ADMINISTRATIVE LAW JUDGE IS FINAL UNLESS A PARTY BRINGS A CIVIL ACTION PURSUANT TO 34 CFR §300.516 AND SECTION 6.02(7)(K) OF THESE RULES.

6.02 (7) (J) (IV) TIMELINES APPLICABLE TO APPEALS AND CONVENIENCE OF APPEALS.

THE DEPARTMENT MUST ENSURE THAT NOT LATER THAN 30 DAYS AFTER THE RECEIPT OF A TIMELY APPEAL—

6.02 (7) (J) (IV) (A) A FINAL DECISION IS REACHED IN THE APPEAL; AND

6.02 (7) (J) (IV) (B) A COPY OF THE DECISION IS MAILED TO EACH OF THE PARTIES.

6.02 (7) (J) (V) EXTENSION OF APPEAL TIMELINES. AT THE REQUEST OF EITHER PARTY THE ADMINISTRATIVE LAW JUDGE MAY GRANT SPECIFIC EXTENSIONS OF TIME BEYOND THE 30 DAY APPEAL PERIOD FOR THE ISSUANCE OF A DECISION. ANY SUCH EXTENSION OF TIME SHALL BE MADE IN ACCORDANCE WITH SECTION 6.02(7)(J)(VI), BELOW.

6.02 (7) (J) (VI) EXTENSION OF TIMELINES

6.02 (7) (J) (VI) (A) ANY REQUEST BY A PARTY TO EXTEND AN APPEAL DECISION TIMELINE SHALL BE MADE WITHIN A REASONABLE PERIOD OF TIME PRIOR TO THE EXPIRATION OF THE 30 DAY APPEAL PERIOD OR PREVIOUSLY EXTENDED TIME PERIOD;

6.02 (7) (J) (VI) (B) THE ADMINISTRATIVE LAW JUDGE'S DECISION REGARDING THE REQUESTED EXTENSION OF AN APPEAL TIMELINE SHALL BE ISSUED ON OR BEFORE THE DATE OF THE EXPIRATION OF THE EXISTING TIMELINE AND DOCUMENTED IN A WRITTEN ORDER; AND

6.02 (7) (J) (VI) (C) THE ADMINISTRATIVE LAW JUDGE SHALL PROVIDE A COPY OF SUCH WRITTEN ORDER TO THE PARTIES AND TO THE DEPARTMENT.

~~6.03(11)(c) The administrative law judge may grant specific extensions of any of the timelines, at the request of either party, once a timely appeal has been received.~~

~~6.03(11)(d) In connection with the state level review, the parties shall have the following rights:~~

~~6.03(11)(d)(i) To be accompanied and advised by counsel and by individuals with special knowledge with respect to the problems of children with disabilities.~~

~~6.03(11)(d)(ii) If further evidence is to be taken, to present evidence and confront, cross-examine, and compel the attendance of witnesses.~~

~~6.03(11)(d)(iii) To prohibit the introduction of any evidence through witnesses or documents at the hearing if the witness has not been identified or the document has not been disclosed to that party at least five days before the hearing.~~

~~6.03(11)(d)(iv) To obtain a written or electronic verbatim record of the hearing.~~

~~6.03(11)(d)(v) To obtain a written determination upon state level review, including a written, or at the option of the parents, electronic copy, of the findings of fact and a decision.~~

~~6.03(12) The decision made upon a state level review shall be final except that either party has the right to bring civil action in an appropriate court of law, either federal or state. In any civil action brought under this section, the court receives the records of the administrative proceedings from the hearing officer, hears additional evidence at the request of a party, bases its decision on the preponderance of the evidence, and grants the relief that the court determines to be appropriate.~~

6.02 (7) (K) CIVIL ACTION.

ANY PARTY AGGRIEVED BY THE FINDINGS AND DECISION OF THE ADMINISTRATIVE LAW JUDGE HAS THE RIGHT TO BRING A CIVIL ACTION CONSISTENT WITH THE REQUIREMENTS SET FORTH IN 34 CFR §300.516.

~~6.03(13)~~

6.02 (7) (L) Attorneys' fees.

REASONABLE ATTORNEYS' FEES MAY BE AWARDED TO A PREVAILING PARTY BY A COURT OF COMPETENT JURISDICTION CONSISTENT WITH THE REQUIREMENTS ESTABLISHED BY 34 CFR §300.517.

~~In any administrative proceeding brought under C.R.S. 22-20-101, et seq., the impartial hearing officer or the administrative law judge may not award reasonable attorneys' fees as part of the cost to the parent(s) or guardian of a child with disabilities who is the prevailing party. Such fees may only be awarded by the court in a civil action brought under these Rules.~~

~~6.03(14)~~

6.02 (7) (M) Child's status during proceedings

THE CHILD'S STATUS DURING THE PENDANCY OF ANY ADMINISTRATIVE OR JUDICIAL PROCEEDING SHALL BE GOVERNED BY THE REQUIREMENTS ESTABLISHED BY 34 CFR §300.518 UNLESS THE DUE PROCESS COMPLAINT INVOLVES THE DISCIPLINARY PLACEMENT OF THE CHILD, IN WHICH CASE 34 CFR §300.533 APPLIES.

~~6.03(14)(a) During the pendency of any due process hearing or appeal, unless the administrative unit and the parents agree otherwise, the child shall remain in his or her current educational placement.~~

~~6.03(14)(b) If the decision of a hearing officer in a due process hearing, or an administrative law judge in an appeal, agrees with the child's parents that a change of placement is appropriate, that placement shall be treated as an agreement between the administrative unit and the parents for purposes of paragraph (a) above.~~

~~6.03(14)(c) If a parent requests a hearing or an appeal of a disciplinary action; or to challenge the interim alternative educational setting; or the manifestation determination; the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period for the interim alternative educational placement, whichever comes first, unless the parent and the administrative unit agree otherwise~~

6.02 (8) 34 CFR §300.519—EDUCATIONAL SURROGATE PARENTS

6.02 (8) (A) GENERAL.

THE ADMINISTRATIVE UNIT OF ATTENDANCE AND EACH STATE-OPERATED PROGRAM MUST ENSURE THAT THE RIGHTS OF A CHILD ARE PROTECTED WHEN—

- 6.02 (8) (A) (I) NO PARENT (AS DEFINED IN SECTION 2.33 OF THESE RULES) CAN BE IDENTIFIED;
- 6.02 (8) (A) (II) THE ADMINISTRATIVE UNIT OF ATTENDANCE OR THE STATE-OPERATED PROGRAM, AFTER REASONABLE EFFORTS, CANNOT LOCATE A PARENT;
- 6.02 (8) (A) (III) THE CHILD IS A WARD OF THE STATE; OR
- 6.02 (8) (A) (IV) THE CHILD IS A HOMELESS CHILD AS DEFINED IN SECTION 22-1-102.5, C.R.S.

6.02 (8) (B) EDUCATIONAL SURROGATE PARENT REGISTRY

THE DEPARTMENT SHALL MAINTAIN A REGISTRY OF EACH CHILD WITH A DISABILITY DETERMINED TO BE IN NEED OF AN EDUCATIONAL SURROGATE PARENT AND THE EDUCATIONAL SURROGATE PARENT ASSIGNED TO THE CHILD. THE PURPOSE OF THE REGISTRY IS TO TRACK THOSE STUDENTS FOR WHOM AN EDUCATIONAL SURROGATE PARENT HAS BEEN ASSIGNED THROUGH THE PROCEDURES ESTABLISHED IN THIS SECTION 6.02(8).

6.02 (8) (C) DUTIES OF THE ADMINISTRATIVE UNIT OF ATTENDANCE OR STATE-OPERATED PROGRAM.

THE DUTIES OF AN ADMINISTRATIVE UNIT OF ATTENDANCE OR A STATE-OPERATED PROGRAM UNDER SECTION 6.02(8) INCLUDE THE ASSIGNMENT OF AN INDIVIDUAL TO ACT AS AN EDUCATIONAL SURROGATE PARENT FOR THE CHILD. THIS MUST INCLUDE A METHOD-

- 6.02 (8) (C) (I) FOR DETERMINING WHETHER A CHILD NEEDS AN EDUCATIONAL SURROGATE PARENT; AND
- 6.02 (8) (C) (II) FOR ASSIGNING AN EDUCATIONAL SURROGATE PARENT TO THE CHILD.

6.02 (8) (D) CHILDREN PLACED IN THE LEGAL CUSTODY OF THE COLORADO DEPARTMENT OF HUMAN SERVICES.

IN THE CASE OF A CHILD WHO IS PLACED IN THE LEGAL CUSTODY OF THE COLORADO DEPARTMENT OF HUMAN SERVICES, THE EDUCATIONAL SURROGATE PARENT ALTERNATIVELY MAY BE APPOINTED BY THE COURT OVERSEEING THE CHILD'S CASE, PROVIDED THAT THE EDUCATIONAL SURROGATE PARENT MEETS THE REQUIREMENTS IN SECTION 6.02(8)(E)(III).

- 6.02 (8) (E) CRITERIA FOR SELECTION OF EDUCATIONAL SURROGATE PARENTS.
- 6.02 (8) (E) (I) THE SPECIAL EDUCATION DIRECTOR OF THE ADMINISTRATIVE UNIT OF ATTENDANCE OR STATE-OPERATED PROGRAM SHALL ASSIGN EDUCATIONAL SURROGATE PARENTS.
- 6.02 (8) (E) (II) AFTER DETERMINING THAT A CHILD NEEDS AN EDUCATIONAL SURROGATE PARENT BUT BEFORE THE EDUCATIONAL SURROGATE PARENT IS ASSIGNED, THE SPECIAL EDUCATION DIRECTOR MUST CONTACT THE DEPARTMENT TO VERIFY THAT THERE IS NO EXISTING EDUCATIONAL SURROGATE ASSIGNMENT FOR THE CHILD.
- 6.02 (8) (E) (III) THE SPECIAL EDUCATION DIRECTOR MUST ENSURE THAT A PERSON SELECTED AND ASSIGNED AS AN EDUCATIONAL SURROGATE PARENT—
- 6.02 (8) (E) (III) (A) IS NOT AN EMPLOYEE OF THE DEPARTMENT, THE ADMINISTRATIVE UNIT OF RESIDENCE, THE ADMINISTRATIVE UNIT OF ATTENDANCE (IF DIFFERENT FROM THE ADMINISTRATIVE UNIT OF RESIDENCE), OR STATE-OPERATED PROGRAM, OR ANY OTHER PUBLIC AGENCY THAT IS INVOLVED IN THE EDUCATION OR CARE OF THE CHILD;
- 6.02 (8) (E) (III) (B) HAS NO PERSONAL OR PROFESSIONAL INTEREST THAT CONFLICTS WITH THE INTEREST OF THE CHILD WHOM THE EDUCATIONAL SURROGATE PARENT REPRESENTS; AND
- 6.02 (8) (E) (III) (C) HAS KNOWLEDGE AND SKILLS THAT ENSURE ADEQUATE REPRESENTATION OF THE CHILD.
- 6.02 (8) (F) REQUIREMENT FOR WRITTEN CERTIFICATION
- THE SPECIAL EDUCATION DIRECTOR SHALL DOCUMENT IN WRITING, ON A FORM APPROVED BY THE DEPARTMENT OF EDUCATION, EACH ASSIGNMENT OF AN EDUCATIONAL SURROGATE PARENT, INCLUDING A WRITTEN CERTIFICATION THAT THE REQUIREMENTS OF SECTION 6.02(8)(E)(III) HAVE BEEN MET. THE SPECIAL EDUCATION DIRECTOR SHALL PROVIDE A COPY OF THE WRITTEN ASSIGNMENT TO THE DEPARTMENT WITHIN THREE (3) BUSINESS DAYS OF THE DATE OF THE ASSIGNMENT.
- 6.02 (8) (G) NON EMPLOYEE REQUIREMENT; COMPENSATION.
- A PERSON OTHERWISE QUALIFIED TO BE AN EDUCATIONAL SURROGATE PARENT UNDER SECTION 6.02(8)(E)(III) IS NOT AN EMPLOYEE OF THE ADMINISTRATIVE UNIT OF ATTENDANCE OR STATE-OPERATED PROGRAM SOLELY BECAUSE HE OR SHE IS PAID BY SUCH ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM TO SERVE AS AN EDUCATIONAL SURROGATE PARENT.
- 6.02 (8) (H) HOMELESS CHILDREN.
- IN THE CASE OF A CHILD WHO IS AN UNACCOMPANIED HOMELESS CHILD, APPROPRIATE STAFF OF EMERGENCY SHELTERS, TRANSITIONAL SHELTERS, INDEPENDENT LIVING PROGRAMS, AND STREET OUTREACH PROGRAMS MAY BE APPOINTED AS TEMPORARY EDUCATIONAL

SURROGATE PARENTS WITHOUT REGARD TO SECTION 6.02(8)(E)(III), ABOVE, UNTIL AN EDUCATIONAL SURROGATE PARENT CAN BE APPOINTED THAT MEETS ALL OF THE REQUIREMENTS OF SECTION 6.02(8)(E)(III).

6.02 (8) (I) EDUCATIONAL SURROGATE PARENT RESPONSIBILITIES.

THE EDUCATIONAL SURROGATE PARENT MAY REPRESENT THE CHILD IN ALL MATTERS RELATING TO—

6.02 (8) (I) (I) THE IDENTIFICATION, EVALUATION, AND EDUCATIONAL PLACEMENT OF THE CHILD; AND

6.02 (8) (I) (II) THE PROVISION OF FAPE TO THE CHILD.

6.02 (8) (J) RESPONSIBILITY OF THE DEPARTMENT.

THE DEPARTMENT MUST MAKE REASONABLE EFFORTS TO ENSURE THE ASSIGNMENT OF AN EDUCATIONAL SURROGATE PARENT NOT MORE THAN 30 DAYS AFTER THE RESPONSIBLE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM DETERMINES THAT THE CHILD NEEDS AN EDUCATIONAL SURROGATE PARENT.

6.02 (8) (K) ELIGIBLE FACILITIES.

NOTWITHSTANDING SECTION 6.02(8)(C), ABOVE, IF IT IS DETERMINED THAT A CHILD PLACED IN AN ELIGIBLE FACILITY NEEDS AN EDUCATIONAL SURROGATE PARENT, THE CHILD'S ADMINISTRATIVE UNIT OF RESIDENCE OR STATE-OPERATED PROGRAM IS RESPONSIBLE FOR LOCATING AND ASSIGNING THE EDUCATIONAL SURROGATE PARENT. IF THE ELIGIBLE FACILITY IS NOT LOCATED WITHIN THE BOUNDARIES OF THE ADMINISTRATIVE UNIT OF RESIDENCE, THE ADMINISTRATIVE UNIT IN WHICH THE ELIGIBLE FACILITY IS LOCATED SHALL COOPERATE WITH THE ADMINISTRATIVE UNIT OF RESIDENCE IN LOCATING AN EDUCATIONAL SURROGATE PARENT FOR THE CHILD.

6.02 (9) 34 CFR §300.520—TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY. THE AGE OF MAJORITY FOR EDUCATIONAL PURPOSES IN THE STATE OF COLORADO IS AGE 21;

6.02 (10) 34 CFR §300.530 THROUGH §300.537—STUDENT DISCIPLINE PROCEDURES.

STUDENT DISCIPLINE PROCEDURES AND PROTECTIONS FOR CHILDREN WITH DISABILITIES SHALL BE IN CONSISTENT WITH THE REQUIREMENTS SET FORTH 34 CFR §300.530 THROUGH §300.537. THE TOPICS ADDRESSED BY THOSE REQUIREMENTS INCLUDE:

6.02 (10) (A) AUTHORITY OF SCHOOL PERSONNEL—34 CFR §300.530

6.02 (10) (B) REMOVALS FOR NOT MORE THAN TEN (10) CONSECUTIVE SCHOOL DAYS AND PATTERNS OF REMOVAL—34 CFR §300.530(B)(1);

6.02 (10) (C) REMOVALS CUMULATING TO MORE THAN TEN (10) SCHOOL DAYS IN A SCHOOL YEAR—34 CFR §300.530(B)(2);

- 6.02 (10) (D) REMOVALS EXCEEDING 10 CONSECUTIVE SCHOOLS DAYS – 34 CFR §300.530 (C);
- 6.02 (10) (E) REQUIRED PROVISION OF SERVICES FOR STUDENTS SUSPENDED OR EXPELLED FOR MORE THAN TEN CUMULATIVE SCHOOL DAYS IN A SCHOOL YEAR—34 CFR §300.530 (B)(2) AND 34 CFR §300.530(D);
- 6.02 (10) (F) MANIFESTATION DETERMINATIONS—34 CFR §300.530(E) AND 34 CFR §300.530(F);
- 6.02 (10) (G) SPECIAL CIRCUMSTANCES—34 CFR §300.530(G);
- 6.02 (10) (H) REQUIREMENTS REGARDING NOTIFICATION TO PARENTS—34 CFR §300.530(H);
- 6.02 (10) (I) APPLICABLE DEFINITIONS—34 CFR §300.530(I)
- 6.02 (10) (J) DETERMINATION OF SETTING—34 34 CFR §300.531;
- 6.02 (10) (K) APPEAL (INCLUDING EXPEDITED DUE PROCESS HEARINGS)—34 CFR §300.532;
- 6.02 (10) (L) PLACEMENT DURING APPEALS—34 CFR §300.533;
- 6.02 (10) (M) PROTECTIONS FOR CHILDREN NOT DETERMINED ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES—34 CFR §300.534;
- 6.02 (10) (N) REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES—34 CFR §300.535; AND
- 6.02 (10) (O) CHANGE OF PLACEMENT BECAUSE OF DISCIPLINARY REMOVALS—34 CFR §300.536.

## COORDINATION BETWEEN SEA AND LEAs

### 7.01 Record Keeping

To meet the requirements of Sections ~~22-20-104(3) and (4)~~ 22-20-104(4), C.R.S., an administrative unit shall maintain a management and information system which provides for the collection, documentation, aggregation, and reporting of student, staff, revenue and expenditure data.

- 7.01 (1) Student data.
- 7.01 (1) (a) Administrative units should maintain an individual student data base of the following information:
  - 7.01 (1) (a) (i) Student name.
  - 7.01 (1) (a) (ii) Date of birth.
  - 7.01 (1) (a) (iii) Primary disability.
  - 7.01 (1) (a) (iv) Student's gender and ethnicity.
  - 7.01 (1) (a) (v) Primary educational setting.
  - 7.01 (1) (a) (vi) Date of the most recent meeting at which the child was determined to have a disability.
  - 7.01 (1) (a) (vii) Date of the most recent meeting at which the IEP was reviewed.
  - 7.01 (1) (a) (viii) Individual staff who are providing special education programs and services identified in the student's IEP.
- 7.01 (1) (b) Administrative units, community centered boards, and eligible facilities should maintain individual student records that contain the following:
  - 7.01(1)(b)(i) Information about the disposition of each referral.
  - 7.01 (1) (b) (ii) Signed permission forms for initial assessment and initial placement.
  - 7.01 (1) (b) (iii) Verification that parent(s) were advised of and understood their due process rights.
  - 7.01 (1) (b) (iv) Any written assessment reports.
  - 7.01 (1) (b) (v) Documentation that appropriate written notice was given to parent(s).
  - 7.01 (1) (b) (vi) Documentation that required participants were in attendance at meetings.
  - 7.01 (1) (b) (vii) Records of all meetings at which the child was determined to have a disability.
  - 7.01 (1) (b) (viii) A copy of all IEPs.



- 7.01 (1) (b) (ix) Any additional information which documents that the child is eligible for special education services.
- 7.01 (1) (c) Individually identifiable information shall be held confidential and protected in accordance with ~~state statutes and regulations, and in conformation with Section 7.04~~ 6.01 of these Rules.
- 7.01 (1) (d) Destruction of records shall be in compliance with Section ~~6.01(6)~~ 6.01(14) of these Rules AND 34 CFR §300.624.
- 7.01 (2) Staff data.  
  
Administrative units should maintain the following data for all special education services staff:
  - 7.01 (2) (a) Name.
  - 7.01 (2) (b) Special education position assignment.
  - 7.01 (2) (c) FTE and salary attributable to special education, and source of funds supporting that salary.
  - 7.01 (2) (d) Documentation of time spent with students with disabilities for each staff member who is employed part-time in special education and part-time in regular education.
- 7.01 (3) Revenue and expenditure data.
  - 7.01 (3) (a) Administrative units shall maintain auditable records of all special education expenditures and of the state, federal, local and other revenues which are received in support of those expenditures.
  - 7.01 (3) (b) Using the accrual basis of accounting, administrative units shall operate a budgeting and accounting procedure which records the objects of expenditure for each special education instructional and support service area.
  - 7.01 (3) (c) Community centered boards and eligible facilities shall maintain auditable records of all information used to establish tuition costs reported on forms developed by the Department of Education.

## 7.02 Reporting

Each administrative unit shall submit to the Department of Education annual student, staff, revenue and expenditure data according to the instructions and on forms or computer programs provided by the Department of Education. If accurate data are not submitted according to deadlines established by the Department, the disbursement of state and federal funds to that particular unit shall be delayed.

## 7.03 SPECIAL EDUCATION FUNDING

- 7.03 (1) Federal funds.
  - 7.03 (1) (a) Administrative units shall obtain prior approval from the Department of Education for the use of federal funds in support of special education services.

- 7.03 (1) (b) The approval criteria and procedures for the use of federal funds shall be governed by relevant rules and regulations promulgated pursuant to state and federal laws.
- 7.03 (1) (c) Federally funded programs shall be considered supplementary to the basic program required by the Exceptional Children's Educational Act (ECEA).

7.03 (2) ECEA funds.

Under the requirements of Section ~~22-20-104 (1)~~ **22-20-104(4)**, C.R.S., an administrative unit shall use its state ECEA funds only on special education services and programs, as outlined in Section ~~2-03(4)~~ **2.44** of these Rules.

7.03 (3) Payments of ECEA funds.

ECEA funds shall be distributed in accordance with ~~Section~~ **SECTIONS** 22-20-114 **AND 22-20-114.5**, C.R.S.

## **7.04 (RESERVED)**

## **7.05 Monitoring**

Each administrative unit, State Operated Program, ~~community-centered board~~ and eligible facility shall comply with all state statutes and regulations regarding the identification and/or education of children with disabilities.

- 7.05 (1) Each administrative unit, State Operated Program, ~~community-centered board~~ or eligible facility shall be subject to ongoing monitoring by the Department of Education of its policies, procedures and practices relating to the identification and/or education of children with disabilities.

7.05 (1) (a) Monitoring procedures shall include:

- 7.05 (1) (a) (i) A determination of compliance with statutes according to the administrative unit on-site checklist developed by the Department of Education.
- 7.05 (1) (a) (ii) An assessment of program quality based on the standards established by the Department of Education.

7.05 (1) (b) Monitoring activities shall be determined by the Department of Education and shall include:

- 7.05 (1) (b) (i) Review of a ~~unit's or facility's~~ **THE** comprehensive plan **OF THE ADMINISTRATIVE UNIT, STATE-OPERATED PROGRAM OR ELIGIBLE FACILITY**,
- 7.05 (1) (b) (ii) A review of the data routinely collected by the Department of Education,
- 7.05 (1) (b) (iii) A planned comprehensive **OR TARGETED** on-site process to identify and verify compliance with and implementation of policies and procedures as well as delivery of services,

- 7.05 (1) (b) (iv) Count audits consisting of periodic checks of student eligibility criteria through verification of documentation as found in students' files and on individual education programs.
- 7.05 (1) (c) Follow-up to assure non-compliance issues have been rectified shall be ongoing. Follow-up of non compliance issues identified from the count audits will occur as part of the comprehensive on-site monitoring process.
- 7.05 (2) Within 90 days from the completion of any monitoring procedure or activity, the Department of Education shall provide a written report based on the administrative unit on-site checklist, to the administrative unit/facility **UNIT, STATE-OPERATED PROGRAM OR ELIGIBLE FACILITY** which shall include findings, non-compliance items, directives for corrective action, and recommendations for improvement.
- 7.05 (2) (a) Should the Department of Education determine that a **AN ADMINISTRATIVE** unit, ~~State-Operated~~ **STATE-OPERATED** Program, ~~community-centered board~~ or **ELIGIBLE** facility is in non-compliance with pertinent statutes and implementing regulations, the Department of Education shall provide such unit/facility **ADMINISTRATIVE UNIT, STATE-OPERATED PROGRAM OR ELIGIBLE FACILITY** with the legal citation of the statute or regulation it is found to have violated and the directive for corrective action or request for a corrective action plan.
- 7.05 (2) (b) Should the Department of Education determine that a **AN ADMINISTRATIVE** unit, ~~State-Operated~~ **STATE-OPERATED** Program, ~~community-centered board~~ or **ELIGIBLE** facility does not reasonably satisfy quality standards or guidelines established by the Department of Education, recommendations will be made.
- 7.05 (3) Within 90 days following any report of non-compliance, the administrative unit, ~~State-Operated~~ **STATE-OPERATED** Program, ~~community-centered board~~ or **ELIGIBLE** facility shall provide the Department of Education with a corrective action plan including timelines, or ~~some~~ **SUFFICIENT** documentation that corrective actions ordered by the Department have been made, whichever is applicable.
- 7.05 (4) Within 20 days following the receipt of the **CORRECTIVE ACTION PLAN OF THE** administrative unit's **UNIT**, ~~State-Operated~~ **STATE-OPERATED** Program, ~~community-centered board or facility's~~ **OR ELIGIBLE FACILITY** ~~corrective action plan~~, the Department of Education shall acknowledge receipt of such and indicate whether or not it is accepted or, if rejected, notification of the revision necessary before acceptance would be given.
- 7.05 (5) If the administrative unit, ~~State-Operated~~ **STATE-OPERATED** Program, ~~community-centered board~~ or **ELIGIBLE** facility does not agree with any findings or directives for corrective action it may appeal in accordance with Section 7.07 of these Rules.
- 7.05 (6) If the Department of Education is unable to secure voluntary compliance through the actions described above, the administrative unit, **STATE-OPERATED PROGRAM OR ELIGIBLE FACILITY** shall be notified of the noncompliance and the subsequent steps to be taken by the Department of Education which may include any of the following or any other appropriate means of enforcing compliance requirements:
- 7.05 (6) (a) disapproval or failure to approve in whole or part, the application of the ~~local agency,~~ administrative unit, **STATE-OPERATED PROGRAM OR ELIGIBLE FACILITY** ~~or potential recipient~~ for funding;
- 7.05 (6) (b) order, in accordance with a final state audit resolution determination, the repayment of misspent federal funds;

- 7.05 (6) (c) withhold and/or terminate further financial assistance to ~~a local agency~~, **THE administrative unit or recipient, STATE-OPERATED PROGRAM OR ELIGIBLE FACILITY**;
- 7.05 (6) (d) suspend payments, under an approved project, to ~~a local agency~~, **THE administrative unit, or recipient STATE-OPERATED PROGRAM OR ELIGIBLE FACILITY**.
- 7.05 (7) Information regarding monitoring findings and resolutions shall be forwarded to the appropriate Department of Education staff for consideration in the ~~district's~~ accreditation process **FOR A SCHOOL DISTRICT OR THE COLORADO SCHOOL FOR THE DEAF AND THE BLIND**.

## **7.06 Variance**

- 7.06 (1) If a school district or administrative unit believes that noncompliance with any portion of these Rules is justified and would affect their approval or status as an administrative unit or receipt of acceptable monitoring reports, it may file a written request for variance with the Department of Education. These variance requests are to be distinguished from requests to the State Board of Education for waivers of state law pursuant to section 22-2-117, C.R.S. Neither the variance process nor the waiver process applies to federal law or regulations. A variance request shall:
- 7.06 (1) (a) Specify the section of these Rules from which a variance is requested.
- 7.06 (1) (b) Identify those conditions unique to the unit/facility or other needs or rationale justifying such request.
- 7.06 (1) (c) Specify methods by which the unit/facility will evaluate and report the educational effectiveness of the variance proposal.
- 7.06 (2) A written notice of approval or denial of the request shall be made by the Department of Education to the unit/facility within 30 days of its receipt of such request.
- 7.06 (2) (a) The approval process shall consider the improved educational effectiveness of such request as demonstrated by the following factors:
- 7.06 (2) (a) (i) Administrative efficiency.
- 7.06 (2) (a) (ii) Cost effectiveness.
- 7.06 (2) (a) (iii) Noninterference with rights and/or procedural safeguards.
- 7.06 (2) (a) (iv) Nonadverse impact on contiguous areas.
- 7.06 (2) (b) If the initial request is approved, the variance shall be in effect for no longer than one school year at which time the unit may request a continuance. Approval of subsequent requests shall take into consideration the above factors.
- 7.06 (2) (c) If the initial request or a continuance is denied, the unit may appeal that decision in accordance with Section 7.07 of these Rules.

## 7.07 Appeals

- 7.07 (1) ~~Administrative units and eligible facilities may appeal any decision of the Department of Education relating to the unit/facility, to the State Board of Education within 60 days of the receipt of notice from the Department.~~  
ANY DECISION OF THE DEPARTMENT RELATING TO AN ADMINISTRATIVE UNIT, A STATE-OPERATED PROGRAM OR AN ELIGIBLE FACILITY MAY BE APPEALED BY THE AFFECTED ENTITY TO THE STATE BOARD WITHIN 60 DAYS OF THE ENTITY'S RECEIPT OF THE WRITTEN NOTICE FROM THE DEPARTMENT.
- 7.07 (2) The State Board of Education will conduct a hearing and make a determination concerning the appeal within 60 days from the date of request. The decision of the State Board shall be final.
- 7.07 (3) A written notice of denial or approval shall be prepared and delivered to the administrative unit/facility , STATE-OPERATED PROGRAM OR ELIGIBLE FACILITY.

**RESPONSIBILITIES OF ADMINISTRATIVE UNITS, STATE-OPERATED PROGRAMS AND ELIGIBLE FACILITIES**

**8.01 GENERAL RESPONSIBILITIES**

8.01 (1) DUTIES AND RESPONSIBILITIES OF ADMINISTRATIVE UNITS.

AN ADMINISTRATIVE UNIT SHALL CARRY OUT ALL APPLICABLE STATE AND FEDERAL STATUTES AND REGULATIONS AND SHALL BE RESPONSIBLE FOR AND PROVIDE ASSURANCES FOR:

- 8.01 (1) (A) THE DEVELOPMENT AND ADOPTION OF A COMPREHENSIVE PLAN IN ACCORDANCE WITH THE APPLICABLE STATUTES AND REGULATIONS. SUCH PLAN SHALL ALSO INCLUDE A DESCRIPTION OF THE FOLLOWING:
  - 8.01 (1) (A) (I) FINANCIAL COMMITMENTS AND AGREEMENTS OF THE UNIT AND OF THE PARTICIPATING DISTRICTS FOR SPECIAL EDUCATION PROGRAMS AND SERVICES.
  - 8.01 (1) (A) (II) METHOD OR STANDARDS UTILIZED TO DETERMINE THE NUMBER AND TYPES OF SPECIAL EDUCATION PERSONNEL REQUIRED TO MEET THE NEEDS OF CHILDREN WITH DISABILITIES.
  - 8.01 (1) (A) (III) PROCEDURES FOR REGULAR, PERIODIC EVALUATION OF PROGRAMS, SERVICES AND STUDENT PROGRESS.
- 8.01 (1) (B) RESOURCE ALLOCATION AND MANAGEMENT TO ASSURE ADEQUATE PERSONNEL, FACILITIES, MATERIALS AND EQUIPMENT IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3.03 OF THESE RULES TO MEET THE NEEDS OF CHILDREN WITH DISABILITIES.
- 8.01 (1) (C) QUALIFIED PERSONNEL IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3.04 OF THESE RULES.
- 8.01 (1) (D) MAINTENANCE OF AND ACCESS TO STUDENT RECORDS IN ACCORDANCE WITH SECTION 7.01 OF THESE RULES.
- 8.01 (1) (E) CHILD FIND, REFERRAL, EVALUATION, PLANNING AND DELIVERY OF SERVICES IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 4.00, 5.00, AND 8.00 OF THE RULES.
- 8.01 (1) (F) PROCEDURES FOR ENSURING CONFIDENTIALITY AND REQUIRED PROCEDURAL SAFEGUARDS IN ACCORDANCE WITH SECTION 6.00 OF THE RULES.
- 8.01 (1) (G) STAFF DEVELOPMENT IN ACCORDANCE WITH SECTION 3.05 OF THESE RULES.
- 8.01 (1) (H) PROGRAM EVALUATION IN ACCORDANCE WITH SECTION 3.06 OF THESE RULES.

8.01 (2) DUTIES AND RESPONSIBILITIES OF ELIGIBLE FACILITIES.

AN ELIGIBLE FACILITY WITH AN ON-GROUNDS SCHOOL APPROVED BY THE STATE BOARD OF EDUCATION IN ACCORDANCE WITH SECTION 3.02(1) OF THESE RULES SHALL BE RESPONSIBLE FOR:

8.01 (2) (A) DEVELOPMENT OF A COMPREHENSIVE PLAN IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 3.02(1)(A)(VIII) AND 3.02(1)(E) OF THESE RULES.

8.01 (2) (B) RESOURCE ALLOCATION AND MANAGEMENT IN ACCORDANCE WITH SECTION 3.03 OF THESE RULES TO ASSURE ADEQUATE PERSONNEL, FACILITIES, MATERIALS AND EQUIPMENT TO MEET THE NEEDS OF CHILDREN WITH DISABILITIES..

8.01 (2) (C) QUALIFIED PERSONNEL IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3.04 OF THESE RULES.

8.01 (2) (D) MAINTENANCE AND ACCESS TO STUDENT RECORDS IN ACCORDANCE WITH SECTION 7.01 OF THESE RULES.

8.01 (2) (E) IEP PLANNING, IN COLLABORATION WITH THE RESPONSIBLE ADMINISTRATIVE UNIT, AND THE DELIVERY OF SERVICES IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 4.00, 5.00 AND 8.00 OF THESE RULES.

8.01 (2) (F) PROCEDURES FOR ENSURING CONFIDENTIALITY AND REQUIRED PROCEDURAL SAFEGUARDS IN ACCORDANCE WITH SECTION 6.00 OF THE RULES.

8.01 (2) (G) STAFF DEVELOPMENT IN ACCORDANCE WITH SECTION 3.05 OF THESE RULES.

8.01 (2) (H) PROGRAM EVALUATION IN ACCORDANCE WITH SECTION 3.06 OF THESE RULES.

8.01 (3) DUTIES AND RESPONSIBILITIES OF STATE-OPERATED PROGRAMS.

A STATE-OPERATED PROGRAM SHALL CARRY OUT ALL APPLICABLE STATE AND FEDERAL STATUTES AND REGULATIONS AND SHALL BE RESPONSIBLE FOR AND PROVIDE ASSURANCES FOR THE DEVELOPMENT AND ADOPTION OF A COMPREHENSIVE PLAN IN ACCORDANCE WITH THE APPLICABLE STATUTES AND REGULATIONS. SUCH PLAN SHALL ALSO INCLUDE A DESCRIPTION OF THE FOLLOWING:

8.01 (3) (A) METHOD OR STANDARDS UTILIZED TO DETERMINE THE NUMBER AND TYPES OF SPECIAL EDUCATION PERSONNEL REQUIRED TO MEET THE NEEDS OF CHILDREN WITH DISABILITIES.

8.01 (3) (B) RESOURCE ALLOCATION AND MANAGEMENT IN ACCORDANCE WITH SECTION 3.03 OF THESE RULES TO ASSURE ADEQUATE PERSONNEL, FACILITIES, MATERIALS AND EQUIPMENT TO MEET THE NEEDS OF CHILDREN WITH DISABILITIES.

8.01 (3) (C) QUALIFIED PERSONNEL IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3.04 OF THESE RULES.

- 8.01 (3) (D) MAINTENANCE OF AND ACCESS TO STUDENT RECORDS IN ACCORDANCE WITH SECTION 7.01 OF THESE RULES.
- 8.01 (3) (E) CHILD FIND, REFERRAL, EVALUATION, PLANNING AND DELIVERY OF SERVICES IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 4.00 AND 5.00 OF THE RULES.
- 8.01 (3) (F) PROCEDURES FOR ENSURING CONFIDENTIALITY AND REQUIRED PROCEDURAL SAFEGUARDS IN ACCORDANCE WITH SECTION 6.00 OF THE RULES.
- 8.01 (3) (G) STAFF DEVELOPMENT IN ACCORDANCE WITH SECTION 3.05 OF THESE RULES.
- 8.01 (3) (H) PROGRAM EVALUATION IN ACCORDANCE WITH SECTION 3.06 OF THESE RULES.

## **8.02 SPECIFIC RESPONSIBILITIES FOR SPECIAL EDUCATION FUNCTIONS AND SERVICES**

- 8.02 (1) EXCEPT AS IS OTHERWISE PROVIDED FOR IN THESE RULES, THE ADMINISTRATIVE UNIT OF ATTENDANCE IS RESPONSIBLE FOR CHILD IDENTIFICATION, AS DEFINED BY SECTION 4.02 OF THESE RULES, IEP PLANNING, DELIVERY OF SPECIAL EDUCATION SERVICES, AND THE PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION TO EACH CHILD WITH A DISABILITY ATTENDING PUBLIC SCHOOL WITHIN THE ADMINISTRATIVE UNIT, INCLUDING CONVENING AND CONDUCTING REQUIRED MEETINGS RELATED TO SUCH SPECIAL EDUCATION FUNCTIONS.
- 8.02 (1) (A) A CHILD WITH A DISABILITY ATTENDING PUBLIC SCHOOL IS ENTITLED TO ALL SPECIAL EDUCATION SERVICES SPECIFIED BY THE CHILD'S IEP AND TO A FREE APPROPRIATE PUBLIC EDUCATION.
- 8.02 (1) (B) CONSISTENT WITH 34 CFR §§300.129 THROUGH 300.144, EACH ADMINISTRATIVE UNIT IS RESPONSIBLE FOR CONDUCTING CHILD IDENTIFICATION AND SERVING DESIGNATED PARENTALLY PLACED PRIVATE SCHOOL STUDENTS WITH DISABILITIES IN ELEMENTARY AND SECONDARY PRIVATE SCHOOLS LOCATED WITHIN THE BOUNDARIES OF THE ADMINISTRATIVE UNIT, INCLUDING DEVELOPING A SERVICES PLAN FOR SUCH DESIGNATED STUDENTS.
- 8.02 (1) (C) THE ADMINISTRATIVE UNIT OF ATTENDANCE IS NOT RESPONSIBLE FOR THE DELIVERY OF SPECIAL EDUCATION SERVICES OR THE PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION TO A CHILD WITH A DISABILITY PLACED IN AN ELIGIBLE FACILITY APPROVED BY THE STATE BOARD OF EDUCATION. IT IS, HOWEVER, RESPONSIBLE FOR CERTAIN OTHER SPECIAL EDUCATION FUNCTIONS IDENTIFIED IN THIS RULE 8.00.
- 8.02 (2) IF A CHILD WITH A DISABILITY IS NOT ENROLLED IN SCHOOL, THE ADMINISTRATIVE UNIT OF RESIDENCE IS RESPONSIBLE FOR THE PROVISION OF CHILD FIND IDENTIFICATION SERVICES.

## **8.03 RESPONSIBILITY FOR SPECIAL EDUCATION TUITION**

- 8.03 (1) PURSUANT TO SECTION 9.03 OF THESE RULES, THE DISTRICT OF RESIDENCE IS RESPONSIBLE FOR THE PAYMENT OF SPECIAL EDUCATION TUITION AS THAT TERM IS DEFINED BY SECTION 9.01(8) OF THESE RULES.



- 8.03 (2) THE RELATIVE RESPONSIBILITIES OF ADMINISTRATIVE UNITS, DISTRICTS OF RESIDENCE, ELIGIBLE FACILITIES, CHARTER SCHOOLS AND ON-LINE PROGRAMS FOR PUBLIC OUT-OF-DISTRICT PLACEMENT OF STUDENTS, SCHOOL CHOICE PLACEMENT OF STUDENTS, AND SPECIAL EDUCATION TUITION ARE ESTABLISHED IN SECTION 9.00 OF THESE RULES. EACH BOCES AND ITS MEMBER DISTRICTS SHALL JOINTLY DEVELOP PROCEDURES AND/OR COOPERATIVE AGREEMENTS THAT WILL ENSURE COMPLIANCE WITH SUCH RULES.
- 8.03 (3) IF THE CHILD'S DISTRICT OF ATTENDANCE IS NOT THE CHILD'S DISTRICT OF RESIDENCE BUT IS WITHIN THE SAME ADMINISTRATIVE UNIT AS THE CHILD'S DISTRICT OF RESIDENCE, THE PAYMENT OF TUITION, IF ANY, SHALL BE DETERMINED BY THE ADMINISTRATIVE UNIT AND THE TWO DISTRICTS INVOLVED.

#### **8.04 RESPONSIBILITY FOR INITIAL ASSESSMENT AND REEVALUATION**

- 8.04 (1) RESPONSIBILITY FOR INITIAL ASSESSMENT AND REEVALUATION SHALL BE WITH THE ADMINISTRATIVE UNIT IN WHICH THE CHILD ATTENDS SCHOOL, OR, IF (S)HE IS NOT ENROLLED IN SCHOOL, IT SHALL BE THE RESPONSIBILITY OF THE ADMINISTRATIVE UNIT IN WHICH THE CHILD RESIDES. THE ADMINISTRATIVE UNIT OF ATTENDANCE SHALL INVITE THE SPECIAL EDUCATION DIRECTOR OR DESIGNEE OF THE ADMINISTRATIVE UNIT OF RESIDENCE TO PARTICIPATE IN THE PROCESS OF THE INITIAL ASSESSMENT OR RE-EVALUATION. STATE-OPERATED PROGRAMS AND ELIGIBLE FACILITIES SHALL BE EXCEPTED FROM THIS RULE AS FOLLOWS:
- 8.04 (1) (A) INITIAL ASSESSMENT AND RE-EVALUATION FOR CHILDREN ATTENDING THE COLORADO SCHOOL FOR THE DEAF AND THE BLIND OR RESIDING AT THE MENTAL HEALTH INSTITUTES OR THE DIVISION OF YOUTH CORRECTIONS SHALL BE THE RESPONSIBILITY OF THOSE AGENCIES WHICH SHALL INVITE THE ADMINISTRATIVE UNIT OF RESIDENCE TO PARTICIPATE.
- 8.04 (1) (B) INITIAL ASSESSMENT AND RE-EVALUATION FOR INCARCERATED CHILDREN SHALL BE THE RESPONSIBILITY OF THE DEPARTMENT OF CORRECTIONS.
- 8.04 (1) (C) RE-EVALUATION FOR CHILDREN AT ELIGIBLE FACILITIES SHALL BE THE RESPONSIBILITY OF THE ADMINISTRATIVE UNIT OF RESIDENCE.
- 8.04 (1) (D) WHEN THE CHARTER CONTRACT BETWEEN A CHARTER SCHOOL AND ITS AUTHORIZER ALLOWS THE CHARTER SCHOOL TO PROVIDE INITIAL EVALUATIONS AND REEVALUATIONS, THE CHARTER SCHOOL SHALL BE RESPONSIBLE FOR CONDUCTING SUCH EVALUATIONS AND COMPLYING WITH SECTION 4.02 OF THESE RULES. HOWEVER, THE ADMINISTRATIVE UNIT OF THE CHARTER SCHOOL REMAINS ULTIMATELY RESPONSIBLE FOR ENSURING THAT ALL SUCH EVALUATIONS MEET THE REQUIREMENTS OF SECTION 4.02.

#### **8.05 MEETINGS DURING WHICH A DISABILITY OR ELIGIBILITY IS INITIALLY CONSIDERED**

- 8.05 (1) MEETINGS DURING WHICH A DISABILITY OR ELIGIBILITY IS INITIALLY CONSIDERED SHALL BE THE RESPONSIBILITY OF THE ADMINISTRATIVE UNIT IN WHICH THE CHILD ATTENDS SCHOOL OR, IF (S)HE IS NOT ENROLLED IN SCHOOL, IT SHALL BE THE RESPONSIBILITY OF THE ADMINISTRATIVE UNIT IN WHICH THE CHILD RESIDES.

- 8.05 (1) (A) IF THE ADMINISTRATIVE UNIT IN WHICH THE PARENT RESIDES WOULD BE DIFFERENT FROM THE ADMINISTRATIVE UNIT OF ATTENDANCE, THE ADMINISTRATIVE UNIT OF ATTENDANCE SHALL NOTIFY THE SPECIAL EDUCATION DIRECTOR OF THE ADMINISTRATIVE UNIT IN WHICH THE CHILD'S PARENT RESIDES PRIOR TO THE ASSESSMENT PROCESS SO THAT THE ADMINISTRATIVE UNIT OF RESIDENCE MAY CHOOSE TO PARTICIPATE IN THE PROCESS.
- 8.05 (1) (B) IF THE ADMINISTRATIVE UNIT IN WHICH THE PARENT RESIDES DISAGREES WITH THE DETERMINATION OF ELIGIBILITY, THE ADMINISTRATIVE UNIT OF RESIDENCE MAY ELECT TO INITIATE AN INFORMAL PROCESS SUCH AS NEGOTIATION OR MEDIATION OR IT MAY REQUEST THE COMMISSIONER OF EDUCATION TO REVIEW THE PROCESS OF DETERMINATION. DISAGREEMENTS SUBJECT TO THIS INFORMAL DISPUTE RESOLUTION OPTION ARE LIMITED TO THOSE INVOLVING ALLEGATIONS THAT THE ADMINISTRATIVE UNIT OF ATTENDANCE FAILED TO COMPLY WITH THE EVALUATION AND ELIGIBILITY DETERMINATION PROCEDURES ESTABLISHED BY SECTION 4.02 OF THESE RULES, INCLUDING THE REQUIREMENT THAT THE ADMINISTRATIVE UNIT OF RESIDENCE BE INVITED TO PARTICIPATE IN THE EVALUATION OF THE CHILD CONSISTENT WITH SECTION 8.05(1)(A) OF THESE RULES.
- 8.05 (1) (C) EXCEPT FOR STATE-OPERATED PROGRAMS AND ELIGIBLE FACILITIES, REVIEW MEETINGS IN WHICH THE DETERMINATION OF DISABILITY AND ELIGIBILITY IS RECONSIDERED SHALL BE THE RESPONSIBILITY OF THE ADMINISTRATIVE UNIT OF ATTENDANCE. THIS INCLUDES REVIEW MEETINGS FOR CHILDREN WITH DISABILITIES ATTENDING ON-LINE PROGRAMS WITHIN THE ADMINISTRATIVE UNIT OF ATTENDANCE. FOR STATE-OPERATED PROGRAMS, REVIEW MEETINGS IN WHICH THE DETERMINATION OF DISABILITY AND ELIGIBILITY ARE RECONSIDERED SHALL BE THE RESPONSIBILITY OF THE STATE-OPERATED PROGRAMS. FOR ELIGIBLE FACILITIES, REVIEW MEETINGS IN WHICH THE DETERMINATION OF DISABILITY AND ELIGIBILITY ARE RECONSIDERED SHALL BE THE RESPONSIBILITY OF THE ADMINISTRATIVE UNIT OF RESIDENCE.
- 8.05 (1) (D) WHEN THE CHARTER CONTRACT BETWEEN A CHARTER SCHOOL AND ITS AUTHORIZER ALLOWS THE CHARTER SCHOOL TO PROVIDE THE SPECIAL EDUCATION SERVICES AND TO CONDUCT THE ELIGIBILITY DETERMINATION MEETINGS REQUIRED BY THESE RULES, THE CHARTER SCHOOL SHALL BE RESPONSIBLE FOR MEETING THE ELIGIBILITY DETERMINATION REQUIREMENTS IN COMPLIANCE WITH SECTION 4.02 OF THESE RULES. HOWEVER, THE ADMINISTRATIVE UNIT OF THE CHARTER SCHOOL REMAINS ULTIMATELY RESPONSIBLE FOR ENSURING THAT ALL ELIGIBILITY DETERMINATIONS AND RELATED MEETINGS COMPLY WITH THE REQUIREMENTS OF SECTION 4.02.
- 8.06 MEETINGS TO INITIALLY DEVELOP OR TO SUBSEQUENTLY REVIEW THE CHILD'S INDIVIDUALIZED EDUCATIONAL PROGRAM (IEP)**
- 8.06 (1) IF THE DETERMINATION IS MADE THAT THE CHILD HAS A DISABILITY AND IS ELIGIBLE FOR SPECIAL EDUCATION, ALL MEETINGS TO INITIALLY DEVELOP OR TO SUBSEQUENTLY REVIEW THE CHILD'S INDIVIDUALIZED EDUCATIONAL PROGRAM (IEP) SHALL BE THE RESPONSIBILITY OF THE ADMINISTRATIVE UNIT OF ATTENDANCE WHICH SHALL TIMELY INVITE THE SPECIAL EDUCATION DIRECTOR

OF THE ADMINISTRATIVE UNIT OF RESIDENCE TO PARTICIPATE AS AN IEP TEAM MEMBER. THIS INCLUDES ON-LINE PROGRAMS OPERATED WITHIN THE ADMINISTRATIVE UNIT OF ATTENDANCE. EXCEPTIONS TO THIS RULE ARE AS FOLLOWS:

- 8.06 (1) (A) ALL MEETINGS FOR CHILDREN ATTENDING THE COLORADO SCHOOL FOR THE DEAF AND THE BLIND OR RESIDING AT THE MENTAL HEALTH INSTITUTES AND THE DIVISION OF YOUTH CORRECTIONS SHALL BE THE RESPONSIBILITY OF THOSE AGENCIES WHICH SHALL INVITE THE ADMINISTRATIVE UNIT OF RESIDENCE TO PARTICIPATE.
- 8.06 (1) (B) ALL MEETINGS FOR INCARCERATED CHILDREN AT THE DEPARTMENT OF CORRECTIONS SHALL BE THE RESPONSIBILITY OF THAT AGENCY.
- 8.06 (1) (C) MEETINGS TO DEVELOP THE INITIAL INDIVIDUALIZED EDUCATIONAL PROGRAM (IEP) FOR CHILDREN AT ELIGIBLE FACILITIES SHALL BE THE RESPONSIBILITY OF THE ADMINISTRATIVE UNIT OF ATTENDANCE (THE ADMINISTRATIVE UNIT IN WHICH THE FACILITY IS LOCATED). THEREAFTER IEP REVIEW MEETINGS AND RE-DETERMINATION OF ELIGIBILITY SHALL BE THE RESPONSIBILITY OF THE ADMINISTRATIVE UNIT OF RESIDENCE.
- 8.06 (1) (D) WHEN THE CHARTER CONTRACT BETWEEN A CHARTER SCHOOL AND ITS AUTHORIZER ALLOWS THE CHARTER SCHOOL TO PROVIDE THE SPECIAL EDUCATION SERVICES AND TO CONDUCT THE MEETINGS REQUIRED BY THESE RULES, THE CHARTER SCHOOL SHALL BE RESPONSIBLE FOR MEETINGS TO INITIALLY DEVELOP AND SUBSEQUENTLY REVIEW THE IEP IN COMPLIANCE WITH SECTION 4.03 OF THESE RULES. HOWEVER, THE ADMINISTRATIVE UNIT OF THE CHARTER SCHOOL REMAINS ULTIMATELY RESPONSIBLE FOR ENSURING THAT IEP PLANNING AND RELATED MEETINGS COMPLY WITH THE REQUIREMENTS OF SECTION 4.03.

**8.07 TRANSFERS UNDER PUBLIC SCHOOL CHOICE INVOLVING A SIGNIFICANT CHANGE IN PLACEMENT**

- 8.07 (1) WHEN A CHILD SEEKS TO TRANSFER TO A NEW SCHOOL OR PROGRAM, INCLUDING AN ON-LINE PROGRAM UNDER PUBLIC SCHOOL CHOICE, AND THE TRANSFER CONSTITUTES A SIGNIFICANT CHANGE IN PLACEMENT, AS DESCRIBED IN SECTION 4.03(8)(B)(II) OF THESE RULES:
  - 8.07 (1) (A) A REEVALUATION CONSISTENT WITH SECTION 4.03(8)(B)(II)(B) MUST BE CONDUCTED BY THE ADMINISTRATIVE UNIT IN WHICH THE SCHOOL OR PROGRAM IS LOCATED, AND AN IEP TEAM CONVENED BY SUCH ADMINISTRATIVE UNIT. THE PURPOSE OF THE IEP TEAM MEETING IS TO ENSURE THAT THE RECEIVING SCHOOL OR PROGRAM IS AN APPROPRIATE PLACEMENT FOR THE STUDENT. CONSISTENT WITH THIS SECTION 8.00, IF THE ADMINISTRATIVE UNIT OF THE RECEIVING SCHOOL OR PROGRAM IS DIFFERENT FROM THE ADMINISTRATIVE UNIT OF RESIDENCE, THE SPECIAL EDUCATION DIRECTOR OF THE ADMINISTRATIVE UNIT OF RESIDENCE SHALL BE NOTIFIED OF THE REEVALUATION AND ALSO INVITED TO THE IEP MEETING.
  - 8.07 (1) (B) WHEN THE CHARTER CONTRACT BETWEEN A CHARTER SCHOOL AND ITS AUTHORIZER ALLOWS THE CHARTER SCHOOL TO PROVIDE THE SPECIAL EDUCATION SERVICES AND TO CONDUCT THE IEP MEETING REQUIRED BY SECTION, THE CHARTER SCHOOL SHALL BE RESPONSIBLE FOR THE

REEVALUATION AND THE IEP MEETING IN COMPLIANCE WITH THIS SECTION AND SECTION 4.03(8)(B)(II). HOWEVER, THE ADMINISTRATIVE UNIT OF THE AUTHORIZER REMAINS ULTIMATELY RESPONSIBLE FOR ENSURING COMPLIANCE WITH THIS SECTION AND SECTION 4.03(8)(B)(II).

## **8.08 RESPONSIBILITY FOR IDEA PART C CHILD FIND**

THE ADMINISTRATIVE UNIT OF RESIDENCE IS RESPONSIBLE FOR IDEA PART C CHILD FIND CONSISTENT WITH SECTION 22-20-118, C.R.S.

## **2220-R-9.00**

### **OUT OF DISTRICT PLACEMENTS**

#### **9.01 DEFINITIONS**

- 9.01 (3) **“Eligible Facility”** means a group care facility (E.G., A PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY AND A THERAPEUTIC TREATMENT FACILITY), ~~or~~ GROUP home, community-centered board, hospital, or state-licensed day treatment facility that offers a school program providing special education services to children with disabilities that has been approved by the State Board of Education.

**2220-R-10.00 (RESERVED)**

**2220-R-11.00 (RESERVED)**

## **2220-R-12.00 GIFTED AND TALENTED STUDENT PROGRAMMING**

### **12.01 Definitions.**

- 12.01 (17) **“Twice Exceptional”** means a student who is:
- 12.01 (17) (a) Identified as a gifted student pursuant to Section 12.01(9) of these Rules; and
- 12.01 (17) (b) (1) Identified as a child with a disability pursuant to Section ~~4.01(4)~~ 4.02 of these Rules; or
- 12.01 (17) (b) (2) A qualified individual pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. §794.