

Illinois State Board of Education
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SIDE BY SIDE DOCUMENT

Comparison of 23 Illinois Administrative Code Part 226 (June 28, 2007) to IDEA Regulations (August 3, 2006)



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| <p>SUBPART A: GENERAL</p> | <p>SUBPART A—GENERAL - Purposes and Applicability</p> |
| <p>Section 226.10 Purpose This Part establishes the requirements for the treatment of children and the provision of special education and related services pursuant to the Individuals with Disabilities Education Improvement Act (also referred to as “IDEA”) (20 USC 1400 et seq.), its implementing regulations (34 CFR 300, as amended by 71 Fed. Reg. 46540 (August 14, 2006, no later amendments or editions included)), and Article 14 of the School Code [105 ILCS 5/Art.14]. This Part also distinguishes between requirements derived from federal authority and those imposed additionally pursuant to Article 14 of the School Code or the authority of the State Board of Education. The requirements of IDEA, its implementing regulations, and this Part shall apply in every instance when a child is or may be eligible for special education and related services.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.1 Purposes. The purposes of this part are— (a) To ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; (b) To ensure that the rights of children with disabilities and their parents are protected; (c) To assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities; and (d) To assess and ensure the effectiveness of efforts to educate children with disabilities. (Authority: 20 U.S.C. 1400(d))</p> <p>Select Related Regulations:</p> <p>Sec. 300.4 Act. <i>Act</i> means the Individuals with Disabilities Education Act, as amended. (Authority: 20 U.S.C. 1400(a))</p> <p>Sec. 300.20 Include. <i>Include</i> means that the items named are not all of the possible items that are covered, whether like or unlike the ones named. (Authority: 20 U.S.C. 1221e-3)</p> <p>Sec. 300.2 Applicability of this part to State and local agencies. (a) <i>States.</i> This part applies to each State that receives payments under Part B of the Act, as defined in §300.4. (b) <i>Public agencies within the State.</i> The provisions of this part— (1) Apply to all political subdivisions of the State that are involved in the education of children with disabilities, including: (i) The State educational agency (SEA). (ii) Local educational agencies (LEAs), educational service agencies (ESAs), and public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA. (iii) Other State agencies and schools (such as Departments of Mental Health and Welfare and State schools for children with deafness or children with blindness). (iv) State and local juvenile and adult correctional facilities; and (2) Are binding on each public agency in the State that provides special education and related services to children with disabilities, regardless of whether that agency is receiving funds under Part B of the Act.</p> |

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| | <p>(c) <i>Private schools and facilities.</i> Each public agency in the State is responsible for ensuring that the rights and protections under Part B of the Act are given to children with disabilities—</p> <ul style="list-style-type: none"> (1) Referred to or placed in private schools and facilities by that public agency; or (2) Placed in private schools by their parents under the provisions of §300.148. <p>(Authority: 20 U.S.C. 1412)</p> <p>Sec. 300.41 State educational agency. <i>State educational agency</i> or <i>SEA</i> means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law. (Authority: 20 U.S.C. 1401(32))</p> <p>Sec. 300.28 Local educational agency. (a) General. <i>Local educational agency</i> or <i>LEA</i> means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools. (b) Educational service agencies and other public institutions or agencies. The term includes-- <ul style="list-style-type: none"> (1) An educational service agency, as defined in Sec. 300.12; and (2) Any other public institution or agency having administrative control and direction of a public elementary school or secondary school, including a public nonprofit charter school that is established as an LEA under State law. (c) BIA funded schools. The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs, and not subject to the jurisdiction of any SEA other than the Bureau of Indian Affairs, but only to the extent that the inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the Act with the smallest student population. (Authority: 20 U.S.C. 1401(19))</p> <p>Sec. 300.12 Educational service agency. Educational service agency means-- (a) A regional public multiservice agency-- <ul style="list-style-type: none"> (1) Authorized by State law to develop, manage, and provide services or programs to LEAs; (2) Recognized as an administrative agency for purposes of the provision of special </p> |

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| | <p>education and related services provided within public elementary schools and secondary schools of the State;</p> <p>(b) Includes any other public institution or agency having administrative control and direction over a public elementary school or secondary school; and</p> <p>(c) Includes entities that meet the definition of intermediate educational unit in section 602(23) of the Act as in effect prior to June 4, 1997.(Authority: 20 U.S.C. 1401(5))</p> <p>Sec. 300.33 Public agency. <i>Public agency</i> includes the SEA, LEAs, ESAs, nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and any other political subdivisions of the State that are responsible for providing education to children with disabilities. (Authority: 20 U.S.C. 1412(a)(11))</p> <p>Sec. 300.13 Elementary school. <i>Elementary school</i> means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.(Authority: 20 U.S.C. 1401(6))</p> <p>Sec. 300.36 Secondary school. <i>Secondary school</i> 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. (Authority: 20 U.S.C. 1401(27))</p> <p>Sec. 300.21 Indian and Indian tribe. (a) Indian means an individual who is a member of an Indian tribe. (b) Indian tribe means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq.). (c) Nothing in this definition is intended to indicate that the Secretary of the Interior is required to provide services or funding to a State Indian tribe that is not listed in the Federal Register list of Indian entities recognized as eligible to receive services from the United States, published pursuant to Section 104 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a-1.(Authority: 20 U.S.C. 1401(12) and (13))</p> <p>Sec. 300.223 Joint establishment of eligibility. (a) General. An SEA may require an LEA to establish its eligibility jointly with another LEA if the SEA determines that the LEA will be ineligible under this subpart because the agency will not be able to establish and maintain programs of sufficient size and scope to</p> |

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| | <p>effectively meet the needs of children with disabilities.</p> <p>(b) Charter school exception. An SEA may not require a charter school that is an LEA to jointly establish its eligibility under paragraph (a) of this section unless the charter school is explicitly permitted to do so under the State's charter school statute.</p> <p>(c) Amount of payments. If an SEA requires the joint establishment of eligibility under paragraph (a) of this section, the total amount of funds made available to the affected LEAs must be equal to the sum of the payments that each LEA would have received under Sec. 300.705 if the agencies were eligible for those payments. (Authority: 20 U.S.C. 1413(e)(1) and (2)).</p> |
| <p>Section 226.50 Requirements for a Free Appropriate Public Education (FAPE) A “free appropriate public education (“FAPE”)” as defined at 34 CFR 300.17, must be made available by school districts to children with disabilities in accordance with 34 CFR 300.101 through 300.103, unless otherwise specified in this Section....</p> <p>(Note: Section 226.50 is set forth over several consecutive pages to align with the IDEA: See Page 9 for continuation of the section relating to transfer students, Page 11 relating to graduation and or completion of program and Page 12 relating to incarceration as adults.)</p> | <p>Sec. 300.17 Free appropriate public education. <i>Free appropriate public education</i> or <i>FAPE</i> means special education and related services that--</p> <p>(a) Are provided at public expense, under public supervision and direction, and without charge;</p> <p>(b) Meet the standards of the SEA, including the requirements of this part;</p> <p>(c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and</p> <p>(d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of Sections 300.320 through 300.324. (Authority: 20 U.S.C. 1401(9))</p> <p>Referenced Regulations: See Pages 61-63 for Section 300.320 and Pages 49-56 for Sections 300.321 - -300.324.</p> <p>Sec. 300.101 Free appropriate public education (FAPE).</p> <p>(a) General. A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in Sec. 300.530(d).</p> <p>(b) FAPE for children beginning at age 3. (1) Each State must ensure that--</p> <p>(i) The obligation to make FAPE available to each eligible child residing in the State begins no later than the child's third birthday; and</p> <p>(ii) An IEP or an IFSP is in effect for the child by that date, in accordance with Sec. 300.323(b).</p> <p>(2) If a child's third birthday occurs during the summer, the child's IEP Team shall determine the date when services under the IEP or IFSP will begin.</p> <p>(c) Children advancing from grade to grade.</p> <p>(1) Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to</p> |

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| | <p>grade.</p> <p>(2) The determination that a child described in paragraph (a) of this section is eligible under this part, must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations. (Authority: 20 U.S.C. 1412(a)(1)(A))</p> <p><i>Referenced and Select Related Regulations: See Pages 49-50 for Section 300.323 and Pages 92-95 for Section 300.530.</i></p> <p>Sec. 300.102 Limitation--exception to FAPE for certain ages.</p> <p>(a) General. The obligation to make FAPE available to all children with disabilities does not apply with respect to the following:</p> <p>(1) Children aged 3, 4, 5, 18, 19, 20, or 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children of those ages.</p> <p>(2) (i) Children aged 18 through 21 to the extent that State law does not require that special education and related services under Part B of the Act be provided to students with disabilities who, in the last educational placement prior to their incarceration in an adult correctional facility--</p> <p>(A) Were not actually identified as being a child with a disability under Sec. 300.8; and</p> <p>(B) Did not have an IEP under Part B of the Act.</p> <p>(ii) The exception in paragraph (a)(2)(i) of this section does not apply to children with disabilities, aged 18 through 21, who--</p> <p>(A) Had been identified as a child with a disability under Sec. 300.8 and had received services in accordance with an IEP, but who left school prior to their incarceration; or</p> <p>(B) Did not have an IEP in their last educational setting, but who had actually been identified as a child with a disability under Sec. 300.8.</p> <p>(3) (i) Children with disabilities who have graduated from high school with a regular high school diploma.</p> <p>(ii) The exception in paragraph (a)(3)(i) of this section does not apply to children who have graduated from high school but have not been awarded a regular high school diploma.</p> <p>(iii) Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with Sec. 300.503.</p> <p>(iv) As used in paragraphs (a)(3)(i) through (a)(3)(iii) of this section, the term regular high school diploma does not include an alternative degree that is not</p> |

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| | <p>fully aligned with the State's academic standards, such as a certificate or a general educational development credential (GED).</p> <p>(4) Children with disabilities who are eligible under subpart H of this part, but who receive early intervention services under Part C of the Act.</p> <p>(b) Documents relating to exceptions. The State must assure that the information it has provided to the Secretary regarding the exceptions in paragraph (a) of this section, as required by Sec. 300.700 (for purposes of making grants to States under this part), is current and accurate. (Authority: 20 U.S.C. 1412(a)(1)(B)-(C))</p> <p>Referenced and Select Related Regulations: See Pages 16-19 for Section 300.8, Page 102 for Section 300.503 and Pages 49-50 for Section 300.323.</p> <p>Sec. 300.103 FAPE--methods and payments. (a) Each State may use whatever State, local, Federal, and private sources of support are available in the State to meet the requirements of this part. For example, if it is necessary to place a child with a disability in a residential facility, a State could use joint agreements between the agencies involved for sharing the cost of that placement. (b) Nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a child with a disability. (c) Consistent with Sec. 300.323(c), the State must ensure that there is no delay in implementing a child's IEP, including any case in which the payment source for providing or paying for special education and related services to the child is being determined. (Authority: 20 U.S.C. 1401(8), 1412(a)(1)).</p> <p>Sec. 300.109 Full educational opportunity goal (FEOG). The State must have in effect policies and procedures to demonstrate that the State has established a goal of providing full educational opportunity to all children with disabilities, aged birth through 21, and a detailed timetable for accomplishing that goal. (Authority: 20 U.S.C. 1412(a)(2))</p> <p>Sec. 300.110 Program options. The State must ensure that each public agency takes steps to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education. (Authority: 20 U.S.C. 1412(a)(2), 1413(a)(1))</p> |

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| <p>Section 226.50 Requirements for a Free Appropriate Public Education (FAPE) - Continued</p> <p>A “free appropriate public education (“FAPE”)” as defined at 34 CFR 300.17, must be made available by school districts to children with disabilities in accordance with 34 CFR 300.101 through 300.103, unless otherwise specified in this Section.</p> <p>a) Transfer Students Provision of FAPE to students who transfer into a local school district shall be made in accordance with the requirements of 20 USC 1414(d)(2)(C). The additional requirements of this subsection (a) shall also apply.</p> <p>1) In the case of an eligible student transferring into a district from another district within Illinois, when the new district obtains a copy of the student’s IEP before or at the time the child is presented for enrollment:</p> <p>A) The district may adopt the IEP of the former local school district without an IEP meeting if:</p> <p>i) the parents indicate, either orally or in writing, satisfaction with the current IEP; and</p> <p>ii) the new district determines that the current IEP is appropriate and can be implemented as written.</p> <p>B) If the district does not adopt the former IEP and seeks to develop a new IEP for the child, within ten days after the date of the child’s enrollment the district must provide written notice to the parent including the proposed date of the IEP meeting, in conformance with Section 226.530 of this Part. While the new IEP is under development, the district shall implement services comparable to those described in the IEP from the former district.</p> <p>2) If the new school district does not receive a copy of the child’s current IEP or a verbal or written confirmation of the requirements of that IEP from the previous school district when the child is presented for enrollment, the child shall be enrolled and served in the setting that the receiving district believes will meet the child’s needs until a copy of the current IEP is obtained or a new IEP is developed by the school district.</p> <p>A) In no case shall a child be allowed to remain without services during this interim.</p> <p>B) The new district shall request the student’s records from the sending district or school by the end of the next business day after the date of enrollment.</p> <p>C) No later than ten days after expiration of the time allotted under Section 2-3.13a of the School Code [105 ILCS 5/2-3.13a] for the sending district or school to forward the child’s records, the new district shall initiate an IEP meeting for the purpose of developing a new IEP, unless the sending district’s or school’s</p> | <p>IDEA LAW: 20 USC 1414(d)(2)(C)</p> <p>(C) PROGRAM FOR CHILDREN WHO TRANSFER SCHOOL DISTRICTS-</p> <p>(i) IN GENERAL -</p> <p>(I) TRANSFER WITHIN THE SAME STATE- In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in the same State, the local educational agency shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency adopts the previously held IEP or develops, adopts, and implements a new IEP that is consistent with Federal and State law.</p> <p>(II) TRANSFER OUTSIDE STATE- In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in another State, the local educational agency shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency conducts an evaluation pursuant to subsection (a)(1), if determined to be necessary by such agency, and develops a new IEP, if appropriate, that is consistent with Federal and State law.</p> <p>(ii) TRANSMITTAL OF RECORDS- To facilitate the transition for a child described in clause (i)--</p> <p>(I) the new school in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous school in which the child was enrolled, pursuant to section 99.31(a)(2) of title 34, Code of Federal Regulations; and</p> <p>(II) the previous school in which the child was enrolled shall take reasonable steps to promptly respond to such request from the new school.</p> <p>Related Regulation: Sec. 300.323 When IEPs must be in effect. (Excerpt: See Pages 49-50 for complete Section.)</p> <p>(e) IEPs for children who transfer public agencies in the same State. If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either--</p> |

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| <p>IEP arrives before this time elapses, the student has transferred from a district within Illinois, and the new district adopts the previously held IEP.</p> <p>b) Jurisdictional Disputes Each school district is responsible for ensuring that no eligible child for whom services are sought is denied FAPE due to jurisdictional disputes among Illinois agencies. Provision of FAPE to such a student shall not preclude a district from seeking repayment for costs incurred from any other school district or entity that is determined responsible for such costs...</p> | <p>(1) Adopts the child's IEP from the previous public agency; or (2) Develops, adopts, and implements a new IEP that meets the applicable requirements in Sections 300.320 through 300.324.</p> <p>(f) IEPs for children who transfer from another State. If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency--</p> <p>(1) Conducts an evaluation pursuant to Sections 300.304 through 300.306 (if determined to be necessary by the new public agency); and (2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in Sections 300.320 through 300.324.</p> <p>(g) Transmittal of records. To facilitate the transition for a child described in paragraphs (e) and (f) of this section--</p> <p>(1) The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2); and (2) The previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency. (Authority: 20 U.S.C. 1414(d)(2)(A)-(C))</p> <p><i>Referenced and Select Related Regulations and Law: See Pages 36-39 for Sections 300.304 – 300.306, Pages 61-63 for Section 300.320, Pages 49-56 for Sections 300.321-300.324.</i></p> <p>Family Educational Rights and Privacy Act: 34 CFR Section 99.31(a)(2) § 99.31</p> <p>Under what conditions is prior consent not required to disclose information?</p> <p>(a) An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by § 99.30 if the disclosure meets one or more of the following conditions:</p> <p>(1) The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests. (2) The disclosure is, subject to the requirements of § 99.34, to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll...</p> |

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| <p>Section 226.50 Requirements for a Free Appropriate Public Education (FAPE) - Continued</p> <p>c) Eligibility; Graduation or Completion of Program</p> <ol style="list-style-type: none"> 1) An eligible student who requires continued public school educational experience to facilitate his or her integration into society shall be eligible for such services through age 21, inclusive (i.e., through the day before the student’s 22nd birthday) (see 34 CFR 300.101(a)). 2) The provision of FAPE is not required with respect to a student with a disability who has graduated with a regular high school diploma. 3) A student with a disability who has fulfilled the minimum State graduation requirements set forth in Section 27-22 of the School Code [105 ILCS 5/27-22] shall be eligible for a regular high school diploma. <ol style="list-style-type: none"> A) If the student’s individualized education program prescribes special education, transition planning, transition services, or related services beyond that point, issuance of that diploma shall be deferred so that the student will continue to be eligible for those services. B) If the student is to receive a regular high school diploma, at least one year prior to the anticipated date of its issuance, both the parent and the student shall receive written notification in conformance with the requirements of 34 CFR 300.503 that eligibility for public school special education services ends following the granting of a diploma and that the parent (or the student, if Section 226.690 of this Part applies) may request an IEP meeting to review the recommendation that the student receive a regular diploma. 4) Students who have participated in a graduation ceremony but have not been awarded regular high school diplomas continue to be eligible to receive FAPE through age 21, inclusive. <p>d) Exception for Certain Students Incarcerated as Adults Pursuant to 34 CFR 300.102(a)(2), the right to receive FAPE does not extend to students from 18 through 21 years of age who are incarcerated and who were not identified as eligible and did not have IEPs in their educational placements immediately prior to incarceration.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>FAPE Requirements</p> <p><i>(Excerpt. See Pages 4-5 for complete Section.)</i></p> <p>Sec. 300.101 Free appropriate public education (FAPE).</p> <p>(a) General. A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in Sec. 300.530(d)....</p> <p>Referenced Regulation: See Pages 92-95 for Section 300.530.</p> <p>Sec. 300.102 Limitation--exception to FAPE for certain ages.</p> <p>(a) General. The obligation to make FAPE available to all children with disabilities does not apply with respect to the following:</p> <ol style="list-style-type: none"> (1) Children aged 3, 4, 5, 18, 19, 20, or 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children of those ages. (2) (i) Children aged 18 through 21 to the extent that State law does not require that special education and related services under Part B of the Act be provided to students with disabilities who, in the last educational placement prior to their incarceration in an adult correctional facility-- <ol style="list-style-type: none"> (A) Were not actually identified as being a child with a disability under Sec. 300.8; and (B) Did not have an IEP under Part B of the Act. (ii) The exception in paragraph (a)(2)(i) of this section does not apply to children with disabilities, aged 18 through 21, who-- <ol style="list-style-type: none"> (A) Had been identified as a child with a disability under Sec. 300.8 and had received services in accordance with an IEP, but who left school prior to their incarceration; or (B) Did not have an IEP in their last educational setting, but who had actually been identified as a child with a disability under Sec. 300.8. (3) (i) Children with disabilities who have graduated from high school with a regular high school diploma. <ol style="list-style-type: none"> (ii) The exception in paragraph (a)(3)(i) of this section does not apply to children who have graduated from high school but have not been awarded a regular high school diploma. (iii) Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with Sec. 300.503. (iv) As used in paragraphs (a)(3)(i) through (a)(3)(iii) of this section, the term |

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| | <p>regular high school diploma does not include an alternative degree that is not fully aligned with the State's academic standards, such as a certificate or a general educational development credential (GED).</p> <p>(4) Children with disabilities who are eligible under subpart H of this part, but who receive early intervention services under Part C of the Act.</p> <p>(b) Documents relating to exceptions. The State must assure that the information it has provided to the Secretary regarding the exceptions in paragraph (a) of this section, as required by Sec. 300.700 (for purposes of making grants to States under this part), is current and accurate. (Authority: 20 U.S.C. 1412(a)(1)(B)-(C))</p> <p>Referenced Regulation: See Pages 16-19 for Section 300.8.</p> <p>Sec. 300.503 Prior notice by the public agency; content of notice.</p> <p>(a) Notice. Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency--</p> <ol style="list-style-type: none"> (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. <p>(b) Content of notice. The notice required under paragraph (a) of this section must include--</p> <ol style="list-style-type: none"> (1) A description of the action proposed or refused by the agency; (2) An explanation of why the agency proposes or refuses to take the action; (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part; (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and (7) A description of other factors that are relevant to the agency's proposal or refusal. <p>(c) Notice in understandable language.</p> <ol style="list-style-type: none"> 1) The notice required under paragraph (a) of this section must be-- <ol style="list-style-type: none"> i) Written in language understandable to the general public; and ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. |

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| | <p>(2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure--</p> <ul style="list-style-type: none"> (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; (ii) That the parent understands the content of the notice; and (iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met. (Authority: 20 U.S.C. 1415(b)(3) and (4), 1415(c)(1), 1414(b)(1)) |
| <p>Section 226.60 Charter Schools For purposes of IDEA and this Part, charter schools established pursuant to Article 27A of the School Code [105 ILCS 5/Art.27A] shall be treated either as schools within school districts or as local educational agencies in their own right.</p> <ul style="list-style-type: none"> a) When a school's charter is issued by a local board of education pursuant to Section 27A-8 of the School Code [105 ILCS 5/27A-8], that charter school shall be considered as a school within the district over which that board of education exercises jurisdiction. b) When a school's charter is issued by the State Board of Education pursuant to Section 27A-9(f) of the School Code [105 ILCS 5/27A-9(f)], that charter school shall be considered as a local educational agency. <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.7 Charter school. Charter school has the meaning given the term in section 5210(1) of the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. 6301 et seq. (ESEA). (Authority: 20 U.S.C. 7221i(1))</p> <p>Sec. 300.209 Treatment of charter schools and their students.</p> <ul style="list-style-type: none"> (a) Rights of children with disabilities. Children with disabilities who attend public charter schools and their parents retain all rights under this part. (b) Charter schools that are public schools of the LEA. <ul style="list-style-type: none"> (1) In carrying out Part B of the Act and these regulations with respect to charter schools that are public schools of the LEA, the LEA must— <ul style="list-style-type: none"> (i) Serve children with disabilities attending those charter schools in the same manner as the LEA serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the LEA has a policy or practice of providing such services on the site to its other public schools; and (ii) Provide funds under Part B of the Act to those charter schools-- <ul style="list-style-type: none"> (A) On the same basis as the LEA provides funds to the LEA's other public schools, including proportional distribution based on relative enrollment of children with disabilities; and (B) At the same time as the LEA distributes other Federal funds to the LEA's other public schools, consistent with the State's charter school law. (2) If the public charter school is a school of an LEA that receives funding under Sec. 300.705 and includes other public schools-- <ul style="list-style-type: none"> (i) The LEA is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity; and (ii) The LEA must meet the requirements of paragraph (b)(1) of this section. (c) Public charter schools that are LEAs. If the public charter school is an LEA, consistent with Sec. 300.28, that receives funding under Sec. 300.705, that charter school is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity. (d) Public charter schools that are not an LEA or a school that is part of an LEA. (1) If |

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| | <p>the public charter school is not an LEA receiving funding under Sec. 300.705, or a school that is part of an LEA receiving funding under Sec. 300.705, the SEA is responsible for ensuring that the requirements of this part are met. (2) Paragraph (d)(1) of this section does not preclude a State from assigning initial responsibility for ensuring the requirements of this part are met to another entity. However, the SEA must maintain the ultimate responsibility for ensuring compliance with this part, consistent with Sec. 300.149. (Authority: 20 U.S.C. 1413(a)(5)).</p> <p>Referenced Regulations: See Page 2 for Section 300.28 and Page 133 for Section 300.149.</p> <p>Elementary and Secondary Education Act of 1965 (Section 5210(1) of Public Law 107-10, 107th Congress, codified as 20 USC Section 7221i), Section 7221i. Definitions In this subpart:</p> <p>(1) Charter school The term "charter school" means a public school that -</p> <ul style="list-style-type: none"> (A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph; (B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction; (C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency; (D) provides a program of elementary or secondary education, or both; (E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution; (F) does not charge tuition; (G) complies with the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.]; (H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated; (I) agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program; |

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| | <p>(J) meets all applicable Federal, State, and local health and safety requirements;</p> <p>(K) operates in accordance with State law; and</p> <p>(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.</p> |
| <p>Section 226.75 Definitions</p> <p>Assistive Technology Device: See 34 CFR 300.5</p> <p>(Note: Section 226.50 is set forth over consecutive pages to align with IDEA.)</p> | <p>Definitions Used in This Part</p> <p>Sec. 300.5 Assistive technology device Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially 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. (Authority: 20 U.S.C. 1401(1))</p> <p>Select Related Regulations:</p> <p>Sec. 300.6 Assistive technology service. 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--</p> <ul style="list-style-type: none"> (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; (b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities; (c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices; (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; (e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and (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. (Authority: 20 U.S.C. 1401(2)) |

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| <p>Section 226.75 Definitions - Continued</p> | <p>Sec. 300.105 Assistive technology. (a) Each public agency must ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in Sections 300.5 and 300.6, respectively, are made available to a child with a disability if required as a part of the child's-- (1) Special education under Sec. 300.36; (2) Related services under Sec. 300.34; or (3) Supplementary aids and services under Sections 300.38 and 300.114(a)(2)(ii). (b) On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP Team determines that the child needs access to those devices in order to receive FAPE. (Authority: 20 U.S.C. 1412(a)(1), 1412(a)(12)(B)(i))</p> <p>Referenced Regulations:</p> <p><i>(Excerpt. See Pages 71-72 for complete Section.)</i> Sec. 300.39 Special education. (a) General. (1) Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability,...</p> <p><i>(Excerpt. See Pages 72-76 for complete Section, including exceptions.)</i> Sec. 300.34 Related services. (a) 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 speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment 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....</p> <p><i>(Excerpt. See Page 22-23 for complete Section.)</i> Sec. 300.114 LRE requirements. (a) General. (1) Except as provided in Sec. 300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and Sections 300.115 through 300.120.</p> |

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| <p>Behavioral Intervention: An intervention based on the methods and empirical findings of behavioral science and designed to influence a child’s actions or behaviors positively.</p> | <p>(2) Each public agency must ensure that--</p> <ul style="list-style-type: none"> (i) 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 (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if 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.... <p>Select Related Regulation:</p> <p><i>(Excerpt: See complete Section on Pages 54-56.)</i></p> <p>Sec. 300.324 Development, review, and revision of IEP.</p> <p>(a) Development of IEP—</p> <ul style="list-style-type: none"> (1) General. In developing each child's IEP, the IEP Team must consider-- <ul style="list-style-type: none"> (i) The strengths of the child; (ii) The concerns of the parents for enhancing the education of their child; (iii) The results of the initial or most recent evaluation of the child; and (iv) The academic, developmental, and functional needs of the child. (2) Consideration of special factors. The IEP Team must-- <ul style="list-style-type: none"> (i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;... <p>Related Regulations: See also Section 300.530 on Pages 92-95 and Section 300.34 on Pages 72-76.</p> |
| <p>Day; Business Day; School Day: See 34 CFR 300.11.</p> | <p>Sec. 300.11 Day; business day; school day.</p> <p>(a) Day means calendar day unless otherwise indicated as business day or school day.</p> <p>(b) Business day means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day, as in Sec. 300.148(d)(1)(ii)).</p> <p>(c) (1) School day means any day, including a partial day that children are in attendance at school for instructional purposes.</p> <p>(2) School day has the same meaning for all children in school, including children with and without disabilities. (Authority: 20 U.S.C. 1221e-3)</p> <p>Referenced Regulation:</p> <p><i>(Excerpt. See Pages 78-80 for complete Section.)</i></p> |

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| <p>Section 226.75 Definitions - Continued</p> <p>Developmental Delay: See 34 CFR 300.8 and 300.111(b). Delay in physical development, cognitive development, communication development, social or emotional development, or adaptive development (may include children from three through nine years of age).</p> <p>Disability: IDEA identifies 13 disabilities as the basis for students' eligibility for special education and related services. These disabilities (autism, deaf-blindness, deafness, emotional disability, hearing impairment, cognitive disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment) shall be defined as set forth in 34 CFR 300.8(c). In addition, for purposes of this Part, "autism" shall include, but not be limited to, any Autism Spectrum Disorder that adversely affects a child's educational performance.</p> | <p>Sec. 300.148 Placement of children by parents when FAPE is at issue. (d) Limitation on reimbursement. The cost of reimbursement described in paragraph (c) of this section may be reduced or denied-- (1) If-- (i) At the most recent IEP Team 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 public agency to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or (ii) At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in paragraph (d)(1)(i) of this section;...</p> <p><i>(Excerpt: See Page 32 for complete Section)</i></p> <p>Sec. 300.111 Child find. (b) Use of term developmental delay. The following provisions apply with respect to implementing the child find requirements of this section: (1) A State that adopts a definition of developmental delay under Sec. 300.8(b) determines whether the term applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five). (2) A State may not require an LEA to adopt and use the term developmental delay for any children within its jurisdiction. (3) If an LEA uses the term developmental delay for children described in Sec. 300.8(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State. (4) If a State does not adopt the term developmental delay, an LEA may not independently use that term as a basis for establishing a child's eligibility under this part.</p> <p>Sec. 300.8 Child with a disability. (a) General. (1) Child with a disability means a child evaluated in accordance with Sections 300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as "emotional disturbance"), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services. (2) (i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an</p> |

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| | <p>appropriate evaluation under Sections 300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.</p> <p>(ii) If, consistent with Sec. 300.39(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.</p> <p>(b) Children aged three through nine experiencing developmental delays. Child with a disability for children aged three through nine (or any subset of that age range, including ages three through five), may, subject to the conditions described in Sec. 300.111(b), include a child--</p> <p>(1) Who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Physical development, cognitive development, communication development, social or emotional development, or adaptive development; and</p> <p>(2) Who, by reason thereof, needs special education and related services.</p> <p>(c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:</p> <p>(1) (i) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.</p> <p>(ii) Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in paragraph (c)(4) of this section.</p> <p>(iii) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in paragraph (c)(1)(i) of this section are satisfied.</p> <p>(2) Deaf-blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.</p> <p>(3) Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a child's educational performance.</p> <p>(4) (i) Emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that</p> |

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| | <p>adversely affects a child's educational performance:</p> <ul style="list-style-type: none"> (A) An inability to learn that cannot be explained by intellectual, sensory, or health factors. (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers. (C) Inappropriate types of behavior or feelings under normal circumstances. (D) A general pervasive mood of unhappiness or depression. (E) A tendency to develop physical symptoms or fears associated with personal or school problems. <p>(ii) Emotional disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance under paragraph (c)(4)(i) of this section.</p> <p>(5) Hearing impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section.</p> <p>(6) Mental retardation means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.</p> <p>(7) Multiple disabilities means concomitant impairments (such as mental retardation-blindness or mental retardation-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.</p> <p>(8) Orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).</p> <p>(9) Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that--</p> <ul style="list-style-type: none"> (i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and (ii) Adversely affects a child's educational performance. <p>(10) Specific learning disability--(i) General. 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</p> |

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| <p>Section 226.75 Definitions - Continued</p> <p>Evaluation: See 34 CFR 300.15.</p> <p>Extended School Year Services: See 34 CFR 300.106(b).</p> <p>Functional Behavioral Assessment: An assessment process for gathering information regarding the target behavior, its antecedents and consequences, controlling variables, the student's strengths, and the communicative and functional intent of the behavior, for use in developing behavioral interventions.</p> <p>General Curriculum: The curriculum adopted and/or used by a local school district or by the schools within a district for nondisabled students; the content of the program, as opposed to the setting in which it is offered.</p> <p>IEP Team: See 34 CFR 300.23.</p> | <p>Sec. 300.15 Evaluation. Evaluation means procedures used in accordance with Sections 300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. (Authority: 20 U.S.C. 1414(a) (c))</p> <p>Referenced Regulations: See Pages 36-39 for Sections 300.304-300.306, and Pages 41-44 for Sections 300.307-300.311.</p> <p><i>(Excerpt. See Page 146 for complete Section)</i></p> <p>Sec. 300.106 Extended school year services. ...(b) Definition. As used in this section, the term extended school year services means special education and related services that--</p> <ul style="list-style-type: none"> (1) Are provided to a child with a disability-- <ul style="list-style-type: none"> (i) Beyond the normal school year of the public agency; (ii) In accordance with the child's IEP; and (iii) At no cost to the parents of the child; and (2) Meet the standards of the SEA. <p>(Authority: 20 U.S.C. 1412(a)(1))</p> <p>Related Regulation: See Pages 92-95 for Section 300.530.</p> <p>Related Regulation:</p> <p>Sec. 300.10 Core academic subjects. Core academic subjects means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.(Authority: 20 U.S.C. 1401(4))</p> <p>Sec. 300.23 Individualized education program team. Individualized education program team or IEP Team means a group of individuals described in Sec. 300.321 that is responsible for developing, reviewing, or revising an IEP for a child with a disability. (Authority: 20 U.S.C. 1414(d)(1)(B))</p> <p>Referenced Regulation: See Pages 51-53 for Section 300.321.</p> |

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| <p>Independent Educational Evaluation: See 34 CFR 300.502(a)(3)(i).</p> <p>Individualized Education Program or IEP: See 34 CFR 300.22. An IEP shall be considered “linguistically and culturally appropriate” if it addresses the language and communication needs of a student as a foundation for learning, as well as any cultural factors that may affect the student’s education.</p> <p>Individualized Family Service Plan or IFSP: See 34 CFR 300.24.</p> | <p><i>(Excerpt. See Pages 47-48 for complete Section.)</i> Sec. 300.502 Independent educational evaluation. (a) General. ... (3) For the purposes of this subpart-- (i) independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question;</p> <p>Sec. 300.22 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 Sections 300.320 through 300.324. (Authority: 20 U.S.C. 1414(d)(1)(B))</p> <p><i>Referenced Regulations: See Pages 61-63 for Section 300.320 and Pages 49-56 for Section 300.321–300.324.</i></p> <p>Sec. 300.24 Individualized family service plan. Individualized family service plan or IFSP has the meaning given the term in section 636 of the Act. (Authority: 20 U.S.C. 1401(15))</p> <p><i>Referenced and Select Related Regulation/Law:</i></p> <p>IDEA-Part C-Section 1436 (Excerpt) SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN. ...(d) CONTENT OF PLAN- The individualized family service plan shall be in writing and contain-- 1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria; (2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability; (3) a statement of the measurable results or outcomes expected to be achieved for the infant or toddler and the family, including pre-literacy and language skills, as developmentally appropriate for the child, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the results or outcomes is being made and whether modifications or revisions of the results or outcomes or services are necessary; (4) a statement of specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of</p> |

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| <p>Section 226.75 Definitions - Continued</p> <p>Native Language: See 34 CFR 300.29.</p> <p>Parent: See 34 CFR 300.30.</p> | <p>(C) (i) who was not born in the United States or whose native language is a language other than English;</p> <p>(ii) (I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and (II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or</p> <p>(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and</p> <p>(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual--</p> <p>(i) the ability to meet the State's proficient level of achievement on State assessments described in section 1111(b)(3);</p> <p>(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or</p> <p>(iii) the opportunity to participate fully in society.</p> <p>Sec. 300.29 Native language.</p> <p>(a) Native language, when used with respect to an individual who is limited English proficient, means the following:</p> <p>(1) 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 (a)(2) of this section.</p> <p>(2) 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.</p> <p>(b) 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). (Authority: 20 U.S.C. 1401(20))</p> <p>Sec. 300.30 Parent.</p> <p>(a) Parent means--</p> <p>(1) A biological or adoptive parent of a child;</p> <p>(2) 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;</p> <p>(3) 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);</p> <p>(4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an</p> |

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| <p>Section 226.75 Definitions - Continued</p> <p>Personally Identifiable (with reference to information): See 34 CFR 300.32.</p> <p>Qualified Bilingual Specialist: An individual who holds the qualifications described in Section 226.800(f) of this Part.</p> <p>Qualified Personnel: Staff members or other individuals who hold the certificate, license, registration, or credential that is required for the performance of a particular task.</p> <p>Qualified Specialist: An individual who holds the applicable qualifications described in Subpart I of this Part.</p> <p>Related Services: See 34 CFR 300.34.</p> | <p>individual who is legally responsible for the child's welfare; or (5) A surrogate parent who has been appointed in accordance with Sec. 300.519 or section 639(a)(5) of the Act.</p> <p>(b) (1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section 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) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section 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. (Authority: 20 U.S.C. 1401(23))</p> <p><i>Referenced Regulation: See Page 110-111 for Section 300.519 on Surrogate Parent.</i></p> <p>Sec. 300.32 Personally identifiable.</p> <p>Personally identifiable means information that contains-- (a) The name of the child, the child's parent, or other family member; (b) The address of the child; (c) A personal identifier, such as the child's social security number or student number; or (d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty. (Authority: 20 U.S.C. 1415(a))</p> <p><i>Related Regulations: See Pages 164-168 for related sections on personnel.</i></p> <p>Sec. 300.34 Related services.</p> <p>(a) 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 speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of</p> |

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| <p>Section 226.75 Definitions - Continued</p> | <p>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.</p> <p>(b) Exception; services that apply to children with surgically implanted devices, including cochlear implants.</p> <p>(1) 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.</p> <p>(2) Nothing in paragraph (b)(1) of this section--</p> <p>(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.</p> <p>(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</p> <p>(iii) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in Sec. 300.113(b).</p> <p>(c) Individual related services terms defined. The terms used in this definition are defined as follows:</p> <p>(1) Audiology includes--</p> <p>(i) Identification of children with hearing loss;</p> <p>(ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;</p> <p>(iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;</p> <p>(iv) Creation and administration of programs for prevention of hearing loss;</p> <p>(v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and</p> <p>(vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.</p> <p>(2) Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.</p> <p>(3) Early identification and assessment of disabilities in children means the</p> |

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| <p>Section 226.75 Definitions - Continued</p> | <p>implementation of a formal plan for identifying a disability as early as possible in a child's life.</p> <p>(4) Interpreting services includes--</p> <p>(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</p> <p>(ii) Special interpreting services for children who are deaf-blind.</p> <p>(5) 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.</p> <p>(6) Occupational therapy--</p> <p>(i) Means services provided by a qualified occupational therapist; and</p> <p>(ii) Includes--</p> <p>(A) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;</p> <p>(B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and</p> <p>(C) Preventing, through early intervention, initial or further impairment or loss of function.</p> <p>(7) Orientation and mobility services--</p> <p>(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</p> <p>(ii) Includes teaching children the following, as appropriate:</p> <p>(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);</p> <p>(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;</p> <p>(C) To understand and use remaining vision and distance low vision aids; and</p> <p>(D) Other concepts, techniques, and tools.</p> <p>(8) (i) Parent counseling and training means assisting parents in understanding the special needs of their child;</p> <p>(ii) Providing parents with information about child development; and</p> <p>(iii) Helping parents to acquire the necessary skills that will allow them to</p> |

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| <p>Section 226.75 Definitions - Continued</p> | <p>support the implementation of their child's IEP or IFSP.</p> <p>(9) Physical therapy means services provided by a qualified physical therapist.</p> <p>(10) Psychological services includes--</p> <ul style="list-style-type: none"> (i) Administering psychological and educational tests, and other assessment procedures; (ii) Interpreting assessment results; (iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning; (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; (v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and (vi) Assisting in developing positive behavioral intervention strategies. <p>(11) Recreation includes--</p> <ul style="list-style-type: none"> (i) Assessment of leisure function; (ii) Therapeutic recreation services; (iii) Recreation programs in schools and community agencies; and (iv) Leisure education. <p>(12) 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.</p> <p>(13) 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.</p> <p>(14) Social work services in schools includes--</p> <ul style="list-style-type: none"> (i) Preparing a social or developmental history on a child with a disability; (ii) Group and individual counseling with the child and family; (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; (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and (v) Assisting in developing positive behavioral intervention strategies. |

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| <p>Section 226.75 Definitions - Continued</p> | <p>the requirements of paragraph (a)(1) of this section--</p> <ul style="list-style-type: none"> (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards; (ii) Travel training; and (iii) Vocational education. <p>(b) Individual special education terms defined. The terms in this definition are defined as follows:</p> <ul style="list-style-type: none"> (1) 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 regular education program. (2) Physical education means-- <ul style="list-style-type: none"> (i) The development of-- <ul style="list-style-type: none"> (A) Physical and motor fitness; (B) Fundamental motor skills and patterns; and (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and (ii) Includes special physical education, adapted physical education, movement education, and motor development. (3) Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction-- <ul style="list-style-type: none"> (i) To address the unique needs of the child that result from the child's disability; and (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children. (4) 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-- <ul style="list-style-type: none"> (i) Develop an awareness of the environment in which they live; and (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). (5) 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. (Authority: 20 U.S.C. 1401(29)) |

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| <p>Section 226.75 Definitions - Continued</p> <p>Student Record: See Section 2 of the Illinois School Student Records Act [105 ILCS 10/2].</p> <p>Supplementary Aids and Services: See 34 CFR 300.42.</p> <p>Transition Services: See 34 CFR 300.43.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p><i>See Related Regulations on confidentiality on Pages 140-145.</i></p> <p>Sec. 300.42 Supplementary aids and services. Supplementary aids and services means aids, services, and other supports that are provided in regular 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 Sections 300.114 through 300.116. (Authority: 20 U.S.C. 1401(33))</p> <p><i>Referenced Regulations: See Pages 22-23 for Section 300.114 and Pages 66-67 for Sections 300.115-300.116.</i></p> <p>Sec. 300.43 Transition services.</p> <p>(a) Transition services means a coordinated set of activities for a child with a disability that--</p> <ol style="list-style-type: none"> (1) 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) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes-- <ol style="list-style-type: none"> (i) Instruction; (ii) Related services; (iii) Community experiences; (iv) The development of employment and other post-school adult living objectives; and (v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation. <p>(b) 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. (Authority: 20 U.S.C. 1401(34))</p> |

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| <p style="text-align: center;">SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN</p> <p>Section 226.100 Child Find Responsibility</p> <p>This Section implements the requirements of 34 CFR 300.111.</p> <p>a) Each school district shall be responsible for actively seeking out and identifying all children from birth through age 21 within the district (and those parentally-placed private school children for whom the district is responsible under 34 CFR 300.131) who may be eligible for special education and related services. Procedures developed to fulfill the child find responsibility shall include:</p> <ol style="list-style-type: none"> 1) An annual screening of children under the age of five for the purpose of identifying those who may need early intervention or special education and related services. 2) Ongoing review of each child's performance and progress by teachers and other professional personnel, in order to refer those children who exhibit problems which interfere with their educational progress and/or their adjustment to the educational setting, suggesting that they may be eligible for special education and related services. 3) Ongoing coordination with early intervention programs to identify children from birth through two years of age who have or are suspected of having disabilities, in order to ensure provision of services in accordance with applicable timelines. Each local school district shall participate in transition planning conferences arranged by the designated lead agency under 20 USC 1437(a)(9) in order to develop a transition plan enabling the public school to implement an IFSP or IEP no later than the third birthday of each eligible child. <p>b) When the responsible school district staff members conclude that an individual evaluation of a particular child is warranted based on factors such as a child's educational progress, interaction with others, or other functioning in the school environment, the requirements for evaluation set forth in this Subpart B shall apply. (Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.111 Child find.</p> <p>(a) General.</p> <ol style="list-style-type: none"> (1) The State must have in effect policies and procedures to ensure that-- <ol style="list-style-type: none"> (i) All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services. (b) Use of term developmental delay. The following provisions apply with respect to implementing the child find requirements of this section: <ol style="list-style-type: none"> (1) A State that adopts a definition of developmental delay under Sec. 300.8(b) determines whether the term applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five). (2) A State may not require an LEA to adopt and use the term developmental delay for any children within its jurisdiction. (3) If an LEA uses the term developmental delay for children described in Sec. 300.8(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State. (4) If a State does not adopt the term developmental delay, an LEA may not independently use that term as a basis for establishing a child's eligibility under this part. (c) Other children in child find. Child find also must include-- <ol style="list-style-type: none"> (1) Children who are suspected of being a child with a disability under Sec. 300.8 and in need of special education, even though they are advancing from grade to grade; and (2) Highly mobile children, including migrant children. (d) Construction. Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in Sec. 300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act. Authority: 20 U.S.C. 1401(3); 1412(a)(3)) |

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| | <p><i>Referenced Regulation: See Pages 16-19 for Section 300.8.</i></p> <p>Sec. 300.131 Child find for parentally-placed private school children with disabilities.</p> <p>(a) General. Each LEA must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, in accordance with paragraphs (b) through (e) of this section, and Sections 300.111 and 300.201.</p> <p>(b) Child find design. The child find process must be designed to ensure--</p> <ol style="list-style-type: none"> (1) The equitable participation of parentally-placed private school children; and (2) An accurate count of those children. <p>(c) Activities. In carrying out the requirements of this section, the LEA, or, if applicable, the SEA, must undertake activities similar to the activities undertaken for the agency's public school children.</p> <p>(d) Cost. The cost of carrying out the child find requirements in this section, including individual evaluations, may not be considered in determining if an LEA has met its obligation under Sec. 300.133.</p> <p>(e) Completion period. The child find process must be completed in a time period comparable to that for students attending public schools in the LEA consistent with Sec. 300.301.</p> <p>(f) Out-of-State children. Each LEA in which private, including religious, elementary schools and secondary schools are located must, in carrying out the child find requirements in this section, include parentally-placed private school children who reside in a State other than the State in which the private schools that they attend are located. (Authority: 20 U.S.C. 1412(a)(10)(A)(ii))</p> <p><i>Referenced Regulations: (Excerpt. See Pages 35-36 for complete Section.)</i></p> <p>Sec. 300.301 Initial evaluations.</p> <p>... (c) Procedures for initial evaluation. The initial evaluation--</p> <ol style="list-style-type: none"> (1) (i) Must be conducted within 60 days of receiving parental consent for the evaluation; or (ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe;... <p><i>See Page 32 for Section 300.111, Pages 81-82 for Section 300.133 and Page 34 for Section 300.201.</i></p> |

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| | <p>IDEA Law 20 USC Section 1437 (Excerpt)</p> <p>(a)...(9) a description of the policies and procedures to be used--</p> <p>(A) to ensure a smooth transition for toddlers receiving early intervention services under this part (and children receiving those services under section 635(c)) to preschool, school, other appropriate services, or exiting the program, including a description of how—</p> <p>(i) the families of such toddlers and children will be included in the transition plans required by subparagraph (C); and</p> <p>(ii) the lead agency designated or established under section 635(a)(10) will--</p> <p>(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law;</p> <p>(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency not less than 90 days (and at the discretion of all such parties, not more than 9 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and</p> <p>(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services that the child may receive;</p> <p>(B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and</p> <p>(C) to establish a transition plan, including, as appropriate, steps to exit from services under part B, to discuss the appropriate the program;...</p> <p><i>Select Related Regulations:</i></p> <p>Sec. 300.201 Consistency with State policies. The LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures established under Sections 300.101 through 300.163, and Sections 300.165 through 300.174. (Authority: 20 U.S.C. 1413(a)(1))</p> |

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| | <p>Sec. 300.174 Prohibition on mandatory medication. (a) General. The SEA must prohibit State and LEA personnel from requiring parents to obtain a prescription for substances identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) for a child as a condition of attending school, receiving an evaluation under Sections 300.300 through 300.311, or receiving services under this part. (b) Rule of construction. Nothing in paragraph (a) of this section shall be construed to create a Federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under Sec. 300.111 (related to child find). (Authority: 20 U.S.C. 1412(a)(25))</p> |
| <p>Section 226.110 Evaluation Procedures</p> <p>Procedures for requesting and conducting initial evaluations of children who are suspected of requiring special education and related services shall conform to the requirements of 34 CFR 300.301, 300.304, 300.305, and 300.306. For purposes of this Section, the “date of referral” discussed in Section 14-8.02 of the School Code shall be understood to be the date of written parental consent for an evaluation, and screening procedures done in accordance with 34 CFR 300.302 shall not be considered an evaluation. Consent for the initial evaluation shall be obtained in conformance with the requirements of 34 CFR 300.300. In addition, the following requirements shall apply.</p> <p>a) Procedures for Requesting an Initial Evaluation Each school district shall develop and make known to all concerned persons procedures by which an evaluation may be requested. These procedures shall:</p> <ol style="list-style-type: none"> 1) Designate the steps to be taken in making a request for an evaluation; 2) Designate the persons to whom a request may be made; 3) Identify the information that must be provided; 4) Provide any assistance that may be necessary to enable persons making requests to meet any related requirements established by the district; and 5) Identify the process for providing the parents with notice of their rights with respect to procedural safeguards. <p>b) A request may be made by a parent of a child or by an employee of a State educational agency, another State agency, a local educational agency, or a community service agency.</p> <p>c) District’s Response to Request</p> <ol style="list-style-type: none"> 1) The school district shall be responsible for processing the request, deciding what action should be taken, and initiating the necessary procedures. | <p>Evaluations and Reevaluations</p> <p>Sec. 300.122 Evaluation. Children with disabilities must be evaluated in accordance with Sections 300.300 through 300.311 of subpart D of this part. (Authority: 20 U.S.C. 1412(a)(7))</p> <p>Sec. 300.301 Initial evaluations. (a) General. Each public agency must conduct a full and individual initial evaluation, in accordance with Sections 300.305 and 300.306, before the initial provision of special education and related services to a child with a disability under this part. (b) Request for initial evaluation. Consistent with the consent requirements in Sec. 300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability. (c) Procedures for initial evaluation. The initial evaluation--</p> <ol style="list-style-type: none"> (1) (i) Must be conducted within 60 days of receiving parental consent for the evaluation; or (ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and (2) Must consist of procedures-- <ol style="list-style-type: none"> (i) To determine if the child is a child with a disability under Sec. 300.8; and (ii) To determine the educational needs of the child. <p>(d) Exception. The timeframe described in paragraph (c)(1) of this section does not apply to a public agency if--</p> <ol style="list-style-type: none"> (1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or (2) A child enrolls in a school of another public agency after the relevant timeframe in paragraph (c)(1) of this section has begun, and prior to a determination by the |

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| <p>2) To determine whether the child requires an evaluation, the district may utilize screening data and conduct preliminary procedures such as observation of the child, assessment for instructional purposes, consultation with the teacher or other individual making the request, and a conference with the child.</p> <p>3) Within 14 school days after receiving a request for an evaluation, the district shall determine whether an evaluation is warranted. If the district determines not to conduct an evaluation, it shall provide written notice to the parents in accordance with 34 CFR 300.503(b). If an evaluation is to be conducted:</p> <p>A) The district shall convene a team of individuals (including the parent) having the knowledge and skills necessary to administer and interpret evaluation data. The composition of the team will vary depending upon the nature of the child's symptoms and other relevant factors.</p> <p>B) The team shall identify the assessments necessary to complete the evaluation in accordance with 34 CFR 300.305 and shall prepare a written notification for the parents as required under 34 CFR 300.304(a). For each domain, the notification shall either describe the needed assessments or explain why none are needed.</p> <p>C) The district shall ensure that the notification of the team's conclusions is transmitted to the parents within the 14-school-day timeline applicable under this subsection (c)(3), along with the district's request for the parents' consent to conduct the needed assessments.</p> <p>d) Upon completion of the assessments identified pursuant to subsection (c)(3) of this Section, but no later than 60 school days following the date of written consent from the parent to perform the needed assessments, the determination of eligibility shall be made and the IEP meeting shall be completed.</p> <p>e) At the conclusion of the meeting convened pursuant to subsection (d) of this Section, the team shall prepare a report describing its consideration of pre-existing information about the child, all new evaluation reports obtained, and any other information relevant to the decision about the child's eligibility. This description shall relate the information considered to the child's needs and shall further conform to the requirements of Section 226.130 of this Part if applicable. The IEP Team's report shall also include:</p> <ol style="list-style-type: none"> 1) the date of the meeting; 2) the signatures of the participants, indicating their presence at the meeting; and 3) any separate written statement provided by a participant who wishes to be on record as disagreeing with the conclusions expressed in the team's report. <p>f) The school district shall provide a copy of the IEP Team's report to the parent at the conclusion of the team's meeting. In addition, the district shall provide to the parent, within ten school days after the meeting, written notice conforming to the requirements</p> | <p>child's previous public agency as to whether the child is a child with a disability under Sec. 300.8.</p> <p>(e) The exception in paragraph (d)(2) of this section applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed. (Authority: 20 U.S.C. 1414(a))</p> <p>Sec. 300.302 Screening for instructional purposes is not evaluation. The screening of a student by a teacher or 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. (Authority: 20 U.S.C. 1414(a)(1)(E))</p> <p>Sec. 300.304 Evaluation procedures.</p> <p>(a) Notice. The public agency must provide notice to the parents of a child with a disability, in accordance with Sec. 300.503, that describes any evaluation procedures the agency proposes to conduct.</p> <p>(b) Conduct of evaluation. In conducting the evaluation, the public agency must--</p> <ol style="list-style-type: none"> (1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining-- <ol style="list-style-type: none"> (i) Whether the child is a child with a disability under Sec. 300.8; and (ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities); (2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and (3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. <p>(c) Other evaluation procedures. Each public agency must ensure that--</p> <ol style="list-style-type: none"> (1) Assessments and other evaluation materials used to assess a child under this part-- <ol style="list-style-type: none"> (i) Are selected and administered so as not to be discriminatory on a racial or cultural basis; (ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer; (iii) Are used for the purposes for which the assessments or measures are valid |

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| <p>of Section 226.520 of this Part as to the eligibility determination reached with respect to the child. The parent shall also be entitled to receive copies of any evaluation reports upon request.</p> <p>g) A copy of the IEP Team’s report, together with all documentation upon which it is based, shall become a part of the child’s temporary student record.</p> <p>h) If an assessment is conducted under nonstandard conditions, a description of the extent to which the assessment varied from standard conditions shall be included in the evaluation report. This information is needed so that the team of evaluators can assess the effects of these variances on the validity and reliability of the information reported and determine whether additional assessments are needed. For example, the use of a translator when a qualified bilingual specialist is not available may create nonstandard conditions.</p> <p>i) If any needed portion of the evaluation cannot be completed due to lack of parental involvement, religious convictions of the family, or inability of the child to participate in an evaluative procedure, the district shall note the missing portions in the child’s evaluation report and state the reasons why those portions could not be completed.</p> <p>j) In the event that the student is determined to be eligible for special education and related services pursuant to the procedures described in subsections (d) and (e) of this Section, the IEP meeting shall be conducted within 30 days after the date of that determination.</p> <p>k) If a district fails to conduct the evaluation, the parent of the child in question (or the student, if Section 226.690 of this Part applies) may appeal this failure in an impartial due process hearing.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>and reliable;</p> <p>(iv) Are administered by trained and knowledgeable personnel; and</p> <p>(v) Are administered in accordance with any instructions provided by the producer of the assessments.</p> <p>(2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.</p> <p>(3) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).</p> <p>(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;</p> <p>(5) Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with Sec. 300.301(d)(2) and (e), to ensure prompt completion of full evaluations.</p> <p>(6) In evaluating each child with a disability under Sections 300.304 through 300.306, the evaluation is sufficiently comprehensive to 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.</p> <p>(7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided. (Authority: 20 U.S.C. 1414(b)(1)-(3), 1412(a)(6)(B))</p> <p>Sec. 300.305 Additional requirements for evaluations and reevaluations.</p> <p>(a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must--</p> <p>(1) Review existing evaluation data on the child, including--</p> <p>(i) Evaluations and information provided by the parents of the child;</p> <p>(ii) Current classroom-based, local, or State assessments, and classroom-based observations; and</p> <p>(iii) Observations by teachers and related services providers; and</p> <p>(2) On the basis of that review, and input from the child's parents, identify what</p> |

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| | <p>additional data, if any, are needed to determine--</p> <ul style="list-style-type: none"> (i) (A) Whether the child is a child with a disability, as defined in Sec. 300.8, and the educational needs of the child; or <ul style="list-style-type: none"> (B) In case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child; (ii) The present levels of academic achievement and related developmental needs of the child; (iii) (A) Whether the child needs special education and related services; or <ul style="list-style-type: none"> (B) In the case of a reevaluation of a child, whether the child continues to need special education and related services; and (iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum. <p>(b) Conduct of review. The group described in paragraph (a) of this section may conduct its review without a meeting.</p> <p>(c) Source of data. The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified under paragraph (a) of this section.</p> <p>(d) Requirements if additional data are not needed.</p> <ul style="list-style-type: none"> (1) If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs, the public agency must notify the child's parents of-- <ul style="list-style-type: none"> (i) That determination and the reasons for the determination; and (ii) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability, and to determine the child's educational needs. (2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents. <p>(e) Evaluations before change in eligibility.</p> <ul style="list-style-type: none"> (1) Except as provided in paragraph (e)(2) of this section, a public agency must evaluate a child with a disability in accordance with Sections 300.304 through 300.311 before determining that the child is no longer a child with a disability. (2) The evaluation described in paragraph (e)(1) of this section is not required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State law. (3) For a child whose eligibility terminates under circumstances described |

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| | <p>in paragraph (e)(2) of this section, a public agency 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. (Authority: 20 U.S.C. 1414(c))</p> <p>Sec. 300.306 Determination of eligibility.</p> <p>(a) General. Upon completion of the administration of assessments and other evaluation measures--</p> <ol style="list-style-type: none"> (1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in Sec. 300.8, in accordance with paragraph (b) of this section and the educational needs of the child; and (2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. <p>(b) Special rule for eligibility determination. A child must not be determined to be a child with a disability under this part--</p> <ol style="list-style-type: none"> (1) If the determinant factor for that determination is-- <ol style="list-style-type: none"> (i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA); (ii) Lack of appropriate instruction in math; or (iii) Limited English proficiency; and (2) If the child does not otherwise meet the eligibility criteria under Sec. 300.8(a). <p>(c) Procedures for determining eligibility and educational need.</p> <ol style="list-style-type: none"> (1) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under Sec. 300.8, and the educational needs of the child, each public agency must-- <ol style="list-style-type: none"> (i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and (ii) Ensure that information obtained from all of these sources is documented and carefully considered. (2) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with Sections 300.320 through 300.324. (Authority: 20 U.S.C. 1414(b)(4) and (5)) <p>Referenced Regulation/Law: Section 1208(3) of the ESEA, Public Law 107-110, 107th Congress, codified as 20 USC Section 6368</p> |

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| | <p>(Excerpt.) Section 6368. Definitions In this subpart: ... (3) Essential Components of Reading Instruction--The term "essential components of reading instruction" means explicit and systematic instruction in--</p> <ul style="list-style-type: none"> (A) Phonemic awareness; (B) Phonics; (C) Vocabulary development; (D) Reading fluency, including oral reading skills; and (E) Reading comprehension strategies.... <p>Notice-34 CFR 300.503 <i>(Excerpt-See Page 102 for complete Section)</i></p> <p>Sec. 300.503 Prior notice by the public agency; content of notice. (a) Notice. Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency--</p> <ul style="list-style-type: none"> (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.... <p><i>(Excerpt. See Page 105-108 for complete Section.)</i></p> <p>Sec. 300.300 Parental consent.</p> <p>(a) Parental consent for initial evaluation. (1)(i) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under Sec. 300.8 must, after providing notice consistent with Sections 300.503 and 300.504, obtain informed consent, consistent with Sec. 300.9, from the parent of the child before conducting the evaluation...</p> <p><i>See Pages 16-19 for Section 300.8, Pages 41-44 for Sections 300.307-300.311, Pages 61-63 for Section 300.320, and Pages 49-56 for Sections 300.321-300.324.</i></p> |

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| <p>Section 226.120 Reevaluations</p> <p>Procedures for the completion of reevaluations of children for whom special education and related services are currently being provided shall conform to the requirements of 34 CFR 300.303, 300.304, 300.305 and 300.306, as well as the relevant provisions of Section 226.110 of this Part.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.303 Reevaluations.</p> <p>(a) General. A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with Sections 300.304 through 300.311--</p> <ol style="list-style-type: none"> (1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or (2) If the child's parent or teacher requests a reevaluation. <p>(b) Limitation. A reevaluation conducted under paragraph (a) of this section--</p> <ol style="list-style-type: none"> (1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and (2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.(Authority: 20 U.S.C. 1414(a)(2)) <p><i>Referenced Regulations: See Pages 36-39 for Sections 300.304-300.306 and Pages 41-44 for Sections 300.307-300.311.</i></p> |
| <p>Section 226.130 Additional Procedures for Students Suspected of or Having a Specific Learning Disability</p> <p>a) In addition to the requirements set forth in Sections 226.110 and 226.120 of this Part, the district shall adhere to the procedures set forth at 34 CFR 300.307, 300.308, 300.309, 300.310, and 300.311 when evaluating a student who is suspected of, or who has previously been identified as having, a specific learning disability as described in 34 CFR 300.8.</p> <p>b) Provided that the requirements of this subsection (b) are met, each district shall, no later than the beginning of the 2010-11 school year, implement the use of a process that determines how the child responds to scientific, research-based interventions as part of the evaluation procedure described in 34 CFR 300.304. When a district implements the use of a process of this type, the district shall not use any child's participation in the process as the basis for denying a parent's request for an evaluation.</p> <ol style="list-style-type: none"> 1) No later than January 1, 2008, the State Superintendent of Education shall, in consultation with the statewide teacher organizations, statewide school management organizations, and State Advisory Council on Education of Students with Disabilities, prepare and disseminate a plan outlining the nature and scope of the professional development that is necessary to permit implementation of a process of this type and describing any additional activities or resources that the Superintendent finds to be essential. 2) The plan shall quantify the estimated cost of the professional development and other necessary resources and shall identify sources of funding that are or may | <p>Additional Procedures for Identifying Children With Specific Learning Disabilities</p> <p>Sec. 300.307 Specific learning disabilities.</p> <p>(a) General. A State must adopt, consistent with Sec. 300.309, criteria for determining whether a child has a specific learning disability as defined in Sec. 300.8(c)(10). In addition, the criteria adopted by the State--</p> <ol style="list-style-type: none"> (1) Must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability, as defined in Sec. 300.8(c)(10); (2) Must permit the use of a process based on the child's response to scientific, research-based intervention; and (3) May permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability, as defined in Sec. 300.8(c)(10). <p>(b) Consistency with State criteria. A public agency must use the State criteria adopted pursuant to paragraph (a) of this section in determining whether a child has a specific learning disability. (Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))</p> <p>Sec. 300.308 Additional group members.</p> <p>The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in Sec. 300.8, must be made by the child's parents and a team of qualified professionals, which must include--</p> <ol style="list-style-type: none"> (a) (1) The child's regular teacher; or (2) If the child does not have a regular teacher, a regular classroom teacher qualified |

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| <p>become available to the State Superintendent for these purposes.</p> <p>3) The plan shall include:</p> <p>A) a method of identifying school districts that are less able than others to implement a process of the required type without technical or financial assistance from the State;</p> <p>B) a timeframe for the provision of training, other technical assistance and materials, or financial resources for related purposes that demonstrates the State Superintendent’s best efforts to secure and provide relevant support to districts; and</p> <p>C) a method of allocating resources that affords first consideration to districts that may otherwise be unable to implement a process of the required type without diverting necessary support from other aspects of the educational program.</p> <p>c) No later than January 1, 2009, each district shall develop a plan for the transition to the use of a process that determines how the child responds to scientific, research-based interventions as part of the evaluation procedure described in 34 CFR 300.304. Each district’s plan shall identify the resources the district will devote to this purpose and include an outline of the types of State-level assistance the district expects to need, with particular reference to the professional development necessary for its affected staff members to implement this process. The transition plan developed pursuant to this subsection (c) may be incorporated into a district’s district improvement plan (see 23 Ill. Adm. Code 1.85(b)) if one exists.</p> <p>d) In addition to using an identification process of the type required by subsection (b) of this Section, a district may use a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>to teach a child of his or her age; or</p> <p>(3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and</p> <p>(b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher. (Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))</p> <p>Sec. 300.309 Determining the existence of a specific learning disability.</p> <p>(a) The group described in Sec. 300.306 may determine that a child has a specific learning disability, as defined in Sec. 300.8(c)(10), if--</p> <p>(1) 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:</p> <p>(i) Oral expression.</p> <p>(ii) Listening comprehension.</p> <p>(iii) Written expression.</p> <p>(iv) Basic reading skill.</p> <p>(v) Reading fluency skills.</p> <p>(vi) Reading comprehension.</p> <p>(vii) Mathematics calculation.</p> <p>(viii) Mathematics problem solving.</p> <p>(2) (i) 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 paragraph (a)(1) of this section when using a process based on the child's response to scientific, research-based intervention; or</p> <p>(ii) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with Sections 300.304 and 300.305; and</p> <p>(3) The group determines that its findings under paragraphs (a)(1) and (2) of this section are not primarily the result of—</p> <p>(i) A visual, hearing, or motor disability;</p> <p>(ii) Mental retardation;</p> <p>(iii) Emotional disturbance;</p> <p>(iv) Cultural factors;</p> <p>(v) Environmental or economic disadvantage; or</p> <p>(vi) Limited English proficiency.</p> |

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| | <p>(b) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in Sections 300.304 through 300.306--</p> <ul style="list-style-type: none"> (1) Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and (2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents. <p>(c) The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes described in Sections 300.301 and 300.303, unless extended by mutual written agreement of the child's parents and a group of qualified professionals, as described in Sec. 300.306(a)(1)--</p> <ul style="list-style-type: none"> (1) If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in paragraphs (b)(1) and (b)(2) of this section; and (2) Whenever a child is referred for an evaluation. (Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6)) <p>Sec. 300.310 Observation.</p> <p>(a) The public agency must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.</p> <p>(b) The group described in Sec. 300.306(a)(1), in determining whether a child has a specific learning disability, must decide to--</p> <ul style="list-style-type: none"> 1) Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or (2) Have at least one member of the group described in Sec. 300.306(a)(1) conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with Sec. 300.300(a), is obtained. <p>(c) In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age. (Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))</p> |

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| | <p>Sec. 300.311 Specific documentation for the eligibility determination.</p> <p>(a) For a child suspected of having a specific learning disability, the documentation of the determination of eligibility, as required in Sec. 300.306(a)(2), must contain a statement of—</p> <ol style="list-style-type: none"> (1) Whether the child has a specific learning disability; (2) The basis for making the determination, including an assurance that the determination has been made in accordance with Sec. 300.306(c)(1); (3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning; (4) The educationally relevant medical findings, if any; (5) Whether-- <ol style="list-style-type: none"> (i) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards consistent with Sec. 300.309(a)(1); and (ii) (A) The child does not make sufficient progress to meet age or State-approved grade-level standards consistent with Sec. 300.309(a)(2)(i); or (B) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards or intellectual development consistent with Sec. 300.309(a)(2)(ii); (6) The determination of the group concerning the effects of a visual, hearing, or motor disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and (7) If the child has participated in a process that assesses the child's response to scientific, research-based intervention-- <ol style="list-style-type: none"> (i) The instructional strategies used and the student-centered data collected; and (ii) The documentation that the child's parents were notified about-- <ol style="list-style-type: none"> (A) The State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; (B) Strategies for increasing the child's rate of learning; and (C) The parents' right to request an evaluation. <p>(b) Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions. (Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))</p> <p>Referenced Regulations: See Pages 24-25 for Section 300.30, Pages 35-39 for Sections 300.301–300.306, and Page 41 for Section 300.303.</p> |

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| <p>Section 226.135 Additional Procedures for Students Suspected of or Having a Cognitive Disability</p> <p>In addition to the requirements set forth in Sections 226.110 and 226.120 of this Part, the district shall ensure that a psychological evaluation has been conducted and a recommendation for eligibility made by a school psychologist for any child who is suspected of or determined to have a cognitive disability.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | |
| <p>Section 226.140 Modes of Communication and Cultural Identification</p> <p>Before a child is given an evaluation, the local school district shall ensure compliance with the requirements of Section 14-8.02 of the School Code by determining the primary language of the child's home, general cultural identification, and mode of communication.</p> <p>a) Determination of the child's language use pattern and general cultural identification shall be made by determining the languages spoken in the child's home and the languages used most comfortably and frequently by the child.</p> <p>b) If the child has a non-English-speaking background, a determination shall be made of his or her proficiency in English. This determination shall be conducted in accordance with the provisions of 23 Ill. Adm. Code 228 (Bilingual Education), which specifies the assessment procedures and eligibility criteria for bilingual education programs (see 23 Ill. Adm. Code 228.15).</p> <p>c) Determination of the child's mode of communication shall be made by assessing the extent to which the child uses verbal expressive language and the use he or she makes of other modes of communication (e.g., gestures, signing, unstructured sounds) as a substitute for verbal expressive language.</p> <p>d) The child's language use pattern, proficiency in English, mode of communication, and general cultural identification shall be noted in the child's temporary student record, and this information shall be used in the evaluation and in the development and implementation of the individualized education program.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | |

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| <p>Section 226.150 Evaluation to be Nondiscriminatory</p> <p>Each evaluation shall be conducted so as to ensure that it is nondiscriminatory with respect to language, culture, race, and gender. (See also 34 CFR 300.304(c))</p> <p>a) The languages used to evaluate a child shall be consistent with the child's primary language or other mode of communication. (See Section 226.140 of this Part.) If the language use pattern involves two or more languages or modes of communication, the child shall be evaluated by qualified specialists or, when needed, qualified bilingual specialists using each of the languages or modes of communication used by the child. The provisions of subsections (b) and (c) of this Section shall apply when a qualified bilingual specialist is needed but unavailable.</p> <p>b) If documented efforts to locate and secure the services of a qualified bilingual specialist are unsuccessful, the district shall use an individual who possesses the professional credentials required under Section 226.840 of this Part to complete the specific components of the evaluation. This qualified specialist shall be assisted by a certificated school district employee or other individual who has demonstrated competencies in the language of the child.</p> <p>c) If documented efforts to locate and secure the services of a qualified bilingual specialist or a qualified specialist assisted by another individual as provided in subsection (b) of this Section are unsuccessful, the district shall conduct assessment procedures which do not depend upon language. Any special education resulting from such alternative procedures shall be reviewed annually until the student's proficiency is determined no longer to be limited pursuant to 23 Ill. Adm. Code 228 (Transitional Bilingual Education; see Section 228.15).</p> <p>d) Tests given to a child whose primary language is other than English shall be relevant, to the maximum extent possible, to his or her culture.</p> <p>e) If the child's receptive and/or expressive communication skills are impaired due to hearing and/or language deficits, the district shall utilize test instruments and procedures that do not stress spoken language and one of the following:</p> <ol style="list-style-type: none"> 1) Visual communication techniques in addition to auditory techniques. 2) An interpreter to assist the evaluative personnel with language and testing. <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p><i>(Excerpt. See Pages 36-37 for complete Section.)</i></p> <p>Sec. 300.304 Evaluation procedures.</p> <p>...(c) Other evaluation procedures. Each public agency must ensure that--</p> <ol style="list-style-type: none"> (1) Assessments and other evaluation materials used to assess a child under this part- <ol style="list-style-type: none"> (i) Are selected and administered so as not to be discriminatory on a racial or cultural basis; (ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer; (iii) Are used for the purposes for which the assessments or measures are valid and reliable; (iv) Are administered by trained and knowledgeable personnel; and (v) Are administered in accordance with any instructions provided by the producer of the assessments. (2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient. (3) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure). (4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities; (5) Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with Sec. 300.301(d)(2) and (e), to ensure prompt completion of full evaluations. (6) In evaluating each child with a disability under Sections 300.304 through 300.306, the evaluation is sufficiently comprehensive to 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. (7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided. <p>(Authority: 20 U.S.C. 1414(b)(1)-(3), 1412(a)(6)(B))</p> |

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| | <i>Referenced Regulations: See Pages 36-39 for Sections 300.304 -300.306.</i> |
| <p>Section 226.160 Determination of Eligibility (Repealed) (Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)</p> <p>Section 226.170 Criteria for Determining the Existence of a Specific Learning Disability (Repealed) (Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p><i>See Pages 35-40 for Related Regulations.</i></p> <p><i>See Pages 41-44 for Related Regulations.</i></p> |
| <p>Section 226.180 Independent Educational Evaluation</p> <p>Parents have the right to obtain an independent educational evaluation of their child at public expense in accordance with 34 CFR 300.502 and Section 14-8.02(b) of the School Code. The following rights and requirements shall also apply.</p> <p>a) If the parents disagree with the district’s evaluation and wish to obtain an independent educational evaluation at public expense, their request to that effect shall be submitted in writing to the local school district superintendent.</p> <p>b) When an independent evaluation is obtained at public expense, the party chosen to perform the evaluation shall be either:</p> <ol style="list-style-type: none"> 1) an individual whose name is included on the list of independent educational evaluators developed by the State Board of Education pursuant to Section 226.830 of this Part with regard to the relevant types of evaluation; or 2) another individual possessing the credentials required by Section 226.840 of this Part. <p>c) If the parent wishes an evaluator to have specific credentials in addition to those required by Section 226.840 of this Part, the parent and the school district shall agree on the qualifications of the examiner and the specific evaluations to be completed prior to the initiation of an independent educational evaluation at public expense. If agreement cannot be reached, the school district shall initiate a due process hearing subject to the time constraints set forth in this Section, as applicable.</p> <p>d) The district shall send the notice convening the IEP Team’s meeting within ten days after receiving the report of an evaluation conducted at public expense. In the case of an evaluation conducted at private expense, the district shall send the notice within ten days after the parent requests a meeting to consider the results. (Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.502 Independent educational evaluation.</p> <p>(a) General.</p> <ol style="list-style-type: none"> (1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section. (2) Each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section. (3) For the purposes of this subpart-- <ol style="list-style-type: none"> (i) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and (ii) Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with Sec. 300.103. <p>(b) Parent right to evaluation at public expense.</p> <ol style="list-style-type: none"> (1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b)(2) through (4) of this section. (2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either-- <ol style="list-style-type: none"> (i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or (ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to Sections 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria. (3) If the public agency files a due process complaint notice to request a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has |

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| | <p>the right to an independent educational evaluation, but not at public expense.</p> <p>(4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.</p> <p>(5) A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.</p> <p>(c) Parent-initiated evaluations. If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation--</p> <ol style="list-style-type: none"> (1) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and (2) May be presented by any party as evidence at a hearing on a due process complaint under subpart E of this part regarding that child. <p>(d) Requests for evaluations by hearing officers. If a hearing officer requests an independent educational evaluation as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.</p> <p>(e) Agency criteria.</p> <ol style="list-style-type: none"> (1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation. (2) Except for the criteria described in paragraph (e)(1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense. (Authority: 20 U.S.C. 1415(b)(1) and (d)(2)(A)) <p>Sec. 300.103 FAPE--methods and payments.</p> <p>(a) Each State may use whatever State, local, Federal, and private sources of support are available in the State to meet the requirements of this part. For example, if it is necessary to place a child with a disability in a residential facility, a State could use joint agreements between the agencies involved for sharing the cost of that placement.</p> <p>(b) Nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a child with a disability.</p> <p>(c) Consistent with Sec. 300.323(c), the State must ensure that there is no delay in implementing a child's IEP, including any case in which the payment source for</p> |

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| | <p>providing or paying for special education and related services to the child is being determined. (Authority: 20 U.S.C. 1401(8), 1412(a)(1)).</p> <p><i>Referenced Regulations: See Pages 117-123 for 300.507-300.512 and Pages 127-128 for Section 300.513.</i></p> |
| <p>Section 226.190 Reevaluation (Repealed)</p> <p>(Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p><i>See Page 41 for related Regulation.</i></p> |
| <p>SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)</p> <p>Section 226.200 General Requirements</p> <p>Each school district shall provide special education and related services to eligible children in accordance with their IEPs.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.323 When IEPs must be in effect.</p> <p>(a) General. At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in Sec. 300.320.</p> <p>(b) IEP or IFSP for children aged three through five.</p> <p>(1) In the case of a child with a disability aged three through five (or, at the discretion of the SEA, a two-year-old child with a disability who will turn age three during the school year), the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is--</p> <p>(i) Consistent with State policy; and</p> <p>(ii) Agreed to by the agency and the child's parents.</p> <p>(2) In implementing the requirements of paragraph (b)(1) of this section, the public agency must--</p> <p>(i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and</p> <p>(ii) If the parents choose an IFSP, obtain written informed consent from the parents.</p> <p>(c) Initial IEPs; provision of services. Each public agency must ensure that--</p> <p>(1) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and</p> <p>(2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.</p> <p>(d) Accessibility of child's IEP to teachers and others. Each public agency must ensure that--</p> <p>(1) The child's IEP is accessible to each regular education teacher, special education</p> |

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| | <p>teacher, related services provider, and any other service provider who is responsible for its implementation; and</p> <p>(2) Each teacher and provider described in paragraph (d)(1) of this section is informed of--</p> <ul style="list-style-type: none"> (i) His or her specific responsibilities related to implementing the child's IEP; and (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. <p>(e) IEPs for children who transfer public agencies in the same State. If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either--</p> <ul style="list-style-type: none"> (1) Adopts the child's IEP from the previous public agency; or (2) Develops, adopts, and implements a new IEP that meets the applicable requirements in Sections 300.320 through 300.324. <p>(f) IEPs for children who transfer from another State. If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency--</p> <ul style="list-style-type: none"> (1) Conducts an evaluation pursuant to Sections 300.304 through 300.306 (if determined to be necessary by the new public agency); and (2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in Sections 300.320 through 300.324. <p>(g) Transmittal of records. To facilitate the transition for a child described in paragraphs (e) and (f) of this section--</p> <ul style="list-style-type: none"> (1) The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2); and (2) The previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency. (Authority: 20 U.S.C. 1414(d)(2)(A)-(C)) |

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| | <p>Referenced Regulations:</p> <p>IDEA LAW: SEC. 636(d), codified as 20 USC Section 1436(d) Excerpt: INDIVIDUALIZED FAMILY SERVICE PLAN. ...(d) CONTENT OF PLAN- The individualized family service plan shall be in writing and contain-- (5) a statement of the natural environments in which early intervention services will appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;...</p> <p>Excerpt: 34 CFR 99.31 Section 99.31 Under what conditions is prior consent not required to disclose information? (a) An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by § 99.30 if the disclosure meets one or more of the following conditions: (1) The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests. (2) The disclosure is, subject to the requirements of § 99.34, to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll....</p> <p><i>See Pages 61-63 for Section 300.320, Pages 53-54 for Sections 300.322, Pages 49-50 for Section 300.323, Page 20 for Section 300.23, Pages 54-56 for 300.324, and Pages 36-39 for Sections 300.304-300.306</i></p> |
| <p>Section 226.210 IEP Team</p> <p>The composition of the IEP Team for a particular child, and the participation, attendance, and excusal of the team members and other individuals in the IEP meeting, shall conform to the requirements of 34 CFR 300.321, 300.322, 300.324, and 300.325. The additional requirements of this Section shall also apply.</p> <p>a) The general education teacher who serves as a member of a child’s IEP Team shall be a teacher who is, or may be, responsible for implementing a portion of the IEP, so that the teacher can participate in discussions about how best to instruct the child.</p> <p>b) For a child age three through five years who has not yet entered the primary grades, the team shall include an individual qualified to teach preschool children without identified disabilities.</p> | <p>Sec. 300.321 IEP Team.</p> <p>(a) General. The public agency must ensure that the IEP Team for each child with a disability includes--</p> <ol style="list-style-type: none"> (1) The parents of the child; (2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment); (3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child; (4) A representative of the public agency who-- <ol style="list-style-type: none"> (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; (ii) Is knowledgeable about the general education curriculum; and (iii) Is knowledgeable about the availability of resources of the public agency. (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through |

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| <p>c) If the child is receiving only speech and language services, the speech and language pathologist shall fulfill the role of the special education teacher set forth at 34 CFR 300.321(a)(3).</p> <p>d) The representative of the public agency required by 34 CFR 300.321(a)(4) must, in addition to the requirements set forth in that portion of the federal regulations, have the authority to make commitments for the provision of resources and be able to ensure that the services set out in the IEP will be implemented.</p> <p>e) The IEP Team shall include a qualified bilingual specialist or bilingual teacher, if the presence of such a person is needed to assist the other participants in understanding the child's language or cultural factors as they relate to the child's instructional needs. If documented efforts to locate and secure the services of a qualified bilingual specialist are unsuccessful, the district shall instead meet the requirements set forth in Section 226.150(b) of this Part.</p> <p>f) In the case of a child whose behavior impedes his or her learning or the learning of others, the team shall include a person knowledgeable about positive behavior strategies.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>(a)(6) of this section;</p> <p>(6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and</p> <p>(7) Whenever appropriate, the child with a disability.</p> <p>(b) Transition services participants.</p> <p>(1) In accordance with paragraph (a)(7) of this section, the public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under Sec. 300.320(b).</p> <p>(2) If the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered.</p> <p>(3) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.</p> <p>(c) Determination of knowledge and special expertise. The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section must be made by the party (parents or public agency) who invited the individual to be a member of the IEP Team.</p> <p>(d) Designating a public agency representative. A public agency may designate a public agency member of the IEP Team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied.</p> <p>(e) IEP Team attendance. (1) A member of the IEP Team described in paragraphs (a)(2) through (a)(5) of this section is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.</p> <p>(2) A member of the IEP Team described in paragraph (e)(1) of this section may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if--</p> <p>(i) The parent, in writing, and the public agency consent to the excusal; and</p> <p>(ii) The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.</p> <p>(f) Initial IEP Team meeting for child under Part C. In the case of a child who was previously served under Part C of the Act, an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.</p> |

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| | <p>(Authority: 20 U.S.C. 1414(d)(1)(B)-(d)(1)(D))</p> <p><i>Referenced Regulation: See Pages 61-63 for Section 300.320.</i></p> <p>Sec. 300.322 Parent participation.</p> <p>(a) Public agency responsibility--general. Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including--</p> <ul style="list-style-type: none"> (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and (2) Scheduling the meeting at a mutually agreed on time and place. <p>(b) Information provided to parents.</p> <ul style="list-style-type: none"> (1) The notice required under paragraph (a)(1) of this section must-- <ul style="list-style-type: none"> (i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and (ii) Inform the parents of the provisions in Sec. 300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), and Sec. 300.321(f) (relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the Act). (2) For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, the notice also must-- <ul style="list-style-type: none"> (i) Indicate-- <ul style="list-style-type: none"> (A) That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with Sec. 300.320(b); and (B) That the agency will invite the student; and (ii) Identify any other agency that will be invited to send a representative. <p>(c) Other methods to ensure parent participation. If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with Sec. 300.328 (related to alternative means of meeting participation).</p> <p>(d) Conducting an IEP Team meeting without a parent in attendance. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as--</p> <ul style="list-style-type: none"> (1) Detailed records of telephone calls made or attempted and the results of those calls; |

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| | <p>(2) Copies of correspondence sent to the parents and any responses received; and (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.</p> <p>(e) Use of interpreters or other action, as appropriate. The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.</p> <p>(f) Parent copy of child's IEP. The public agency must give the parent a copy of the child's IEP at no cost to the parent. (Authority: 20 U.S.C. 1414(d)(1)(B)(i))</p> <p><i>Referenced Regulations: See Pages 61-63 for Section 300.320, Pages 51-53 for Section 300.321, and Page 60 for 300.328..</i></p> <p>Development of IEP Sec. 300.324 Development, review, and revision of IEP.</p> <p>(a) Development of IEP—</p> <p>(1) General. In developing each child's IEP, the IEP Team must consider--</p> <ul style="list-style-type: none"> (i) The strengths of the child; (ii) The concerns of the parents for enhancing the education of their child; (iii) The results of the initial or most recent evaluation of the child; and (iv) The academic, developmental, and functional needs of the child. <p>(2) Consideration of special factors. The IEP Team must--</p> <ul style="list-style-type: none"> (i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior; (ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP; (iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child; (iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and (v) Consider whether the child needs assistive technology devices and services. <p>(3) Requirement with respect to regular education teacher. A regular education</p> |

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| | <p>teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of—</p> <ul style="list-style-type: none"> (i) Appropriate positive behavioral interventions and supports and other strategies for the child; and (ii) Supplementary aids and services, program modifications, and support for school personnel consistent with Sec. 300.320(a)(4). <p>(4) Agreement.</p> <ul style="list-style-type: none"> (i) In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. (ii) If changes are made to the child's IEP in accordance with paragraph (a)(4)(i) of this section, the public agency must ensure that the child's IEP Team is informed of those changes. <p>(5) Consolidation of IEP Team meetings. To the extent possible, the public agency must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.</p> <p>(6) Amendments. Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or as provided in paragraph (a)(4) of this section, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.</p> <p>(b) Review and revision of IEPs—</p> <ul style="list-style-type: none"> (1) General. Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team-- <ul style="list-style-type: none"> (i) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and (ii) Revises the IEP, as appropriate, to address-- <ul style="list-style-type: none"> (A) Any lack of expected progress toward the annual goals described in Sec. 300.320(a)(2), and in the general education curriculum, if appropriate; (B) The results of any reevaluation conducted under Sec. 300.303; (C) Information about the child provided to, or by, the parents, as described under Sec. 300.305(a)(2); (D) The child's anticipated needs; or (E) Other matters. (2) Consideration of special factors. In conducting a review of the child's IEP, the IEP Team must consider the special factors described in paragraph (a)(2) of this section. (3) Requirement with respect to regular education teacher. A regular education |

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| | <p>teacher of the child, as a member of the IEP Team, must, consistent with paragraph (a)(3) of this section, participate in the review and revision of the IEP of the child.</p> <p>(c) Failure to meet transition objectives--(1) Participating agency failure. If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with Sec. 300.320(b), the public agency must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.</p> <p>(2) Construction. Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency.</p> <p>(d) Children with disabilities in adult prisons—</p> <p>(1) Requirements that do not apply. The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:</p> <p>(i) The requirements contained in section 612(a)(16) of the Act and Sec. 300.320(a)(6) (relating to participation of children with disabilities in general assessments).</p> <p>(ii) The requirements in Sec. 300.320(b) (relating to transition planning and transition services) do not apply with respect to the children whose eligibility under Part B of the Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.</p> <p>(2) Modifications of IEP or placement. (i) Subject to paragraph (d)(2)(ii) of this section, the IEP Team of a child with a disability who is convicted as an adult under State law and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.</p> <p>(ii) The requirements of Sections 300.320 (relating to IEPs), and 300.112 (relating to LRE), do not apply with respect to the modifications described in paragraph (d)(2)(i) of this section. (Authority: 20 U.S.C. 1412(a)(1), 1412(a)(12)(A)(i), 1414(d)(3), (4)(B), and (7); and 1414(e))</p> <p>Referenced Regulations: See Pages 61-63 for Section 300.320 and Pages 37-39 for Section 300.305.</p> <p>Sec. 300.112 Individualized education programs (IEP). The State must ensure that an IEP, or an IFSP that meets the requirements of section 636(d) of the Act, is developed, reviewed, and revised for each child with a disability in accordance with Sections 300.320 through 300.324, except as provided in Sec.</p> |

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| | <p>300.300(b)(3)(ii). (Authority: 20 U.S.C. 1412(a)(4))</p> <p>Sec. 300.325 Private school placements by public agencies.</p> <p>(a) Developing IEPs.</p> <p>(1) Before a public agency places a child with a disability in, or refers a child to, a private school or facility, the agency must initiate and conduct a meeting to develop an IEP for the child in accordance with Sections 300.320 and 300.324.</p> <p>(2) The agency must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.</p> <p>(b) Reviewing and revising IEPs. (1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.</p> <p>(2) If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and an agency representative--</p> <p>(i) Are involved in any decision about the child's IEP; and</p> <p>(ii) Agree to any proposed changes in the IEP before those changes are implemented.</p> <p>(c) Responsibility. Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA. (Authority: 20 U.S.C. 1412(a)(10)(B))</p> <p>Referenced Regulations: See Pages 61-63 for Section 300.320.</p> |
| <p>Section 226.220 Development, Review, and Revision of the IEP</p> <p>The development, review, and revision of each child's IEP shall conform to the requirements of 34 CFR 300.324 and 300.328. The additional requirements of this Section shall also apply.</p> <p>a) When an IEP has been developed or revised, a notice in accordance with 34 CFR 300.503(b) and (c) shall be provided immediately to the parents, and implementation of the IEP shall occur no later than ten days after the provision of this notice.</p> <p>b) Either a child's educational provider or a child's parent may request an IEP meeting at any time. Within ten days after receipt of such a request, the district shall either agree and notify the parent in accordance with 34 CFR 300.503 or notify the parents in writing of its refusal, including an explanation of the reason no meeting is necessary to ensure the provision of FAPE for the child.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.324 Development, review, and revision of IEP.</p> <p>(a) Development of IEP—</p> <p>(1) General. In developing each child's IEP, the IEP Team must consider--</p> <p>(i) The strengths of the child;</p> <p>(ii) The concerns of the parents for enhancing the education of their child;</p> <p>(iii) The results of the initial or most recent evaluation of the child; and</p> <p>(iv) The academic, developmental, and functional needs of the child.</p> <p>(2) Consideration of special factors. The IEP Team must--</p> <p>(i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;</p> <p>(ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;</p> <p>(iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and</p> |

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| | <p>appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;</p> <p>(iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and</p> <p>(v) Consider whether the child needs assistive technology devices and services.</p> <p>3) Requirement with respect to regular education teacher. A regular education teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of--</p> <p>(i) Appropriate positive behavioral interventions and supports and other strategies for the child; and</p> <p>(ii) Supplementary aids and services, program modifications, and support for school personnel consistent with Sec. 300.320(a)(4).</p> <p>(4) Agreement.</p> <p>(i) In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP.</p> <p>(ii) If changes are made to the child's IEP in accordance with paragraph (a)(4)(i) of this section, the public agency must ensure that the child's IEP Team is informed of those changes.</p> <p>(5) Consolidation of IEP Team meetings. To the extent possible, the public agency must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.</p> <p>(6) Amendments. Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or as provided in paragraph (a)(4) of this section, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.</p> <p>(b) Review and revision of IEPs--(1) General. Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team--</p> <p>(i) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and</p> <p>(ii) Revises the IEP, as appropriate, to address--</p> <p>(A) Any lack of expected progress toward the annual goals described in</p> |

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| | <p>Sec. 300.320(a)(2), and in the general education curriculum, if appropriate;</p> <p>(B) The results of any reevaluation conducted under Sec. 300.303;</p> <p>C) Information about the child provided to, or by, the parents, as described under Sec. 300.305(a)(2);</p> <p>(D) The child's anticipated needs; or</p> <p>(E) Other matters.</p> <p>(2) Consideration of special factors. In conducting a review of the child's IEP, the IEP Team must consider the special factors described in paragraph (a)(2) of this section.</p> <p>(3) Requirement with respect to regular education teacher. A regular education teacher of the child, as a member of the IEP Team, must, consistent with paragraph (a)(3) of this section, participate in the review and revision of the IEP of the child.</p> <p>(c) Failure to meet transition objectives--(1) Participating agency failure. If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with Sec. 300.320(b), the public agency must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.</p> <p>(2) Construction. Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency.</p> <p>(d) Children with disabilities in adult prisons—</p> <p>(1) Requirements that do not apply. The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:</p> <p>(i) The requirements contained in section 612(a)(16) of the Act and Sec. 300.320(a)(6) (relating to participation of children with disabilities in general assessments).</p> <p>(ii) The requirements in Sec. 300.320(b) (relating to transition planning and transition services) do not apply with respect to the children whose eligibility under Part B of the Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.</p> <p>(2) Modifications of IEP or placement. (i) Subject to paragraph (d)(2)(ii) of this section, the IEP Team of a child with a disability who is convicted as an adult under State law and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.</p> <p>(ii) The requirements of Sections 300.320 (relating to IEPs), and 300.112 (relating to LRE), do not apply with respect to the modifications described in</p> |

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| | <p>paragraph (d)(2)(i) of this section. (Authority: 20 U.S.C. 1412(a)(1), 1412(a)(12)(A)(i), 1414(d)(3), (4)(B), and (7); and 1414(e))</p> <p><i>Referenced Regulation: See Pages 61-63 for Section 300.320.</i></p> <p>Sec. 300.112 Individualized education programs (IEP). The State must ensure that an IEP, or an IFSP that meets the requirements of section 636(d) of the Act, is developed, reviewed, and revised for each child with a disability in accordance with Sections 300.320 through 300.324, except as provided in Sec. 300.300(b)(3)(ii). (Authority: 20 U.S.C. 1412(a)(4))</p> <p>Sec. 300.328 Alternative means of meeting participation. When conducting IEP Team meetings and placement meetings pursuant to this subpart, and subpart E of this part, and carrying out administrative matters under section 615 of the Act (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and a public agency may agree to use alternative means of meeting participation, such as video conferences and conference calls. (Authority: 20 U.S.C. 1414(f))</p> <p>Sec. 300.503 Prior notice by the public agency; content of notice. (a) Notice. Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency-- <ol style="list-style-type: none"> (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. (b) Content of notice. The notice required under paragraph (a) of this section must include-- <ol style="list-style-type: none"> (1) A description of the action proposed or refused by the agency; (2) An explanation of why the agency proposes or refuses to take the action; (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part; (6) A description of other options that the IEP Team considered and the reasons why </p> |

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| | <p>those options were rejected; and (7) A description of other factors that are relevant to the agency's proposal or refusal. (c) Notice in understandable language. (1) The notice required under paragraph (a) of this section must be-- (i) Written in language understandable to the general public; and (ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. (2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure-- (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; (ii) That the parent understands the content of the notice; and (iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met. (Authority: 20 U.S.C. 1415(b)(3) and (4), 1415(c)(1), 1414(b)(1))</p> |
| <p>Section 226.230 Content of the IEP</p> <p>The content of each child's IEP shall conform to the requirements of 34 CFR 300.320. The additional requirements of this Section shall also apply.</p> <p>a) Each IEP shall include:</p> <ol style="list-style-type: none"> 1) A statement of measurable annual goals that reflect consideration of the State Goals for Learning and the Illinois Learning Standards (see 23 Ill. Adm. Code 1), as well as benchmarks or short-term objectives developed in accordance with the child's present levels of educational performance. 2) A statement regarding the child's ability to participate in State and district-wide assessments. 3) A statement as to the languages or modes of communication in which special education and related services will be provided, if other than or in addition to English. 4) A statement as to whether the child requires the provision of services beyond the district's normal school year in order to receive FAPE ("extended school year services") and, if so, a description of those services that includes their amount, frequency, duration, and location. <p>b) The IEP of a student who requires a behavioral intervention plan shall:</p> <ol style="list-style-type: none"> 1) Summarize the findings of the functional behavioral assessment; 2) Summarize prior interventions implemented; 3) Describe any behavioral interventions to be used, including those aimed at developing or strengthening alternative or more appropriate behaviors; | <p>Individualized Education Programs</p> <p>Sec. 300.320 Definition of individualized education program. (a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with Sections 300.320 through 300.324, and that must include--</p> <ol style="list-style-type: none"> (1) A statement of the child's present levels of academic achievement and functional performance, including-- (i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; (2) (i) A statement of measurable annual goals, including academic and functional goals designed to-- (A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and (B) Meet each of the child's other educational needs that result from the child's disability; (ii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives; (3) A description of-- |

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| <p>4) Identify the measurable behavioral changes expected and methods of evaluation; 5) Identify a schedule for a review of the interventions' effectiveness; and 6) Identify provisions for communicating with the parents about their child's behavior and coordinating school-based and home-based interventions.</p> <p>c) Beginning not later than the first IEP to be in effect when the child turns 14 1/2, and updated annually thereafter, the IEP shall include:</p> <ol style="list-style-type: none"> 1) appropriate, measurable, postsecondary goals based upon age-appropriate assessments related to employment, education or training, and, as needed, independent living; 2) the transition services that are needed to assist the child in reaching those goals, including courses of study and any other needed services to be provided by entities other than the school district; and 3) any additional requirements set forth in Section 14-8.03 of the School Code [105 ILCS 5/14-8.03]. <p>d) For purposes of 34 CFR 300.320(c), the age of majority under Illinois law is 18. The IEP of a student who may, after reaching age 18, become eligible to participate in the home-based support services program for adults with cognitive disabilities that is authorized by the Developmental Disability and Mental Disability Services Act [405 ILCS 80] shall set forth specific plans related to that program that conform to the requirements of Section 14-8.02 of the School Code.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <ol style="list-style-type: none"> (i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and (ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided; <p>(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child--</p> <ol style="list-style-type: none"> (i) To advance appropriately toward attaining the annual goals; (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section; <p>(5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section;</p> <p>(6) (i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the Act; and</p> <p>(ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why--</p> <ol style="list-style-type: none"> (A) The child cannot participate in the regular assessment; and (B) The particular alternate assessment selected is appropriate for the child; <p>and</p> <p>(7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.</p> <p>(b) Transition services. Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include--</p> <ol style="list-style-type: none"> (1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and (2) The transition services (including courses of study) needed to assist the child in reaching those goals. |

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| | <p>(c) Transfer of rights at age of majority. Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under Sec. 300.520.</p> <p>(d) Construction. Nothing in this section shall be construed to require--</p> <ol style="list-style-type: none"> (1) That additional information be included in a child's IEP beyond what is explicitly required in section 614 of the Act; or (2) The IEP Team to include information under one component of a child's IEP that is already contained under another component of the child's IEP. (Authority: 20 U.S.C. 1414(d)(1)(A) and (d)(6)) <p>Referenced Regulations/Law: <i>See Pages 51-54 for Sections 300.321-300.322, Pages 49-50 for Section 300.323 and Pages 54-56 for Section 300.324.</i></p> <p>Sec. 300.520 Transfer of parental rights at age of majority.</p> <p>(a) General. A State may provide that, when a child with a disability reaches the age of majority under State law that applies to all children (except for a child with a disability who has been determined to be incompetent under State law)--</p> <ol style="list-style-type: none"> (1) (i) The public agency must provide any notice required by this part to both the child and the parents; and (ii) All rights accorded to parents under Part B of the Act transfer to the child; (2) All rights accorded to parents under Part B of the Act transfer to children who are incarcerated in an adult or juvenile, State or local correctional institution; and (3) Whenever a State provides for the transfer of rights under this part pursuant to paragraph (a)(1) or (a)(2) of this section, the agency must notify the child and the parents of the transfer of rights. <p>(b) Special rule. A State must establish procedures for appointing the parent of a child with a disability, or, if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of the child's eligibility under Part B of the Act if, under State law, a child who has reached the age of majority, but has not been determined to be incompetent, can be determined not to have the ability to provide informed consent with respect to the child's educational program. (Authority: 20 U.S.C. 1415(m))</p> <p>IDEA LAW: Section 612(a)(16), codified as 1412(a)(16)</p> <p>(Excerpt) Section 612(a): (16) PARTICIPATION IN ASSESSMENTS- (A) IN GENERAL- All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate</p> |

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| | <p>accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs.</p> <p>(B) ACCOMMODATION GUIDELINES- The State (or, in the case of a districtwide assessment, the local educational agency) has developed guidelines for the provision of appropriate accommodations.</p> <p>(C) ALTERNATE ASSESSMENTS-</p> <p>(i) IN GENERAL- The State (or, in the case of a districtwide assessment, the local educational agency) has developed and implemented guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments under subparagraph (A) with accommodations as indicated in their respective individualized education programs.</p> <p>(ii) REQUIREMENTS FOR ALTERNATE ASSESSMENTS- The guidelines under clause (i) shall provide for alternate assessments that--</p> <p>(I) are aligned with the State's challenging academic content standards and challenging student academic achievement standards; and</p> <p>(II) if the State has adopted alternate academic achievement standards permitted under the regulations promulgated to carry out section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, measure the achievement of children with disabilities against those standards.</p> <p>(iii) CONDUCT OF ALTERNATE ASSESSMENTS- The State conducts the alternate assessments described in this subparagraph.</p> <p>(D) REPORTS- The State educational agency (or, in the case of a districtwide assessment, the local educational agency) makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:</p> <p>(i) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments.</p> <p>(ii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(I).</p> <p>(iii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(II).</p> <p>(iv) The performance of children with disabilities on regular assessments and on alternate assessments (if the number of children with disabilities participating in those assessments is sufficient to yield statistically reliable information and reporting that information will not reveal personally identifiable information about an individual student), compared with the achievement of all children, including children with disabilities, on those assessments.</p> <p>(E) UNIVERSAL DESIGN- The State educational agency (or, in the case of a</p> |

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| | districtwide assessment, the local educational agency) shall, to the extent feasible, use universal design principles in developing and administering any assessments under this paragraph.... |
| <p>Section 226.240 Determination of Placement</p> <p>The determination of placement shall conform to the requirements of 34 CFR 300.114 through 300.116, 300.327, and 300.501(c), and the IEP Team shall take into consideration the student’s eligibility for other educational programs and services such as bilingual education, career and technical education, gifted education, and federal Title I programs. The placement determination shall be reviewed at least annually or any time the IEP is revised.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.327 Educational placements. Consistent with Sec. 300.501(c), each public agency must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child. (Authority: 20 U.S.C. 1414(e))</p> <p><i>(Excerpt. See Page 104 for complete Section.)</i></p> <p>Sec. 300.501 Opportunity to examine records; parent participation in meetings. ...(c) Parent involvement in placement decisions.</p> <p>(1) Each public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child.</p> <p>(2) In implementing the requirements of paragraph (c)(1) of this section, the public agency must use procedures consistent with the procedures described in Sec. 300.322(a) through (b)(1).</p> <p>(3) If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.</p> <p>(4) A placement decision may be made by a group without the involvement of a parent, if the public agency is unable to obtain the parent's participation in the decision. In this case, the public agency must have a record of its attempt to ensure their involvement. (Authority: 20 U.S.C. 1414(e), 1415(b)(1))</p> <p>Referenced Regulation: See Pages 53-54 for Section 300.322.</p> <p>Least Restrictive Environment (LRE)</p> <p>Sec. 300.114 LRE requirements.</p> <p>(a) General.</p> <p>(1) Except as provided in Sec. 300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and Sections 300.115 through 300.120.</p> <p>(2) Each public agency must ensure that--</p> <p>(i) 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</p> <p>(ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature</p> |

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| | <p>or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.</p> <p>(b) Additional requirement--State funding mechanism—</p> <p>(1) General.</p> <p>(i) A State funding mechanism must not result in placements that violate the requirements of paragraph (a) of this section; and (ii) A State must not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability FAPE according to the unique needs of the child, as described in the child's IEP.</p> <p>(2) Assurance. If the State does not have policies and procedures to ensure compliance with paragraph (b)(1) of this section, the State must provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that the mechanism does not result in placements that violate that paragraph. (Authority: 20 U.S.C. 1412(a)(5))</p> <p>Referenced Regulation: See Pages 54-56 for Section 300.324.</p> <p>Sec. 300.115 Continuum of alternative placements.</p> <p>(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.</p> <p>(b) The continuum required in paragraph (a) of this section must--</p> <p>(1) Include the alternative placements listed in the definition of special education under Sec. 300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and</p> <p>(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement. (Authority: 20 U.S.C. 1412(a)(5))</p> <p>Referenced Regulation: See Pages 71-72 for Section 300.39 (special education).</p> <p>Sec. 300.116 Placements.</p> <p>In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that--</p> <p>(a) The placement decision--</p> <p>(1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and</p> <p>(2) Is made in conformity with the LRE provisions of this subpart, including Sections 300.114 through 300.118;</p> <p>(b) The child's placement--</p> |

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| | <p>(1) Is determined at least annually;</p> <p>(2) Is based on the child's IEP; and</p> <p>(3) Is as close as possible to the child's home;</p> <p>(c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;</p> <p>(d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and</p> <p>(e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum. (Authority: 20 U.S.C. 1412(a)(5))</p> <p><i>Referenced and Select related Regulations:</i></p> <p>Sec. 300.117 Nonacademic settings. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in Sec. 300.107, each public agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings. (Authority: 20 U.S.C. 1412(a)(5))</p> <p>Sec. 300.118 Children in public or private institutions. Except as provided in Sec. 300.149(d) (regarding agency responsibility for general supervision for some individuals in adult prisons), an SEA must ensure that Sec. 300.114 is effectively implemented, including, if necessary, making arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures). (Authority: 20 U.S.C. 1412(a)(5))</p> <p>Sec. 300.119 Technical assistance and training activities. Each SEA must carry out activities to ensure that teachers and administrators in all public agencies—</p> <p>(a) Are fully informed about their responsibilities for implementing Sec. 300.114; and</p> <p>(b) Are provided with technical assistance and training necessary to assist them in this effort. (Authority: 20 U.S.C. 1412(a)(5))</p> <p>Sec. 300.120 Monitoring activities.</p> <p>(a) The SEA must carry out activities to ensure that Sec. 300.114 is implemented by each public agency.</p> <p>(b) If there is evidence that a public agency makes placements that are inconsistent with</p> |

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| | <p>Sec. 300.114, the SEA must--</p> <ul style="list-style-type: none"> (1) Review the public agency's justification for its actions; and (2) Assist in planning and implementing any necessary corrective action. (Authority: 20 U.S.C. 1412(a)(5)) <p>Sec. 300.104 Residential placement If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child. (Authority: 20 U.S.C. 1412(a)(1), 1412(a)(10)(B))</p> <p>Sec. 300.107 Nonacademic services. The State must ensure the following:</p> <ul style="list-style-type: none"> (a) Each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities. (b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available. (Authority: 20 U.S.C. 1412(a)(1)) |
| <p>Section 226.250 Child Aged Three Through Five</p> <p>In the case of an eligible child three through five years of age, an IFSP that contains the material described in 34 CFR 300.323(b) may serve as a child's IEP if using that plan is agreed to by the local school district and the child's parents. If a district proposes to use an IFSP, the local school district shall:</p> <ul style="list-style-type: none"> a) Provide a detailed explanation of the differences between an IFSP and an IEP to the child's parents; b) Obtain informed, written consent from the parents for the use of the IFSP; and c) Ensure that the IFSP is developed in accordance with the IEP requirements found in Subpart C of this Part. <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p><i>(Excerpt. See Pages 49-50 for complete Section.)</i></p> <p>Sec. 300.323 When IEPs must be in effect.</p> <p>...(b) IEP or IFSP for children aged three through five.</p> <ul style="list-style-type: none"> (1) In the case of a child with a disability aged three through five (or, at the discretion of the SEA, a two-year-old child with a disability who will turn age three during the school year), the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is-- <ul style="list-style-type: none"> (i) Consistent with State policy; and (ii) Agreed to by the agency and the child's parents. (2) In implementing the requirements of paragraph (b)(1) of this section, the public agency must-- |

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| | <p>(i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and (ii) If the parents choose an IFSP, obtain written informed consent from the parents....</p> <p>Referenced Regulations: IDEA LAW: SEC. 636(d), codified as 20 USC Section 1436(d)</p> <p>Excerpt: INDIVIDUALIZED FAMILY SERVICE PLAN. ...(d) CONTENT OF PLAN- The individualized family service plan shall be in writing and contain-- (5) a statement of the natural environments in which early intervention services will appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;...</p> |
| <p>Section 226.260 Child Reaching Age Three</p> <p>a) Child with an Individualized Family Service Plan (IFSP) For each child who will be making the transition from an early intervention program into the special education program of a school district at age three, the district shall ensure that either an IEP or the child's IFSP is in effect on his or her third birthday. A representative of the school district shall participate in the transition meeting scheduled by the early intervention team.</p> <p>b) Child Without an IFSP 1) For each child who is referred to a school district at least 60 school days prior to his or her third birthday and determined eligible, the district shall ensure that either an IEP or an IFSP is in effect on his or her third birthday. 2) For each child who is referred with fewer than 60 school days remaining before his or her third birthday, or after that date, the district shall comply with the requirements of Section 226.110(c)-(j) of this Part.</p> <p>c) If a child's third birthday occurs during the summer, the IEP Team for that child shall determine when the district's services to the child will begin. (Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Related Regulations: <i>(Excerpt. See Pages 4-5 for complete Section.)</i> Sec. 300.101 Free appropriate public education (FAPE).</p> <p>(a) General. A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in Sec. 300.530(d). (b) FAPE for children beginning at age 3. (1) Each State must ensure that-- (i) The obligation to make FAPE available to each eligible child residing in the State begins no later than the child's third birthday; and (ii) An IEP or an IFSP is in effect for the child by that date, in accordance with Sec. 300.323(b). (2) If a child's third birthday occurs during the summer, the child's IEP Team shall determine the date when services under the IEP or IFSP will begin....</p> <p>Sec. 300.124 Transition of children from the Part C program to preschool programs. The State must have in effect policies and procedures to ensure that-- (a) Children participating in early intervention programs assisted under Part C of the Act, and who will participate in preschool programs assisted under Part B of the Act, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9) of the Act; (b) By the third birthday of a child described in paragraph (a) of this section, an IEP or, if consistent with Sec. 300.323(b) and section 636(d) of the Act, an IFSP, has been</p> |

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| | <p>developed and is being implemented for the child consistent with Sec. 300.101(b); and (c) Each affected LEA will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10) of the Act. (Authority: 20 U.S.C. 1412(a)(9))</p> <p>Referenced Regulation: See Pages 49-50 for Section 300.323, Pages 4-5 for Section 300.101 and Page 69 for IDEA Law Section 636(d).)</p> <p>IDEA LAW Section 637(a)(9), codified as 20 USC Section 1437(a)(9) Excerpt. SEC. 637. (a) APPLICATION- A State desiring to receive a grant under section 633 shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain—</p> <p>...(9) a description of the policies and procedures to be used—</p> <p>(A) to ensure a smooth transition for toddlers receiving early intervention services under this part (and children receiving those services under section 635(c)) to preschool, school, other appropriate services, or exiting the program, including a description of how--</p> <p>(i) the families of such toddlers and children will be included in the transition plans required by subparagraph (C); and</p> <p>(ii) the lead agency designated or established under section 635(a)(10) will—</p> <p>(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law;</p> <p>(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency not less than 90 days (and at the discretion of all such parties, not more than 9 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and</p> <p>(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under part B, to discuss the appropriate services that the child may receive;</p> <p>(B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and</p> <p>(C) to establish a transition plan, including, as appropriate, steps to exit from the program;...</p> |

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| <p>Section 226.300 Continuum of Placement Options</p> <p>Each local school district shall, in conformance with the requirements of 34 CFR 300.39 and 300.115, ensure that a continuum of placements is available to meet the needs of children with disabilities for special education and related services. With respect to the home instruction and instruction in hospitals and institutions referenced in 34 CFR 300.39 and 300.115:</p> <p>a) The child receives services at home or in a hospital or other setting because he or she is unable to attend school elsewhere due to a medical condition.</p> <p>b) When an eligible student has a medical condition that will cause an absence for two or more consecutive weeks of school or ongoing intermittent absences, the IEP Team for that child shall consider the need for home or hospital services. Such consideration shall be based upon a written statement from a physician licensed to practice medicine in all its branches which specifies:</p> <ol style="list-style-type: none"> 1) the child's condition; 2) the impact on the child's ability to participate in education (the child's physical and mental level of tolerance for receiving educational services); and 3) the anticipated duration or nature of the child's absence from school. <p>c) If an IEP Team determines that home or hospital services are medically necessary, the team shall develop or revise the child's IEP accordingly.</p> <p>d) The amount of instructional or related service time provided through the home or hospital program shall be determined in relation to the child's educational needs and physical and mental health needs. The amount of instructional time shall not be less than five hours per week unless the physician has certified in writing that the child should not receive as many as five hours of instruction in a school week.</p> <p>e) A child whose home or hospital instruction is being provided via telephone or other technological device shall receive not less than two hours per week of direct instructional services.</p> <p>f) Instructional time shall be scheduled only on days when school is regularly in session, unless otherwise agreed to by all parties.</p> <p>g) Services required by the IEP shall be implemented as soon as possible after the district receives the physician's statement.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.39 Special education.</p> <p>(a) General.</p> <ol style="list-style-type: none"> (1) Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including-- <ol style="list-style-type: none"> (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and (ii) Instruction in physical education. (2) Special education includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section— <ol style="list-style-type: none"> (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards; (ii) Travel training; and (iii) Vocational education. <p>(b) Individual special education terms defined. The terms in this definition are defined as follows:</p> <ol style="list-style-type: none"> (1) 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 regular education program. (2) Physical education means-- <ol style="list-style-type: none"> (i) The development of-- <ol style="list-style-type: none"> (A) Physical and motor fitness; (B) Fundamental motor skills and patterns; and (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and (ii) Includes special physical education, adapted physical education, movement education, and motor development. (3) Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction-- <ol style="list-style-type: none"> (i) To address the unique needs of the child that result from the child's disability; and (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children. (4) 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-- <ol style="list-style-type: none"> (i) Develop an awareness of the environment in which they live; and (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 |

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| | <p>community).</p> <p>(5) 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. (Authority: 20 U.S.C. 1401(29))</p> <p>Sec. 300.115 Continuum of alternative placements.</p> <p>(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.</p> <p>(b) The continuum required in paragraph (a) of this section must—</p> <p>(1) Include the alternative placements listed in the definition of special education under Sec. 300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and</p> <p>(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement. (Authority: 20 U.S.C. 1412(a)(5))</p> <p><i>Referenced Regulation: See Pages 71-72 for Section 300.39 (special education).</i></p> |
| <p>Section 226.310 Related Services</p> <p>Each school district shall ensure that related services (defined in 34 CFR 300.34) are provided if necessary to assist an eligible child in benefiting from his or her special education.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.34 Related services.</p> <p>(a) 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 speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment 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.</p> <p>(b) Exception; services that apply to children with surgically implanted devices, including cochlear implants.</p> <p>(1) 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.</p> <p>(2) Nothing in paragraph (b)(1) of this section--</p> <p>(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.</p> <p>(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</p> |

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| | <p>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</p> <p>(iii) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in Sec. 300.113(b).</p> <p>(c) Individual related services terms defined. The terms used in this definition are defined as follows:</p> <p>(1) Audiology includes--</p> <ul style="list-style-type: none"> (i) Identification of children with hearing loss; (ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing; (iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation; (iv) Creation and administration of programs for prevention of hearing loss; (v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and (vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification. <p>(2) Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.</p> <p>(3) 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.</p> <p>(4) Interpreting services includes--</p> <ul style="list-style-type: none"> (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 (ii) Special interpreting services for children who are deaf-blind. <p>(5) 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.</p> <p>(6) Occupational therapy--</p> <ul style="list-style-type: none"> (i) Means services provided by a qualified occupational therapist; and (ii) Includes-- <ul style="list-style-type: none"> (A) Improving, developing, or restoring functions impaired or lost through |

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| | <p>illness, injury, or deprivation;</p> <p>(B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and</p> <p>(C) Preventing, through early intervention, initial or further impairment or loss of function.</p> <p>(7) Orientation and mobility services--</p> <p>(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</p> <p>(ii) Includes teaching children the following, as appropriate:</p> <p>(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);</p> <p>(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;</p> <p>(C) To understand and use remaining vision and distance low vision aids; and</p> <p>(D) Other concepts, techniques, and tools.</p> <p>(8) (i) Parent counseling and training means assisting parents in understanding the special needs of their child;</p> <p>(ii) Providing parents with information about child development; and</p> <p>(iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.</p> <p>(9) Physical therapy means services provided by a qualified physical therapist.</p> <p>(10) Psychological services includes--</p> <p>(i) Administering psychological and educational tests, and other assessment procedures;</p> <p>(ii) Interpreting assessment results;</p> <p>(iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;</p> <p>(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;</p> <p>(v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and</p> <p>(vi) Assisting in developing positive behavioral intervention strategies.</p> <p>(11) Recreation includes--</p> <p>(i) Assessment of leisure function;</p> |

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| | <ul style="list-style-type: none"> (ii) Therapeutic recreation services; (iii) Recreation programs in schools and community agencies; and (iv) Leisure education. <p>(12) 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.</p> <p>(13) 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.</p> <p>(14) Social work services in schools includes-</p> <ul style="list-style-type: none"> (i) Preparing a social or developmental history on a child with a disability; (ii) Group and individual counseling with the child and family; (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; (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and (v) Assisting in developing positive behavioral intervention strategies. <p>(15) Speech-language pathology services includes--</p> <ul style="list-style-type: none"> (i) Identification of children with speech or language impairments; (ii) Diagnosis and appraisal of specific speech or language impairments; (iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments; (iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and (v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments. <p>(16) Transportation includes--</p> <ul style="list-style-type: none"> (i) Travel to and from school and between schools; (ii) Travel in and around school buildings; and (iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability. <p>(Authority: 20 U.S.C. 1401(26))</p> <p><i>Referenced Regulation. See Page 29 for Section 300.113.</i></p> |

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| <p>Section 226.320 Service to Students Living in Residential Care Facilities</p> <p>Children with disabilities may be placed into public or nonpublic residential facilities for reasons other than education by various public entities such as the Department of Corrections, the Department of Children and Family Services, or the juvenile courts. Except as provided in Section 14-8.01 of the School Code, the school district within whose boundaries such a facility is located is responsible for ensuring special education and related services in the least restrictive environment to those students who are eligible pursuant to this Part. “Residential facilities” refers to any of the following.</p> <p>a) “Children's Home” or “Orphanage”: any licensed residential institution, other than those directly operated by the State of Illinois, which cares for disabled, neglected, delinquent, and/or dependent children.</p> <p>b) “Foster Family Home”: an individual residential unit which cares for one or more disabled, neglected, delinquent, or dependent children who are not members of the primary family. Such a home accepts foster children for care under specific and written authority of a municipal, county, or State agency authorized to make such placement.</p> <p>c) “State Residential Units”: residential housing units which are directly operated by the State of Illinois, on property owned by the State, and primarily funded by an agency of the State.</p> | |
| <p>Section 226.330 Placement by School District in State-Operated or Nonpublic Special Education Facilities</p> <p>When an IEP Team determines that no less restrictive setting on the continuum of alternative placements will meet a child’s needs, the child may be placed in a State-operated or nonpublic special education facility. In such a case, use of a State-operated program should be given first consideration. However, the district shall refer the child to the agency or facility which is most appropriate to the individual situation. This determination shall be based upon recent diagnostic assessments and other pertinent evidence and made in light of such other factors as proximity to the child's home. Evidence of a condition that presents a danger to the physical well-being of the student or to other students may be taken into consideration in identifying the appropriate placement for a particular child.</p> | <p><i>Select Related Regulations:</i></p> <p>Children With Disabilities in Private Schools Placed or Referred by Public Agencies</p> <p>Sec. 300.145 Applicability of Sections 300.146 through 300.147. Sections 300.146 through 300.147 apply only to children with disabilities who are or have been placed in or referred to a private school or facility by a public agency as a means of providing special education and related services. (Authority: 20 U.S.C. 1412(a)(10)(B))</p> <p>Sec. 300.146 Responsibility of SEA. Each SEA must ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency— (a) Is provided special education and related services--</p> |

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| <p>a) When it appears that a child will require a placement pursuant to this Section, the IEP Team shall invite representatives of potential service providers to assist in identifying or verifying the appropriate placement for that child. If one or more needed representatives cannot attend, the district shall use other methods to ensure their participation.</p> <p>b) The local school district is responsible for ensuring implementation of the child's IEP and convening any needed IEP meetings, including the annual review. If the district allows a State-operated or nonpublic school to initiate and conduct the IEP meeting, the district must ensure that the parent and a representative of the district are invited to participate in any decision about the child's IEP and agree to any proposed changes in the program before the changes are implemented. The district remains responsible for the development and implementation of the child's IEP and for compliance with the requirements of this Part.</p> <p>c) No school district shall place any child in a nonpublic special education program, nor shall any such program accept placement of any child with a disability under Section 14-7.02 of the School Code [105 ILCS 5/14-7.02], unless all the following conditions have been met.</p> <ol style="list-style-type: none"> 1) The program has been approved by the State Board of Education pursuant to the criteria set forth in 23 Ill. Adm. Code 401 (Special Education Facilities Under Section 14-7.02 of the School Code) for the school year for which placement is sought. 2) The allowable costs for the program have been established pursuant to Section 14-7.02 of the School Code. 3) The district has made the certification of inability to meet the student's needs to the State Superintendent of Education, if required pursuant to Section 14-7.02 of the School Code, and the State Superintendent has found the district in substantial compliance with Section 14-4.01 of the School Code [105 ILCS 5/14-4.01]. 4) The program has been approved by the State Board of Education for all of the disability categories applicable to the student and requiring services pursuant to the IEP. 5) The program has been approved by the State Board of Education for the age range that includes the age of the student. 6) The district has determined that all educational programming and related services specified on the child's IEP will be provided to the student. The use of a facility or program pursuant to 23 Ill. Adm. Code 401 does not relieve the local school district of the responsibility for ensuring that the student will receive all programming and related services required by the IEP, whether from one source or from multiple sources. 7) The school district and the facility have entered into the contractual agreement | <ol style="list-style-type: none"> (1) In conformance with an IEP that meets the requirements of Sections 300.320 through 300.325; and (2) At no cost to the parents; <p>(b) Is provided an education that meets the standards that apply to education provided by the SEA and LEAs including the requirements of this part, except for Sec. 300.18 and Sec. 300.156(c); and</p> <p>(c) Has all of the rights of a child with a disability who is served by a public agency. (Authority: 20 U.S.C. 1412(a)(10)(B))</p> <p>Sec. 300.147 Implementation by SEA. In implementing Sec. 300.146, the SEA must--</p> <ol style="list-style-type: none"> (a) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires; (b) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a child with a disability; and (c) Provide an opportunity for those private schools and facilities to participate in the development and revision of State standards that apply to them. (Authority: 20 U.S.C. 1412(a)(10)(B)) <p><i>Referenced Regulations: See Pages 165-167 for Section 300.18, Page 164 for Section 300.156, Pages 61-63 for Section 300.320 and Pages 49-57 for Sections 300.321-300.325.</i></p> |

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| <p>required by subsection (d) of this Section.</p> <p>8) The child will receive an education that meets the standards applicable to education provided by the school district.</p> <p>d) If a nonpublic school placement is chosen, the district and the facility shall enter into an agreement utilizing a format provided by the State Board of Education. The agreement shall provide for, but need not be limited to:</p> <ol style="list-style-type: none"> 1) The child's IEP, as developed by the local school district; 2) The amount of tuition that will be charged; 3) Assurance that the special education staff of the placing school district may inspect the private facility and confer with the staff at reasonable times; and 4) Assurances that the placement will result in no cost to parents. <p>e) When a nonpublic facility is used, the school district shall be responsible for the payment of tuition and the provision of transportation as provided by Section 14-7.02 of the School Code. (See also Section 226.750(b) of this Part.)</p> <p>f) Each local school district shall be responsible for monitoring the performance of each State-operated or nonpublic facility where it has placed one or more eligible students, to ensure that the implementation of each IEP conforms to the applicable requirements of this Part.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | |
| <p>Section 226.340 Nonpublic Placements by Parents Where FAPE is at Issue</p> <p>This Section shall apply to students with disabilities who have been, or are to be, placed in a non-public facility by their parents following the parents' refusal to accept an offer of FAPE by a school district. For such students, the reimbursement obligations and other requirements set forth at 34 CFR 300.148 shall be applicable. If a determination is made by a hearing officer or court of law that the school district is not obligated to provide special education or reimbursement to such a student, the school district shall treat the student as a student defined by Section 226.350 of this Part.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Children With Disabilities Enrolled by Their Parents in Private Schools When FAPE Is at Issue</p> <p>Sec. 300.148 Placement of children by parents when FAPE is at issue.</p> <p>(a) General. This part does not require an LEA to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made FAPE available to the child and the parents elected to place the child in a private school or facility. However, the public agency must include that child in the population whose needs are addressed consistent with Sections 300.131 through 300.144.</p> <p>(b) Disagreements about FAPE. Disagreements between the parents and a public agency regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to the due process procedures in Sections 300.504 through 300.520.</p> <p>(c) Reimbursement for private school placement. If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private preschool, elementary school, or</p> |

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| | <p>secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the SEA and LEAs.</p> <p>(d) Limitation on reimbursement. The cost of reimbursement described in paragraph (c) of this section may be reduced or denied--</p> <p>(1) If--</p> <p>(i) At the most recent IEP Team 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 public agency to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or</p> <p>(ii) At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in paragraph (d)(1)(i) of this section;</p> <p>(2) If, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in Sec. 300.503(a)(1), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or</p> <p>(3) Upon a judicial finding of unreasonableness with respect to actions taken by the parents.</p> <p>(e) Exception. Notwithstanding the notice requirement in paragraph (d)(1) of this section, the cost of reimbursement--</p> <p>(1) Must not be reduced or denied for failure to provide the notice if--</p> <p>(i) The school prevented the parents from providing the notice;</p> <p>(ii) The parents had not received notice, pursuant to Sec. 300.504, of the notice requirement in paragraph (d)(1) of this section; or</p> <p>(iii) Compliance with paragraph (d)(1) of this section would likely result in physical harm to the child; and</p> <p>(2) May, in the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if--</p> <p>(i) The parents are not literate or cannot write in English; or</p> <p>(ii) Compliance with paragraph (d)(1) of this section would likely result in serious emotional harm to the child. (Authority: 20 U.S.C. 1412(a)(10)(C))</p> |

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| | <p><i>Referenced Regulations: See Pages 80-88 for Sections 300.131-300.144, Page 102 for Section 300.503, Pages 100-101 for Sections 300-504-300-505, Pages 113-114 for Section 300-506, Pages 117-132 for Sections 300-507-300.520 and Pages 110-111 for Section 300.519.</i></p> |
| <p>Section 226.350 Service to Parentally-Placed Private School Students</p> <p>“Parentally-Placed Private School Students” shall be defined as set forth in 34 CFR 300.130. As noted in Section 226.100 of this Part, school districts shall conduct child find for parentally-placed private school students in conformance with the requirements of 34 CFR 300.131. Each school district shall also conform to the requirements of 34 CFR 300.132 through 300.144. In fulfilling the requirements of 34 CFR 300.134 (Consultation) and 300.135 (Affirmation), school districts that are members of the same special education joint agreement are permitted to conduct jointly their consultation with private school and parent representatives. However, even when multiple districts’ funds are pooled by a joint agreement, the amounts that are required to be used for services to parentally-placed private school students must be spent in accordance with each member district’s “proportionate share” obligation. School districts that are members of the same special education joint agreement shall be prohibited from aggregating proportionate share funds when determining services for parentally-placed private school students.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Children in Private Schools</p> <p><i>Select Related Regulation:</i></p> <p>Sec. 300.129 State responsibility regarding children in private schools. The State must have in effect policies and procedures that ensure that LEAs, and, if applicable, the SEA, meet the private school requirements in Sections 300.130 through 300.148. (Authority: 20 U.S.C. 1412(a)(10))</p> <p>Children With Disabilities Enrolled by Their Parents in Private Schools</p> <p>Sec. 300.130 Definition of parentally-placed private school children with disabilities. Parentally-placed private school children with disabilities means children with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in Sec. 300.13 or secondary school in Sec. 300.36, other than children with disabilities covered under Sections 300.145 through 300.147. (Authority: 20 U.S.C. 1412(a)(10)(A))</p> <p><i>Referenced Regulation: See Page 3 for Sections 300.13 and Section 300.36 and Pages 76-77 for Sections 300.145 – 300.147.)</i></p> <p>Sec. 300.131 Child find for parentally-placed private school children with disabilities.</p> <p>(a) General. Each LEA must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, in accordance with paragraphs (b) through (e) of this section, and Sections 300.111 and 300.201.</p> <p>(b) Child find design. The child find process must be designed to ensure--</p> <ol style="list-style-type: none"> (1) The equitable participation of parentally-placed private school children; and (2) An accurate count of those children. <p>(c) Activities. In carrying out the requirements of this section, the LEA, or, if applicable, the SEA, must undertake activities similar to the activities undertaken for the agency's public school children.</p> <p>(d) Cost. The cost of carrying out the child find requirements in this section, including</p> |

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| <p>Section 226.350 Service to Parentally-Placed Private School Students</p> | <p>individual evaluations, may not be considered in determining if an LEA has met its obligation under Sec. 300.133.</p> <p>(e) Completion period. The child find process must be completed in a time period comparable to that for students attending public schools in the LEA consistent with Sec. 300.301.</p> <p>(f) Out-of-State children. Each LEA in which private, including religious, elementary schools and secondary schools are located must, in carrying out the child find requirements in this section, include parentally-placed private school children who reside in a State other than the State in which the private schools that they attend are located. (Authority: 20 U.S.C. 1412(a)(10)(A)(ii))</p> <p>Referenced Regulation: See Page 32 for Section 300.111, Page 34 for Section 300.201 and Pages 35-36 for Section 300.301.</p> <p>Sec. 300.132 Provision of services for parentally-placed private school children with disabilities--basic requirement.</p> <p>(a) General. To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, provision is made for the participation of those children in the program assisted or carried out under Part B of the Act by providing them with special education and related services, including direct services determined in accordance with Sec. 300.137, unless the Secretary has arranged for services to those children under the by-pass provisions in Sections 300.190 through 300.198.</p> <p>(b) Services plan for parentally-placed private school children with disabilities. In accordance with paragraph (a) of this section and Sections 300.137 through 300.139, a services plan must be developed and implemented for each private school child with a disability who has been designated by the LEA in which the private school is located to receive special education and related services under this part.</p> <p>(c) Record keeping. Each LEA must maintain in its records, and provide to the SEA, the following information related to parentally-placed private school children covered under Sections 300.130 through 300.144:</p> <ol style="list-style-type: none"> (1) The number of children evaluated; (2) The number of children determined to be children with disabilities; and (3) The number of children served. <p>(Authority: 20 U.S.C. 1412(a)(10)(A)(i))</p> <p>Referenced Regulations: See Pages 89-92 for Sections 300.190 – 300.198.</p> <p>Sec. 300.133 Expenditures.</p> <p>(a) Formula. To meet the requirement of Sec. 300.132(a), each LEA must spend the</p> |

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| <p>Section 226.350 Service to Parentally-Placed Private School Students</p> | <p>following on providing special education and related services (including direct services) to parentally-placed private school children with disabilities:</p> <p>(1) For children aged 3 through 21, an amount that is the same proportion of the LEA's total subgrant under section 611(f) of the Act as the number of private school children with disabilities aged 3 through 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged 3 through 21.</p> <p>(2) (i) For children aged three through five, an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the number of parentally-placed private school children with disabilities aged three through five who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged three through five.</p> <p>(ii) As described in paragraph (a)(2)(i) of this section, children aged three through five are considered to be parentally-placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school in Sec. 300.13.</p> <p>(3) If an LEA has not expended for equitable services all of the funds described in paragraphs (a)(1) and (a)(2) of this section by the end of the fiscal year for which Congress appropriated the funds, the LEA must obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school children with disabilities during a carry-over period of one additional year.</p> <p>(b) Calculating proportionate amount. In calculating the proportionate amount of Federal funds to be provided for parentally-placed private school children with disabilities, the LEA, after timely and meaningful consultation with representatives of private schools under Sec. 300.134, must conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending private schools located in the LEA. (See Appendix B for an example of how proportionate share is calculated).</p> <p>(c) Annual count of the number of parentally-placed private school children with disabilities.</p> <p>(1) Each LEA must--</p> <p>(i) After timely and meaningful consultation with representatives of parentally-placed private school children with disabilities (consistent with Sec. 300.134), determine the number of parentally-placed private school children with disabilities attending private schools located in the LEA; and</p> |

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| <p>Section 226.350 Service to Parentally-Placed Private School Students</p> | <p>(ii) Ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year.</p> <p>(2) The count must be used to determine the amount that the LEA must spend on providing special education and related services to parentally-placed private school children with disabilities in the next subsequent fiscal year.</p> <p>(d) Supplement, not supplant. State and local funds may supplement and in no case supplant the proportionate amount of Federal funds required to be expended for parentally-placed private school children with disabilities under this part. (Authority: 20 U.S.C. 1412(a)(10)(A))</p> <p>Referenced Regulation: See Page 3 for Section 300.13.</p> <p>Sec. 300.134 Consultation. To ensure timely and meaningful consultation, an LEA, or, if appropriate, an SEA, must consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:</p> <p>(a) Child find. The child find process, including--</p> <ul style="list-style-type: none"> (1) How parentally-placed private school children suspected of having a disability can participate equitably; and (2) How parents, teachers, and private school officials will be informed of the process. <p>(b) Proportionate share of funds. The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under Sec. 300.133(b), including the determination of how the proportionate share of those funds was calculated.</p> <p>(c) Consultation process. The consultation process among the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.</p> <p>(d) Provision of special education and related services. How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of--</p> <ul style="list-style-type: none"> (1) The types of services, including direct services and alternate service delivery mechanisms; and (2) How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and (3) How and when those decisions will be made; <p>(e) Written explanation by LEA regarding services. How, if the LEA disagrees with the views of the private school officials on the provision of services or the types of services</p> |

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| <p>Section 226.350 Service to Parentally-Placed Private School Students</p> | <p>(whether provided directly or through a contract), the LEA will provide to the private school officials a written explanation of the reasons why the LEA chose not to provide services directly or through a contract. (Authority: 20 U.S.C. 1412(a)(10)(A)(iii))</p> <p>Sec. 300.135 Written affirmation. (a) When timely and meaningful consultation, as required by Sec. 300.134, has occurred, the LEA must obtain a written affirmation signed by the representatives of participating private schools. (b) If the representatives do not provide the affirmation within a reasonable period of time, the LEA must forward the documentation of the consultation process to the SEA. (Authority: 20 U.S.C. 1412(a)(10)(A)(iv))</p> <p>Sec. 300.136 Compliance. (a) General. A private school official has the right to submit a complaint to the SEA that the LEA-- (1) Did not engage in consultation that was meaningful and timely; or (2) Did not give due consideration to the views of the private school official. (b) Procedure. (1) If the private school official wishes to submit a complaint, the official must provide to the SEA the basis of the noncompliance by the LEA with the applicable private school provisions in this part; and (2) The LEA must forward the appropriate documentation to the SEA. (3) (i) If the private school official is dissatisfied with the decision of the SEA, the official may submit a complaint to the Secretary by providing the information on noncompliance described in paragraph (b)(1) of this section; and (ii) The SEA must forward the appropriate documentation to the Secretary. (Authority: 20 U.S.C. 1412(a)(10)(A)(v))</p> <p>Sec. 300.137 Equitable services determined. (a) No individual right to special education and related services. No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. (b) Decisions. (1) Decisions about the services that will be provided to parentally-placed private school children with disabilities under Sections 300.130 through 300.144 must be made in accordance with paragraph (c) of this section and Sec. 300.134(c). (2) The LEA must make the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities. (c) Services plan for each child served under Sections 300.130 through 300.144. If a</p> |

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| <p>Section 226.350 Service to Parentally-Placed Private School Students</p> | <p>child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from an LEA, the LEA must--</p> <ul style="list-style-type: none"> (1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with Sec. 300.138(b); and (2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls. (Authority: 20 U.S.C. 1412(a)(10)(A)) <p>Sec. 300.138 Equitable services provided.</p> <p>(a) General.</p> <ul style="list-style-type: none"> (1) The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to meet the highly qualified special education teacher requirements of Sec. 300.18. (2) Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools. <p>(b) Services provided in accordance with a services plan.</p> <ul style="list-style-type: none"> (1) Each parentally-placed private school child with a disability who has been designated to receive services under Sec. 300.132 must have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in Sections 300.134 and 300.137, it will make available to parentally-placed private school children with disabilities. (2) The services plan must, to the extent appropriate-- <ul style="list-style-type: none"> (i) Meet the requirements of Sec. 300.320, or for a child ages three through five, meet the requirements of Sec. 300.323(b) with respect to the services provided; and (ii) Be developed, reviewed, and revised consistent with Sections 300.321 through 300.324. <p>(c) Provision of equitable services.</p> <ul style="list-style-type: none"> (1) The provision of services pursuant to this section and Sections 300.139 through 300.143 must be provided: <ul style="list-style-type: none"> (i) By employees of a public agency; or (ii) Through contract by the public agency with an individual, association, agency, organization, or other entity. (2) Special education and related services provided to parentally-placed private |

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| <p>Section 226.350 Service to Parentally-Placed Private School Students</p> | <p>school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological. (Authority: 20 U.S.C. 1412(a)(10)(A)(vi))</p> <p><i>Referenced Regulation: See Pages 165-167 for Section 300.18, Pages 61-63 for Section 300.320 and Pages 49-56 for Sections 300.321-300.324.</i></p> <p>Sec. 300.139 Location of services and transportation.</p> <p>(a) Services on private school premises. Services to parentally-placed private school children with disabilities may be provided on the premises of private, including religious, schools, to the extent consistent with law.</p> <p>(b) Transportation—</p> <p>(1) General.</p> <p>(i) If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed private school child with a disability must be provided transportation--</p> <p>(A) From the child's school or the child's home to a site other than the private school; and</p> <p>(B) From the service site to the private school, or to the child's home, depending on the timing of the services.</p> <p>(ii) LEAs are not required to provide transportation from the child's home to the private school.</p> <p>(2) Cost of transportation. The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the LEA has met the requirement of Sec. 300.133. (Authority: 20 U.S.C. 1412(a)(10)(A))</p> <p>Sec. 300.140 Due process complaints and State complaints.</p> <p>(a) Due process not applicable, except for child find.</p> <p>(1) Except as provided in paragraph (b) of this section, the procedures in Sections 300.504 through 300.519 do not apply to complaints that an LEA has failed to meet the requirements of Sections 300.132 through 300.139, including the provision of services indicated on the child's services plan.</p> <p>(b) Child find complaints--to be filed with the LEA in which the private school is located.</p> <p>(1) The procedures in Sections 300.504 through 300.519 apply to complaints that an LEA has failed to meet the child find requirements in Sec. 300.131, including the requirements in Sections 300.300 through 300.311.</p> <p>(2) Any due process complaint regarding the child find requirements (as described in paragraph (b)(1) of this section) must be filed with the LEA in which the private school is located and a copy must be forwarded to the SEA.</p> <p>(c) State complaints.</p> <p>(1) Any complaint that an SEA or LEA has failed to meet the requirements in</p> |

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| <p>Section 226.350 Service to Parentally-Placed Private School Students</p> | <p>Sections 300.132 through 300.135 and 300.137 through 300.144 must be filed in accordance with the procedures described in Sections 300.151 through 300.153. (2) A complaint filed by a private school official under Sec. 300.136(a) must be filed with the SEA in accordance with the procedures in Sec. 300.136(b). (Authority: 20 U.S.C. 1412(a)(10)(A))</p> <p><i>Referenced Regulations: See Pages 80-81 for Section 300.131, Pages 35-44 for Sections 300.301-300.311, Pages 105-108 for Section 300.300, Pages 114-116 for Sections 300.151-300.153, Pages 100-101 for Sections 300.504-300.505, Pages 113-114 for Section 300.506, Pages 117-132 for Sections 300.507-300.520 and Pages 110-111 for Section 300.519.</i></p> <p>Sec. 300.141 Requirement that funds not benefit a private school. (a) An LEA may not use funds provided under section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school. (b) The LEA must use funds provided under Part B of the Act to meet the special education and related services needs of parentally-placed private school children with disabilities, but not for meeting-- (1) The needs of a private school; or (2) The general needs of the students enrolled in the private school. (Authority: 20 U.S.C. 1412(a)(10)(A))</p> <p>Sec. 300.142 Use of personnel. (a) Use of public school personnel. An LEA may use funds available under sections 611 and 619 of the Act to make public school personnel available in other than public facilities-- (1) To the extent necessary to provide services under Sections 300.130 through 300.144 for parentally-placed private school children with disabilities; and (2) If those services are not normally provided by the private school. (b) Use of private school personnel. An LEA may use funds available under sections 611 and 619 of the Act to pay for the services of an employee of a private school to provide services under Sections 300.130 through 300.144 if-- (1) The employee performs the services outside of his or her regular hours of duty; and (2) The employee performs the services under public supervision and control. (Authority: 20 U.S.C. 1412(a)(10)(A))</p> |

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| <p>Section 226.350 Service to Parentally-Placed Private School Students</p> | <p>Sec. 300.143 Separate classes prohibited. An LEA may not use funds available under section 611 or 619 of the Act for classes that are organized separately on the basis of school enrollment or religion of the children if--</p> <ul style="list-style-type: none"> (a) The classes are at the same site; and (b) The classes include children enrolled in public schools and children enrolled in private schools. (Authority: 20 U.S.C. 1412(a)(10)(A)) <p>Sec. 300.144 Property, equipment, and supplies.</p> <ul style="list-style-type: none"> (a) A public agency must control and administer the funds used to provide special education and related services under Sections 300.137 through 300.139, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the Act. (b) The public agency may place equipment and supplies in a private school for the period of time needed for the Part B program. (c) The public agency must ensure that the equipment and supplies placed in a private school-- <ul style="list-style-type: none"> (1) Are used only for Part B purposes; and (2) Can be removed from the private school without remodeling the private school facility. (d) The public agency must remove equipment and supplies from a private school if-- <ul style="list-style-type: none"> (1) The equipment and supplies are no longer needed for Part B purposes; or (2) Removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes. (e) No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities. (Authority: 20 U.S.C. 1412(a)(10)(A)(vii)) <p><i>Related Select Regulations:</i></p> <p>Definition-Sec. 300.37 Services plan. Services plan means a written statement that describes the special education and related services the LEA 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 Sec. 300.132, and is developed and implemented in accordance with Sections 300.137 through 300.139. (Authority: 20 U.S.C. 1412(a)(10)(A))</p> |

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| <p>Section 226.350 Service to Parentally-Placed Private School Students</p> | <p>By-pass for Children in Private Schools</p> <p>Sec. 300.190 By-pass--general. (a) If, on December 2, 1983, the date of enactment of the Education of the Handicapped Act Amendments of 1983, an SEA was prohibited by law from providing for the equitable participation in special programs of children with disabilities enrolled in private elementary schools and secondary schools as required by section 612(a)(10)(A) of the Act, or if the Secretary determines that an SEA, LEA, or other public agency has substantially failed or is unwilling to provide for such equitable participation then the Secretary shall, notwithstanding such provision of law, arrange for the provision of services to these children through arrangements which shall be subject to the requirements of section 612(a)(10)(A) of the Act. (b) The Secretary waives the requirement of section 612(a)(10)(A) of the Act and of Sections 300.131 through 300.144 if the Secretary implements a by-pass. (Authority: 20 U.S.C. 1412(f)(1))</p> <p>Sec. 300.191 Provisions for services under a by-pass. (a) Before implementing a by-pass, the Secretary consults with appropriate public and private school officials, including SEA officials, in the affected State, and as appropriate, LEA or other public agency officials to consider matters such as-- (1) Any prohibition imposed by State law that results in the need for a by-pass; and (2) The scope and nature of the services required by private school children with disabilities in the State, and the number of children to be served under the by-pass. (b) After determining that a by-pass is required, the Secretary arranges for the provision of services to private school children with disabilities in the State, LEA or other public agency in a manner consistent with the requirements of section 612(a)(10)(A) of the Act and Sections 300.131 through 300.144 by providing services through one or more agreements with appropriate parties. (c) For any fiscal year that a by-pass is implemented, the Secretary determines the maximum amount to be paid to the providers of services by multiplying-- (1) A per child amount determined by dividing the total amount received by the State under Part B of the Act for the fiscal year by the number of children with disabilities served in the prior year as reported to the Secretary under section 618 of the Act; by (2) The number of private school children with disabilities (as defined in Sections 300.8(a) and 300.130) in the State, LEA or other public agency, as determined by the Secretary on the basis of the most recent satisfactory data available, which may include an estimate of the number of those children with disabilities. (d) The Secretary deducts from the State's allocation under Part B of the Act the amount the Secretary determines is necessary to implement a by-pass and pays that amount to the</p> |

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| <p>Section 226.350 Service to Parentally-Placed Private School Students</p> | <p>provider of services. The Secretary may withhold this amount from the State's allocation pending final resolution of any investigation or complaint that could result in a determination that a by-pass must be implemented. (Authority: 20 U.S.C. 1412(f)(2))</p> <p>Sec. 300.192 Notice of intent to implement a by-pass. (a) Before taking any final action to implement a by-pass, the Secretary provides the SEA and, as appropriate, LEA or other public agency with written notice. (b) In the written notice, the Secretary-- (1) States the reasons for the proposed by-pass in sufficient detail to allow the SEA and, as appropriate, LEA or other public agency to respond; and (2) Advises the SEA and, as appropriate, LEA or other public agency that it has a specific period of time (at least 45 days) from receipt of the written notice to submit written objections to the proposed by-pass and that it may request in writing the opportunity for a hearing to show cause why a by-pass should not be implemented. (c) The Secretary sends the notice to the SEA and, as appropriate, LEA or other public agency by certified mail with return receipt requested. (Authority: 20 U.S.C. 1412(f)(3)(A))</p> <p>Sec. 300.193 Request to show cause. An SEA, LEA or other public agency in receipt of a notice under Sec. 300.192 that seeks an opportunity to show cause why a by-pass should not be implemented must submit a written request for a show cause hearing to the Secretary, within the specified time period in the written notice in Sec. 300.192(b)(2). (Authority: 20 U.S.C. 1412(f)(3))</p> <p>Sec. 300.194 Show cause hearing. (a) If a show cause hearing is requested, the Secretary-- (1) Notifies the SEA and affected LEA or other public agency, and other appropriate public and private school officials of the time and place for the hearing; (2) Designates a person to conduct the show cause hearing. The designee must not have had any responsibility for the matter brought for a hearing; and (3) Notifies the SEA, LEA or other public agency, and representatives of private schools that they may be represented by legal counsel and submit oral or written evidence and arguments at the hearing. (b) At the show cause hearing, the designee considers matters such as-- (1) The necessity for implementing a by-pass; (2) Possible factual errors in the written notice of intent to implement a by-pass; and (3) The objections raised by public and private school representatives. (c) The designee may regulate the course of the proceedings and the conduct of parties during the pendency of the proceedings. The designee takes all steps necessary to</p> |

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| <p>Section 226.350 Service to Parentally-Placed Private School Students</p> | <p>conduct a fair and impartial proceeding, to avoid delay, and to maintain order.</p> <p>(d) The designee has no authority to require or conduct discovery.</p> <p>(e) The designee may interpret applicable statutes and regulations, but may not waive them or rule on their validity.</p> <p>(f) The designee arranges for the preparation, retention, and, if appropriate, dissemination of the record of the hearing.</p> <p>(g) Within 10 days after the hearing, the designee--</p> <ol style="list-style-type: none"> (1) Indicates that a decision will be issued on the basis of the existing record; or (2) Requests further information from the SEA, LEA, other public agency, representatives of private schools or Department officials. <p>(Authority: 20 U.S.C. 1412(f)(3))</p> <p>Sec. 300.195 Decision.</p> <p>(a) The designee who conducts the show cause hearing--</p> <ol style="list-style-type: none"> (1) Within 120 days after the record of a show cause hearing is closed, issues a written decision that includes a statement of findings; and (2) Submits a copy of the decision to the Secretary and sends a copy to each party by certified mail with return receipt requested. <p>(b) Each party may submit comments and recommendations on the designee's decision to the Secretary within 30 days of the date the party receives the designee's decision.</p> <p>(c) The Secretary adopts, reverses, or modifies the designee's decision and notifies all parties to the show cause hearing of the Secretary's final action. That notice is sent by certified mail with return receipt requested. (Authority: 20 U.S.C. 1412(f)(3))</p> <p>Sec. 300.196 Filing requirements.</p> <p>(a) Any written submission under Sec. 300.194 must be filed by hand-delivery, by mail, or by facsimile transmission. The Secretary discourages the use of facsimile transmission for documents longer than five pages.</p> <p>(b) The filing date under paragraph (a) of this section is the date the document is--</p> <ol style="list-style-type: none"> (1) Hand-delivered; (2) Mailed; or (3) Sent by facsimile transmission. <p>(c) A party filing by facsimile transmission is responsible for confirming that a complete and legible copy of the document was received by the Department.</p> <p>(d) If a document is filed by facsimile transmission, the Secretary or the hearing officer, as applicable, may require the filing of a follow-up hard copy by hand-delivery or by mail within a reasonable period of time.</p> <p>(e) If agreed upon by the parties, service of a document may be made upon the other party by facsimile transmission.</p> <p>(f) A party must show a proof of mailing to establish the filing date under paragraph</p> |

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| <p>Section 226.350 Service to Parentally-Placed Private School Students</p> | <p>(b)(2) of this section as provided in 34 CFR 75.102(d). (Authority: 20 U.S.C. 1412(f)(3))</p> <p>Sec. 300.197 Judicial review. If dissatisfied with the Secretary's final action, the SEA may, within 60 days after notice of that action, file a petition for review with the United States Court of Appeals for the circuit in which the State is located. The procedures for judicial review are described in section 612(f)(3) (B) through (D) of the Act. (Authority: 20 U.S.C. 1412(f)(3)(B)-(D))</p> <p>Sec. 300.198 Continuation of a by-pass. The Secretary continues a by-pass until the Secretary determines that the SEA, LEA or other public agency will meet the requirements for providing services to private school children. (Authority: 20 U.S.C. 1412(f)(2)(C))</p> |
| <p>SUBPART E: DISCIPLINE</p> <p>Section 226.400 Disciplinary Actions</p> <p>With respect to disciplinary action concerning children with disabilities, school districts shall conform to the requirements of 34 CFR 300.530 through 300.536, as well as Section 10-22.6 of the School Code [105 ILCS 5/10-22.6]. In addition, upon the occurrence of any act that may subject the student either to expulsion from school or suspension resulting in more than ten cumulative days of suspension during any one school year, the district shall be required to convene a meeting of the IEP Team to review the student's behavioral intervention plan or, if a behavioral intervention plan has not yet been developed, to develop one.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Discipline Procedures</p> <p>Sec. 300.530 Authority of school personnel.</p> <p>(a) Case-by-case determination. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.</p> <p>(b) General.</p> <p>(1) School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under Sec. 300.536).</p> <p>(2) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under paragraph (d) of this section.</p> <p>(c) Additional authority. For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to paragraph (e) of this section, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in paragraph (d) of this section.</p> <p>(d) Services.</p> |

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| <p>SUBPART E: DISCIPLINE</p> | <p>the condition described in paragraph (e)(1)(ii) of this section was met, the LEA must take immediate steps to remedy those deficiencies.</p> <p>(f) Determination that behavior was a manifestation. If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must--</p> <p>(1) Either--</p> <p>(i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or</p> <p>ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and</p> <p>(2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.</p> <p>(g) Special circumstances. School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child--</p> <p>(1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of an SEA or an LEA;</p> <p>(2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or</p> <p>(3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA.</p> <p>(h) Notification. On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision, and provide the parents the procedural safeguards notice described in Sec. 300.504.</p> <p>(i) Definitions. For purposes of this section, the following definitions apply:</p> <p>(1) Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).</p> <p>(2) Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.</p> |

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| <p>SUBPART E: DISCIPLINE</p> | <p>(3) Serious bodily injury has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.</p> <p>(4) Weapon has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code. (Authority: 20 U.S.C. 1415(k)(1) and (7))</p> <p><i>Referenced Regulations:</i> 21 U.S.C. Section 812(c): Controlled Substances Act-Schedules of Controlled Substances.</p> <p>(Note this Section is lengthy and amended frequently. Consult an attorney for the current law. There are also websites such as the following that provide access to this definition: http://www.findlaw.com/casecode/uscodes/)</p> <p>18 USC Section 1365. Tampering with consumer products 18 USC Section 1365(h)(3): Excerpt.</p> <p>Serious Bodily Injury: ... (h) As used in this section - ...</p> <p>(3) the term "serious bodily injury" means bodily injury which involves -</p> <ul style="list-style-type: none"> (A) a substantial risk of death; (B) extreme physical pain; (C) protracted and obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and <p>(4) the term "bodily injury" means -</p> <ul style="list-style-type: none"> (A) a cut, abrasion, bruise, burn, or disfigurement; (B) physical pain; (C) illness; (D) impairment of the function of a bodily member, organ, or mental faculty; or (E) any other injury to the body, no matter how temporary. <p>18 USC Section 930. Possession of firearms and dangerous weapons in Federal facilities –Excerpt. 18 USC Section 930(g)(2) (g) As used in this section:</p> <ul style="list-style-type: none"> (1) The term "Federal facility" means a building or part thereof owned or leased by the Federal Government, where Federal employees are regularly present for the purpose of performing their official duties. (2) The term "dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing |

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| <p>SUBPART E: DISCIPLINE</p> | <p>enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.</p> <p>(b) Transmittal of records.</p> <p>(1) An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.</p> <p>(2) An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act. (Authority: 20 U.S.C. 1415(k)(6))</p> <p>Sec. 300.536 Change of placement because of disciplinary removals.</p> <p>(a) For purposes of removals of a child with a disability from the child's current educational placement under Sections 300.530 through 300.535, a change of placement occurs if--</p> <p>(1) The removal is for more than 10 consecutive school days; or</p> <p>(2) The child has been subjected to a series of removals that constitute a pattern--</p> <p>(i) Because the series of removals total more than 10 school days in a school year;</p> <p>(ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and</p> <p>(iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.</p> <p>(b) (1) The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.</p> <p>(2) This determination is subject to review through due process and judicial proceedings. (Authority: 20 U.S.C. 1415(k))</p> |
| <p>SUBPART F: PROCEDURAL SAFEGUARDS</p> | <p>Procedural Safeguards</p> <p><i>Select Related Regulations:</i></p> <p>Sec. 300.121 Procedural safeguards.</p> <p>(a) General. The State must have procedural safeguards in effect to ensure that each public agency in the State meets the requirements of Sections 300.500 through 300.536.</p> <p>(b) Procedural safeguards identified. Children with disabilities and their parents must be afforded the procedural safeguards identified in paragraph (a) of this section. (Authority: 20 U.S.C. 1412(a)(6)(A))</p> |

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| | <p>Subpart E--Procedural Safeguards Due Process Procedures for Parents and Children</p> <p>Sec. 300.500 Responsibility of SEA and other public agencies. Each SEA must ensure that each public agency establishes, maintains, and implements procedural safeguards that meet the requirements of Sections 300.500 through 300.536. (Authority: 20 U.S.C. 1415(a))</p> |
| <p>Section 226.500 Language of Notifications</p> <p>The notices to individual parents required in this Subpart F shall conform to the requirements of 34 CFR 300.503(c). (Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p><i>(Excerpt: See Page 102 for complete Section.)</i></p> <p>Sec. 300.503 Prior notice by the public agency; content of notice. ... (c) Notice in understandable language.</p> <ol style="list-style-type: none"> (1) The notice required under paragraph (a) of this section must be-- <ol style="list-style-type: none"> (i) Written in language understandable to the general public; and (ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. (2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure-- <ol style="list-style-type: none"> (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; (ii) That the parent understands the content of the notice; and (iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met. <p>(Authority: 20 U.S.C. 1415(b)(3) and (4), 1415(c)(1), 1414(b)(1))</p> |
| <p>Section 226.510 Notification of Parents' Rights</p> <p>A copy of the notice of procedural safeguards available to the parents of a child with a disability shall be given to the parents in accordance with, and shall conform to the requirements of, 34 CFR 300.504. (Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.504 Procedural safeguards notice.</p> <p>(a) General. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents--</p> <ol style="list-style-type: none"> (1) Upon initial referral or parent request for evaluation; (2) Upon receipt of the first State complaint under Sections 300.151 through 300.153 and upon receipt of the first due process complaint under Sec. 300.507 in a school year; (3) In accordance with the discipline procedures in Sec. 300.530(h); and (4) Upon request by a parent. <p>(b) Internet Web site. A public agency may place a current copy of the procedural safeguards notice on its Internet Web site if a Web site exists.</p> <p>(c) Contents. The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under Sec. 300.148, Sections 300.151 through 300.153, Sec. 300.300, Sections 300.502 through 300.503, Sections 300.505 through 300.518, Sec. 300.520, Sections 300.530 through 300.536 and Sections 300.610</p> |

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| | <p>through 300.625 relating to--</p> <ol style="list-style-type: none"> (1) Independent educational evaluations; (2) Prior written notice; (3) Parental consent; (4) Access to education records; (5) Opportunity to present and resolve complaints through the due process complaint and State complaint procedures, including-- <ol style="list-style-type: none"> (i) The time period in which to file a complaint; (ii) The opportunity for the agency to resolve the complaint; and (iii) The difference between the due process complaint and the State complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures; (6) The availability of mediation; (7) The child's placement during the pendency of any due process complaint; (8) Procedures for students who are subject to placement in an interim alternative educational setting; (9) Requirements for unilateral placement by parents of children in private schools at public expense; (10) Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations; (11) State-level appeals (if applicable in the State); (12) Civil actions, including the time period in which to file those actions; and (13) Attorneys' fees. <p>(d) Notice in understandable language. The notice required under paragraph (a) of this section must meet the requirements of Sec. 300.503(c). (Authority: 20 U.S.C. 1415(d))</p> <p><i>Referenced Regulations: See Pages 78-80 for Section 300.148, Pages 114-117 for Sections 300-151-300.153, Pages 105-108 for Section 300.300, Pages 47-48 for Section 300.502, Page 102 for Section 300.503, Page 101 for Section 300.505, Pages 113-114 for Section 300.506, Pages 117-132 for Sections 300.507-300.518, Page 132 for Section 300.520, Pages 92-99 for Sections 300.530-300.536 and Pages 140-144 for Sections 300.610-300.625.</i></p> <p><i>Select Related Regulation:</i> Sec. 300.505 Electronic mail. A parent of a child with a disability may elect to receive notices required by Sections 300.503, 300.504, and 300.508 by an electronic mail communication, if the public agency makes that option available.(Authority: 20 U.S.C. 1415(n))</p> |

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| <p>Section 226.520 Notification of District’s Proposal</p> <p>The written notice a school district is required to provide to a parent prior to a proposal or refusal to initiate or change the identification, evaluation, or educational placement of, or the provision of FAPE to, a child shall conform to the requirements of 34 CFR 300.503. “Reasonable time”, for purposes of 34 CFR 300.503(a), is defined as ten days. A parent may waive the ten-day notice period before placement, allowing the district to place the child in the recommended program as soon as practicable.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.503 Prior notice by the public agency; content of notice.</p> <p>(a) Notice. Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency--</p> <ol style="list-style-type: none"> (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. <p>(b) Content of notice. The notice required under paragraph (a) of this section must include--</p> <ol style="list-style-type: none"> (1) A description of the action proposed or refused by the agency; (2) An explanation of why the agency proposes or refuses to take the action; (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part; (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and (7) A description of other factors that are relevant to the agency's proposal or refusal. <p>(c) Notice in understandable language.</p> <ol style="list-style-type: none"> (1) The notice required under paragraph (a) of this section must be-- <ol style="list-style-type: none"> (i) Written in language understandable to the general public; and (ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. (2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure-- <ol style="list-style-type: none"> (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; (ii) That the parent understands the content of the notice; and (iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met. (Authority: 20 U.S.C. 1415(b)(3) and (4), 1415(c)(1), 1414(b)(1)) |
| <p>Section 226.530 Parents’ Participation</p> <p>With respect to parents’ participation in meetings, school districts shall conform to the requirements of 34 CFR 300.322 and 300.501. For purposes of 34 CFR 300.322(a)(1),</p> | <p>Sec. 300.322 Parent participation.</p> <p>(a) Public agency responsibility--general. Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including--</p> |

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| <p>“notifying parents of the meeting early enough to ensure that they will have an opportunity to attend” shall mean notification no later than ten days prior to the proposed date of the meeting. In addition, the district shall take whatever action is necessary to facilitate the parent’s understanding of and participation in the proceedings at a meeting, including arranging for and covering the expense of an interpreter for parents who are deaf or whose native language is other than English.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <ul style="list-style-type: none"> (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and (2) Scheduling the meeting at a mutually agreed on time and place. <p>(b) Information provided to parents.</p> <ul style="list-style-type: none"> (1) The notice required under paragraph (a)(1) of this section must-- <ul style="list-style-type: none"> (i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and (ii) Inform the parents of the provisions in Sec. 300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), and Sec. 300.321(f) (relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the Act). (2) For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, the notice also must-- <ul style="list-style-type: none"> (i) Indicate-- <ul style="list-style-type: none"> (A) That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with Sec. 300.320(b); and (B) That the agency will invite the student; and (ii) Identify any other agency that will be invited to send a representative. (c) Other methods to ensure parent participation. If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with Sec. 300.328 (related to alternative means of meeting participation). (d) Conducting an IEP Team meeting without a parent in attendance. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as-- <ul style="list-style-type: none"> (1) Detailed records of telephone calls made or attempted and the results of those calls; (2) Copies of correspondence sent to the parents and any responses received; and (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits. (e) Use of interpreters or other action, as appropriate. The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English. (f) Parent copy of child's IEP. The public agency must give the parent a copy of the |

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| | <p>child's IEP at no cost to the parent. (Authority: 20 U.S.C. 1414(d)(1)(B)(i))</p> <p><i>Referenced Regulations See Pages 61-63 for Section 300.320, Pages 51-53 for Section 300.321 and Page 60 for Section 300.328.</i></p> <p>Sec. 300.501 Opportunity to examine records; parent participation in meetings.</p> <p>(a) Opportunity to examine records. The parents of a child with a disability must be afforded, in accordance with the procedures of Sections 300.613 through 300.621, an opportunity to inspect and review all education records with respect to--</p> <ol style="list-style-type: none"> (1) The identification, evaluation, and educational placement of the child; and (2) The provision of FAPE to the child. <p>(b) Parent participation in meetings.</p> <ol style="list-style-type: none"> (1) The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to-- <ol style="list-style-type: none"> (i) The identification, evaluation, and educational placement of the child; and (ii) The provision of FAPE to the child. (2) Each public agency must provide notice consistent with Sec. 300.322(a)(1) and (b)(1) to ensure that parents of children with disabilities have the opportunity to participate in meetings described in paragraph (b)(1) of this section. (3) A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting. <p>(c) Parent involvement in placement decisions.</p> <ol style="list-style-type: none"> (1) Each public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child. (2) In implementing the requirements of paragraph (c)(1) of this section, the public agency must use procedures consistent with the procedures described in Sec. 300.322(a) through (b)(1). (3) If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing. (4) A placement decision may be made by a group without the involvement of a parent, if the public agency is unable to obtain the parent's participation in the decision. In this case, the public agency must have a record of its attempt to ensure their involvement. <p>(Authority: 20 U.S.C. 1414(e), 1415(b)(1))</p> <p><i>Referenced Regulations: See Pages 141-145 for Sections 300.613-300.627.</i></p> |

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| <p>Section 226.540 Consent Consent, as defined in 34 CFR 300.9, shall be obtained and may be revoked in accordance with the requirements of 34 CFR 300.154(e), 300.300, 300.323, and 300.622. In addition, the following requirements shall apply:</p> <p>a) A parent may revoke consent for any action by the district or cooperative entity serving his or her child that requires parental consent. If a parent desires to revoke consent, he or she may do so either in writing or orally. If the revocation of consent is communicated orally, the district or cooperative entity shall commit the parent’s request to writing and provide a copy of this written summary to the parent within five days.</p> <p>b) Any revocation of consent is effective immediately, subject to the provisions of subsection (c) of this Section, but is not retroactive, i.e., it does not negate an action that occurred after the consent was given and before it was revoked. For purposes of this subsection (b), a district shall be considered to have given immediate effect to a parent’s revocation of consent when it either discontinues the action that is the subject of the revocation prior to its next scheduled occurrence or provides to the parent a written explanation of the timeline for the district’s action and the reasons for that timeline. The district or cooperative entity shall ensure that each staff member whose activities are affected by the revocation of consent is promptly informed of the revocation.</p> <p>c) If a district disagrees with a parent’s revocation of consent, the district may request a due process hearing pursuant to Subpart G of this Part.</p> <p>1) If the parent’s revocation of consent pertains to an evaluation or re-evaluation of the student, the district shall not proceed with the evaluation or re-evaluation during the pendency of due process.</p> <p>2) If the parent’s revocation of consent pertains to a special education placement for the student that is already in effect, the district’s request for a due process hearing shall have the effect of staying that placement, provided that the district submits the request in writing to the State Board of Education in keeping with the provisions of Section 226.615 of this Part and within five business days after the parent’s revocation occurred.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.9 Consent. Consent means that—</p> <p>(a) 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;</p> <p>(b) 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</p> <p>(c) (1) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime. (2) 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). (Authority: 20 U.S.C. 1414(a)(1)(D))</p> <p><i>(Excerpt: See Page 153-156 for complete Section.)</i></p> <p>Sec. 300.154 Methods of ensuring services. ...(e) Children with disabilities who are covered by private insurance.</p> <p>(1) With regard to services required to provide FAPE to an eligible child under this part, a public agency may access the parents' private insurance proceeds only if the parents provide consent consistent with Sec. 300.9.</p> <p>(2) Each time the public agency proposes to access the parents' private insurance proceeds, the agency must--</p> <p>(i) Obtain parental consent in accordance with paragraph (e)(1) of this section; and</p> <p>(ii) Inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents....</p> <p>Sec. 300.300 Parental consent.</p> <p>(a) Parental consent for initial evaluation.</p> <p>(1) (i) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under Sec. 300.8 must, after providing notice consistent with Sections 300.503 and 300.504, obtain informed consent, consistent with Sec. 300.9, from the parent of the child before conducting the evaluation. (ii) Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services. (iii) The public agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.</p> <p>(2) For initial evaluations only, if the child is a ward of the State and is not residing</p> |

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| <p>Section 226.540 Consent</p> | <p>with the child's parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if--</p> <ul style="list-style-type: none"> (i) Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child; (ii) The rights of the parents of the child have been terminated in accordance with State law; or (iii) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child. <p>(3) (i) If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under paragraph (a)(1) of this section, or the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards in subpart E of this part (including the mediation procedures under Sec. 300.506 or the due process procedures under Sections 300.507 through 300.516), if appropriate, except to the extent inconsistent with State law relating to such parental consent.</p> <p>(ii) The public agency does not violate its obligation under Sec. 300.111 and Sections 300.301 through 300.311 if it declines to pursue the evaluation.</p> <p>(b) Parental consent for services.</p> <ul style="list-style-type: none"> (1) A public agency that is responsible for making FAPE available to a child with a disability must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child. (2) The public agency must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child. (3) If the parent of a child fails to respond or refuses to consent to services under paragraph (b)(1) of this section, the public agency may not use the procedures in subpart E of this part (including the mediation procedures under Sec. 300.506 or the due process procedures under Sections 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child. (4) If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the public agency-- <ul style="list-style-type: none"> (i) Will not be considered to be in violation of the requirement to make available FAPE to the child for the failure to provide the child with the special education and related services for which the public agency requests consent; |

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| <p>Section 226.540 Consent</p> | <p>and</p> <p>(ii) Is not required to convene an IEP Team meeting or develop an IEP under Sections 300.320 and 300.324 for the child for the special education and related services for which the public agency requests such consent.</p> <p>(c) Parental consent for reevaluations.</p> <p>(1) Subject to paragraph (c)(2) of this section, each public agency--</p> <p>(i) Must obtain informed parental consent, in accordance with Sec. 300.300(a)(1), prior to conducting any reevaluation of a child with a disability.</p> <p>(ii) If the parent refuses to consent to the reevaluation, the public agency may, but is not required to, pursue the reevaluation by using the consent override procedures described in paragraph (a)(3) of this section.</p> <p>(iii) The public agency does not violate its obligation under Sec. 300.111 and Sections 300.301 through 300.311 if it declines to pursue the evaluation or reevaluation.</p> <p>(2) The informed parental consent described in paragraph (c)(1) of this section need not be obtained if the public agency can demonstrate that--</p> <p>(i) It made reasonable efforts to obtain such consent; and</p> <p>(ii) The child's parent has failed to respond.</p> <p>(d) Other consent requirements.</p> <p>(1) Parental consent is not required before--</p> <p>(i) Reviewing existing data as part of an evaluation or a reevaluation; or</p> <p>(ii) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.</p> <p>(2) In addition to the parental consent requirements described in paragraph (a) of this section, a State may require parental consent for other services and activities under this part if it ensures that each public agency in the State establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with FAPE.</p> <p>(3) A public agency may not use a parent's refusal to consent to one service or activity under paragraphs (a) or (d)(2) of this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part.</p> <p>(4) (i) If a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the public agency may not use the consent override procedures (described in paragraphs (a)(3) and (c)(1) of this section); and</p> <p>(ii) The public agency is not required to consider the child as eligible for services under Sections 300.132 through 300.144.</p> |

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| <p>Section 226.540 Consent</p> | <p>(5) To meet the reasonable efforts requirement in paragraphs (a)(1)(iii), (a)(2)(i), (b)(2), and (c)(2)(i) of this section, the public agency must document its attempts to obtain parental consent using the procedures in Sec. 300.322(d). (Authority: 20 U.S.C. 1414(a)(1)(D) and 1414(c))</p> <p><i>Referenced Regulation: See Pages 16-19 for Section 300.8, Page 32 for Section 300.111, Pages 81-88 for Sections 300.132-300.144, Pages 35-36 for Section 300.301-300.302, Page 41 for Section 300.303, Pages 36-39 for Sections 300.304-300.306, Pages 41-44 for Sections 300.307-300.311, Pages 61-63 for Section 300.320, Pages 53-54 for Section 300.322, Pages 54-56 for Section 300.324, Page 102 for Section 300.503, Pages 100-101 for Section 300.504, Pages 113-114 for Section 300.506, Pages 117-124 and Pages 127-130 for Sections 300.507-300.516.</i></p> <p>Sec. 300.323 When IEPs must be in effect.</p> <p>(a) General. At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in Sec. 300.320.</p> <p>(b) IEP or IFSP for children aged three through five.</p> <p>(1) In the case of a child with a disability aged three through five (or, at the discretion of the SEA, a two-year-old child with a disability who will turn age three during the school year), the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is--</p> <ul style="list-style-type: none"> (i) Consistent with State policy; and (ii) Agreed to by the agency and the child's parents. <p>(2) In implementing the requirements of paragraph (b)(1) of this section, the public agency must--</p> <ul style="list-style-type: none"> (i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and (ii) If the parents choose an IFSP, obtain written informed consent from the parents. <p>(c) Initial IEPs; provision of services. Each public agency must ensure that--</p> <ul style="list-style-type: none"> (1) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and (2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP. |

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| <p>Section 226.540 Consent</p> | <p>(d) Accessibility of child's IEP to teachers and others. Each public agency must ensure that--</p> <ul style="list-style-type: none"> (1) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and (2) Each teacher and provider described in paragraph (d)(1) of this section is informed of-- <ul style="list-style-type: none"> (i) His or her specific responsibilities related to implementing the child's IEP; and (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. <p>(e) IEPs for children who transfer public agencies in the same State. If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either--</p> <ul style="list-style-type: none"> (1) Adopts the child's IEP from the previous public agency; or (2) Develops, adopts, and implements a new IEP that meets the applicable requirements in Sections 300.320 through 300.324. <p>(f) IEPs for children who transfer from another State. If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency--</p> <ul style="list-style-type: none"> (1) Conducts an evaluation pursuant to Sections 300.304 through 300.306 (if determined to be necessary by the new public agency); and (2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in Sections 300.320 through 300.324. <p>(g) Transmittal of records. To facilitate the transition for a child described in paragraphs (e) and (f) of this section--</p> <ul style="list-style-type: none"> (1) The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2); and (2) The previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency. (Authority: 20 U.S.C. 1414(d)(2)(A)-(C)) |

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| <p>Section 226.540 Consent</p> | <p><i>Referenced Regulation: See Pages 8-9 for 34 CFR 99.31(a)(2), Page 69 for IDEA Law Section 636(d), Pages 36-39 for Sections 300.304–300.306, Pages 61-63 for Section 300.320 and Pages 49-56 for Section 300.321-300-324.</i></p> <p>Sec. 300.622 Consent. (a) Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with paragraph (b)(1) of this section, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 CFR part 99. (b) (1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this part. (2) Parental consent, or the consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with Sec. 300.321(b)(3). (3) If a child is enrolled, or is going to enroll in a private school that is not located in the LEA of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the LEA where the private school is located and officials in the LEA of the parent's residence. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p><i>Referenced Regulations: See Pages 51-53 for Section 300.321.</i></p> |
| <p>Section 226.550 Surrogate Parents</p> <p>The qualifications, responsibilities, and appointment procedures for surrogate parents shall conform to the requirements of 34 CFR 300.519 and Section 14-8.02a of the School Code [105 ILCS 5/14-8.02a]. In addition, the following requirements shall apply:</p> <p>a) When a child who is a ward of the State is placed in a residential facility, a representative of that facility shall submit to the State Board of Education a request for the appointment of a surrogate parent if the district has not already done so.</p> <p>b) The State Board of Education shall appoint a surrogate parent for each child who requires one, in keeping with the criteria set forth in 34 CFR 300.519(d) and the following requirements.</p> <p>1) All reasonable efforts shall be made to secure a surrogate parent whose racial,</p> | <p>Sec. 300.519 Surrogate parents. (a) General. Each public agency must ensure that the rights of a child are protected when--</p> <p>(1) No parent (as defined in Sec. 300.30) can be identified; (2) The public agency, after reasonable efforts, cannot locate a parent; (3) The child is a ward of the State under the laws of that State; or (4) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).</p> <p>(b) Duties of public agency. The duties of a public agency under paragraph (a) of this section include the assignment of an individual to act as a surrogate for the parents. This must include a method--</p> <p>(1) For determining whether a child needs a surrogate parent; and (2) For assigning a surrogate parent to the child.</p> <p>(c) Wards of the State. In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided</p> |

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| <p>linguistic, and cultural background is similar to the child's.</p> <p>2) The surrogate parent shall have been trained by the State Board.</p> <p>c) When a surrogate parent is appointed, the State Board of Education shall provide written notification to the local school district, the individual appointed, and, if applicable, the residential facility of the name and address of the surrogate parent, the specific responsibilities to be fulfilled, and the length of time for which the appointment is valid.</p> <p>d) When a child living in a residential facility no longer requires a surrogate parent, a representative of the facility shall notify the State Board of Education in writing to that effect. This notification shall include the reason for withdrawal of the request.</p> <p>e) When a surrogate parent's appointment is terminated, the State Board of Education shall so notify the surrogate parent, the local school district, and, if applicable, the residential facility.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>that the surrogate meets the requirements in paragraphs (d)(2)(i) and (e) of this section.</p> <p>(d) Criteria for selection of surrogate parents.</p> <p>(1) The public agency may select a surrogate parent in any way permitted under State law.</p> <p>(2) Public agencies must ensure that a person selected as a surrogate parent--</p> <p>(i) Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child;</p> <p>(ii) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and</p> <p>(iii) Has knowledge and skills that ensure adequate representation of the child.</p> <p>(e) Non-employee requirement; compensation. A person otherwise qualified to be a surrogate parent under paragraph (d) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.</p> <p>(f) Unaccompanied homeless youth. In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to paragraph (d)(2)(i) of this section, until a surrogate parent can be appointed that meets all of the requirements of paragraph (d) of this section.</p> <p>(g) Surrogate parent responsibilities. The surrogate parent may represent the child in all matters relating to--</p> <p>(1) The identification, evaluation, and educational placement of the child; and</p> <p>(2) The provision of FAPE to the child.</p> <p>(h) SEA responsibility. The SEA must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent. (Authority: 20 U.S.C. 1415(b)(2))</p> <p>Referenced Regulations/Law and Select Related Regulation:</p> <p>Sec. 300.19 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. (Authority: 20 U.S.C. 1401(11))</p> <p>McKinney-Vento Homeless Assistance Act, 42 USC 11431 et seq., Excerpt. Section 11434a. Definitions For purposes of this part:...</p> <p>(2) The term "homeless children and youths" -</p> <p>(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302(a)(1) of this title); and</p> |

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- (B) includes -
 - (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
 - (ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 11302(a)(2)(C) of this title);
 - (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
 - (iv) migratory children (as such term is defined in section 6399 of title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).....

(6) The term "unaccompanied youth" includes a youth not in the physical custody of a parent or guardian.

Sec. 300.45 Ward of the State.

(a) General. Subject to paragraph (b) of this section, ward of the State means a child who, as determined by the State where the child resides, is--

- (1) A foster child;
- (2) A ward of the State; or
- (3) In the custody of a public child welfare agency.

(b) Exception. Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent in Sec. 300.30.(Authority: 20 U.S.C. 1401(36))

See Pages 24-25 for Section 300.30.

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| <p>Section 226.560 Mediation</p> <p>The procedures for mediation shall conform to the requirements of 34 CFR 300.506.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.506 Mediation.</p> <p>(a) General. Each public agency must ensure that procedures are established and implemented to allow parties to disputes involving any matter under this part, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process.</p> <p>(b) Requirements. The procedures must meet the following requirements:</p> <ol style="list-style-type: none"> (1) The procedures must ensure that the mediation process-- <ol style="list-style-type: none"> (i) Is voluntary on the part of the parties; (ii) Is not used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under Part B of the Act; and (iii) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques. (2) A public agency may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party-- <ol style="list-style-type: none"> (i) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the State established under section 671 or 672 of the Act; and (ii) Who would explain the benefits of, and encourage the use of, the mediation process to the parents. (3) (i) The State must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services. <ol style="list-style-type: none"> (ii) The SEA must select mediators on a random, rotational, or other impartial basis. (4) The State must bear the cost of the mediation process, including the costs of meetings described in paragraph (b)(2) of this section. (5) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute. (6) If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that-- <ol style="list-style-type: none"> (i) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and (ii) Is signed by both the parent and a representative of the agency who has the authority to bind such agency. (7) A written, signed mediation agreement under this paragraph is enforceable in any State court of competent jurisdiction or in a district court of the United States. Discussions that occur during the mediation process must be confidential and may |

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| | <p>not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under this part.</p> <p>(c) Impartiality of mediator.</p> <p>(1) An individual who serves as a mediator under this part--</p> <p>(i) May not be an employee of the SEA or the LEA that is involved in the education or care of the child; and</p> <p>(ii) Must not have a personal or professional interest that conflicts with the person's objectivity.</p> <p>(2) A person who otherwise qualifies as a mediator is not an employee of an LEA or State agency described under Sec. 300.228 solely because he or she is paid by the agency to serve as a mediator. (Authority: 20 U.S.C. 1415(e))</p> <p><i>Select Related Regulations:</i></p> <p>Sec. 300.31 Parent training and information center. Parent training and information center means a center assisted under sections 671 or 672 of the Act. (Authority: 20 U.S.C. 1401(25))</p> <p>Sec. 300.537 State enforcement mechanisms. Notwithstanding Sections 300.506(b)(7) and 300.510(d)(2), which provide for judicial enforcement of a written agreement reached as a result of mediation or a resolution meeting, there is nothing in this part that would prevent the SEA from using other mechanisms to seek enforcement of that agreement, provided that use of those mechanisms is not mandatory and does not delay or deny a party the right to seek enforcement of the written agreement in a State court of competent jurisdiction or in a district court of the United States. (Authority: 20 U.S.C. 1415(e)(2)(F), 1415(f)(1)(B))</p> |
| <p>Section 226.570 State Complaint Procedures</p> <p>This Section sets forth the State Board of Education's written complaint procedures, as required by 34 CFR 300.151, 300.152, and 300.153.</p> <p>a) A parent, individual, organization, or advocate may file a signed, written complaint with the State Board of Education alleging that a local school district, cooperative service unit or the State has violated the rights of one or more children with disabilities. Such a complaint shall include:</p> <ol style="list-style-type: none"> 1) A statement that a responsible public entity has violated a requirement of Part B of the IDEA, 34 CFR, Article 14 of the School Code, or this Part; 2) The facts on which the statement is based; 3) The signature and contact information for the complainant; | <p>State Complaint Procedures</p> <p>Sec. 300.151 Adoption of State complaint procedures.</p> <p>(a) General. Each SEA must adopt written procedures for—</p> <ol style="list-style-type: none"> (1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements of Sec. 300.153 by-- <ol style="list-style-type: none"> (i) Providing for the filing of a complaint with the SEA; and (ii) At the SEA's discretion, providing for the filing of a complaint with a public agency and the right to have the SEA review the public agency's decision on the complaint; and (2) Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the State procedures under |

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| <p>4) The names and addresses of the students involved (and the names of the schools of attendance), if known;</p> <p>5) A description of the nature of the problem of the child, including the facts relating to the problem; and</p> <p>6) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.</p> <p>b) A complaint shall only be considered if it alleges that the violation occurred not more than one year prior to the date on which the complaint is received.</p> <p>c) Within 60 days after a valid complaint is filed, the State Board of Education shall:</p> <ol style="list-style-type: none"> 1) Carry out an independent on-site investigation, if deemed necessary by the State Board of Education. 2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint. 3) Provide the public entity with the opportunity to: <ol style="list-style-type: none"> A) offer a proposal to resolve the complaint; and B) offer to engage the parent in mediation or alternative means of dispute resolution. 4) Review all relevant information and make an independent determination as to whether the public entity is violating a requirement of Part B of the IDEA, 34 CFR, Article 14 of the School Code, or this Part. 5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains: <ol style="list-style-type: none"> A) findings of fact and conclusions; B) the reasons for the State Board of Education's final decision; C) orders for any actions, including without limitation technical assistance activities and negotiation, that are necessary to bring the public entity into compliance with applicable requirements. <p>d) An extension of the time limit set forth in subsection (c) of this Section shall be allowed if exceptional circumstances exist with respect to a particular complaint or if the parent and the public entity agree to extend the time to conduct the activities pursuant to subsection (c)(3)(B) of this Section.</p> <p>e) If a written complaint is received by the State Board of Education involving one or more issues that are also the subject of a due process hearing, the State Board shall hold those portions of the complaint in abeyance pending the completion of the hearing. However, any issues that are not the subject of the hearing shall be resolved as provided in this Section.</p> | <p>Sections 300.151 through 300.153.</p> <p>(b) Remedies for denial of appropriate services. In resolving a complaint in which the SEA has found a failure to provide appropriate services, an SEA, pursuant to its general supervisory authority under Part B of the Act, must address--</p> <ol style="list-style-type: none"> (1) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and (2) Appropriate future provision of services for all children with disabilities. (Authority: 20 U.S.C. 1221e-3) <p>Sec. 300.152 Minimum State complaint procedures.</p> <p>(a) Time limit; minimum procedures. Each SEA must include in its complaint procedures a time limit of 60 days after a complaint is filed under Sec. 300.153 to--</p> <ol style="list-style-type: none"> (1) Carry out an independent on-site investigation, if the SEA determines that an investigation is necessary; (2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; (3) Provide the public agency with the opportunity to respond to the complaint, including, at a minimum-- <ol style="list-style-type: none"> (i) At the discretion of the public agency, a proposal to resolve the complaint; and (ii) An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with Sec. 300.506; (4) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this part; and (5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains-- <ol style="list-style-type: none"> (i) Findings of fact and conclusions; and (ii) The reasons for the SEA's final decision. <p>(b) Time extension; final decision; implementation. The SEA's procedures described in paragraph (a) of this section also must--</p> <ol style="list-style-type: none"> (1) Permit an extension of the time limit under paragraph (a) of this section only if-- <ol style="list-style-type: none"> (i) Exceptional circumstances exist with respect to a particular complaint; or (ii) The parent (or individual or organization, if mediation or other alternative means of dispute resolution is available to the individual or organization under State procedures) and the public agency involved agree to extend the time to engage in mediation pursuant to paragraph (a)(3)(ii) of this section, or to engage in other alternative means of dispute resolution, if available in the State; and (2) Include procedures for effective implementation of the SEA's final decision, if |

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| <p>f) If a complaint is filed about an issue that has previously been decided in a due process hearing involving the same parties, the decision arising from that hearing shall be considered binding, and the State Board shall inform the complainant to that effect. A complaint alleging a public entity's failure to implement a decision arising from due process, however, shall be resolved by the State Board pursuant to Section 226.675 of this Part.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>needed, including--</p> <ul style="list-style-type: none"> (i) Technical assistance activities; (ii) Negotiations; and (iii) Corrective actions to achieve compliance. <p>(c) Complaints filed under this section and due process hearings under Sec. 300.507 and Sections 300.530 through 300.532.</p> <ul style="list-style-type: none"> (1) If a written complaint is received that is also the subject of a due process hearing under Sec. 300.507 or Sections 300.530 through 300.532, or contains multiple issues of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described in paragraphs (a) and (b) of this section. (2) If an issue raised in a complaint filed under this section has previously been decided in a due process hearing involving the same parties-- <ul style="list-style-type: none"> (i) The due process hearing decision is binding on that issue; and (ii) The SEA must inform the complainant to that effect. (3) A complaint alleging a public agency's failure to implement a due process hearing decision must be resolved by the SEA. (Authority: 20 U.S.C. 1221e-3) <p>Referenced Regulations: See Page 117 for Section 300.507 and Pages 92-97 for Sections 300.530 – 300.532.</p> <p>Sec. 300.153 Filing a complaint.</p> <ul style="list-style-type: none"> (a) An organization or individual may file a signed written complaint under the procedures described in Sections 300.151 through 300.152. (b) The complaint must include-- <ul style="list-style-type: none"> (1) A statement that a public agency has violated a requirement of Part B of the Act or of this part; (2) The facts on which the statement is based; (3) The signature and contact information for the complainant; and (4) If alleging violations with respect to a specific child-- <ul style="list-style-type: none"> (i) The name and address of the residence of the child; (ii) The name of the school the child is attending; (iii) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the school the child is attending; (iv) A description of the nature of the problem of the child, including facts relating to the problem; and |

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| | <p>(v) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.</p> <p>(c) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with Sec. 300.151.</p> <p>(d) The party filing the complaint must forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files the complaint with the SEA. (Authority: 20 U.S.C. 1221e-3)</p> <p>Referenced Regulations: See Pages 111-112 for Section 11434a of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)).</p> |
| <p>SUBPART G: DUE PROCESS</p> <p>Section 226.600 Calculation of Timelines</p> <p>In calculating the timelines specified in this Subpart G, Section 1.11 of the Statute on Statutes [5 ILCS 70/1.11] shall apply.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> <p>Section 226.605 Request for Hearing; Basis (Repealed)</p> <p>(Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)</p> <p>Section 226.610 Information to Parents Concerning Right to Hearing</p> <p>Each school district shall notify parents in writing of the procedures for requesting a due process hearing in accordance with 34 CFR 300.507 and 300.508. This written notice shall be provided to the parent by the district upon receipt of a request for a due process hearing. Written notice provided to parents as required under Section 226.510 of this Part shall be deemed sufficient notice for purposes of this Section.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> <p>Section 226.615 Procedure for Request</p> <p>The filing, basis for, and content of due process requests, whether by a parent, a student, or a local school district, shall conform to the requirements of 34 CFR 300.507 and 300.508. (See Section 226.655 of this Part for requirements pertaining to expedited due process hearings.) In addition, in order to fulfill the requirement to “forward a copy of the due process complaint to the SEA”, as specified in 34 CFR 300.508(a)(2), the school district superintendent shall, within five days after receipt of the request, forward the request to the State Board of Education in Springfield by certified mail or another means</p> | <p>Sec. 300.507 Filing a due process complaint.</p> <p>(a) General.</p> <p>(1) A parent or a public agency may file a due process complaint on any of the matters described in Sec. 300.503(a)(1) and (2) (relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child).</p> <p>(2) The due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint, or, if the State has an explicit time limitation for filing a due process complaint under this part, in the time allowed by that State law, except that the exceptions to the timeline described in Sec. 300.511(f) apply to the timeline in this section.</p> <p>(b) Information for parents. The public agency must inform the parent of any free or low-cost legal and other relevant services available in the area if--</p> <p>(1) The parent requests the information; or</p> <p>(2) The parent or the agency files a due process complaint under this section.</p> <p>(Authority: 20 U.S.C. 1415(b)(6))</p> <p>Referenced Regulation: See Page 102 for Section 300.503.</p> |

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| <p>that provides written evidence of the delivery. (Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> <p>Section 226.620 Denial of Hearing Request (Repealed) (Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.508 Due process complaint.</p> <p>(a) General.</p> <p>(1) The public agency must have procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which must remain confidential).</p> <p>(2) The party filing a due process complaint must forward a copy of the due process complaint to the SEA.</p> <p>(b) Content of complaint. The due process complaint required in paragraph (a)(1) of this section must include--</p> <p>(1) The name of the child;</p> <p>(2) The address of the residence of the child;</p> <p>(3) The name of the school the child is attending;</p> <p>(4) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the school the child is attending;</p> <p>(5) A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and</p> <p>(6) A proposed resolution of the problem to the extent known and available to the party at the time.</p> <p>(c) Notice required before a hearing on a due process complaint. A party may not have a hearing on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements of paragraph (b) of this section.</p> <p>(d) Sufficiency of complaint.</p> <p>(1) The due process complaint required by this section must be deemed sufficient unless the party receiving the due process complaint notifies the hearing officer and the other party in writing, within 15 days of receipt of the due process complaint, that the receiving party believes the due process complaint does not meet the requirements in paragraph (b) of this section.</p> <p>(2) Within five days of receipt of notification under paragraph (d)(1) of this section, the hearing officer must make a determination on the face of the due process complaint of whether the due process complaint meets the requirements of paragraph (b) of this section, and must immediately notify the parties in writing of that determination.</p> <p>(3) A party may amend its due process complaint only if--</p> <p>(i) The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a meeting held pursuant to Sec. 300.510; or</p> <p>(ii) The hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time not later than five days before the due process hearing begins.</p> |

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| | <p>(4) If a party files an amended due process complaint, the timelines for the resolution meeting in Sec. 300.510(a) and the time period to resolve in Sec. 300.510(b) begin again with the filing of the amended due process complaint.</p> <p>(e) LEA response to a due process complaint.</p> <p>(1) If the LEA has not sent a prior written notice under Sec. 300.503 to the parent regarding the subject matter contained in the parent's due process complaint, the LEA must, within 10 days of receiving the due process complaint, send to the parent a response that includes--</p> <ul style="list-style-type: none"> (i) An explanation of why the agency proposed or refused to take the action raised in the due process complaint; (ii) A description of other options that the IEP Team considered and the reasons why those options were rejected; (iii) A description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and (iv) A description of the other factors that are relevant to the agency's proposed or refused action. <p>(2) A response by an LEA under paragraph (e)(1) of this section shall not be construed to preclude the LEA from asserting that the parent's due process complaint was insufficient, where appropriate.</p> <p>(f) Other party response to a due process complaint. Except as provided in paragraph (e) of this section, the party receiving a due process complaint must, within 10 days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint. (Authority: 20 U.S.C. 1415(b)(7), 1415(c)(2))</p> <p><i>Referenced and Related Regulation: See Pages 111-112 for Section 11434a of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)). See Page 102 for Section 300.503 and Page 120-121 for Section 300.510.</i></p> <p>Sec. 300.509 Model forms.</p> <p>(a) Each SEA must develop model forms to assist parents and public agencies in filing a due process complaint in accordance with Sections 300.507(a) and 300.508(a) through (c) and to assist parents and other parties in filing a State complaint under Sections 300.151 through 300.153. However, the SEA or LEA may not require the use of the model forms.</p> <p>(b) Parents, public agencies, and other parties may use the appropriate model form described in paragraph (a) of this section, or another form or other document, so long as the form or document that is used meets, as appropriate, the content requirements in Sec. 300.508(b) for filing a due process complaint, or the requirements in Sec. 300.153(b) for filing a State complaint. (Authority: 20 U.S.C. 1415(b)(8))</p> |

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| | <p><i>Referenced Regulation: See Pages 114-117 for Sections 300.151 – 300.153.</i></p> <p><i>Select Related Regulation:</i></p> <p>Sec. 300.510 Resolution process.</p> <p>(a) Resolution meeting.</p> <p>(1) Within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of a due process hearing under Sec. 300.511, the LEA must convene a 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--</p> <p>(i) Includes a representative of the public agency who has decision-making authority on behalf of that agency; and</p> <p>(ii) May not include an attorney of the LEA unless the parent is accompanied by an attorney.</p> <p>(2) The purpose of the 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 LEA has the opportunity to resolve the dispute that is the basis for the due process complaint.</p> <p>(3) The meeting described in paragraph (a)(1) and (2) of this section need not be held if--</p> <p>(i) The parent and the LEA agree in writing to waive the meeting; or</p> <p>(ii) The parent and the LEA agree to use the mediation process described in Sec. 300.506.</p> <p>(4) The parent and the LEA determine the relevant members of the IEP Team to attend the meeting.</p> <p>(b) Resolution period.</p> <p>(1) If the LEA 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.</p> <p>(2) Except as provided in paragraph (c) of this section, the timeline for issuing a final decision under Sec. 300.515 begins at the expiration of this 30-day period.</p> <p>(3) Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding paragraphs (b)(1) and (2) of this section, 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.</p> <p>(4) If the LEA 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 Sec. 300.322(d)), the LEA may, at the conclusion of the 30-day</p> |

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| | <p>period, request that a hearing officer dismiss the parent's due process complaint.</p> <p>(5) If the LEA fails to hold the resolution meeting specified in paragraph (a) of this section 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 a hearing officer to begin the due process hearing timeline.</p> <p>(c) Adjustments to 30-day resolution period. The 45-day timeline for the due process hearing in Sec. 300.515(a) starts the day after one of the following events:</p> <ol style="list-style-type: none"> (1) Both parties agree in writing to waive the resolution meeting; (2) 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; (3) If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or public agency withdraws from the mediation process. <p>(d) Written settlement agreement. If a resolution to the dispute is reached at the meeting described in paragraphs (a)(1) and (2) of this section, the parties must execute a legally binding agreement that is--</p> <ol style="list-style-type: none"> (1) Signed by both the parent and a representative of the agency who has the authority to bind the agency; and (2) Enforceable in any State court of competent jurisdiction or in a district court of the United States, or, by the SEA, if the State has other mechanisms or procedures that permit parties to seek enforcement of resolution agreements, pursuant to Sec. 300.537. <p>(e) Agreement review period. If the parties execute an agreement pursuant to paragraph (c) of this section, a party may void the agreement within 3 business days of the agreement's execution. (Authority: 20 U.S.C. 1415(f)(1)(B))</p> <p>Referenced Regulations: See Page 53-54 for Section 300.322, Pages 113-114 for Section 300.506, Pages 122-123 for Section 300. 511, Pages 123-124 for Section 300.515, and Page 114 for Section 300.537</p> |
| <p>Section 226.625 Rights of the Parties Related to Hearings</p> <p>The hearing rights of parties shall conform to the requirements of 34 CFR 300.512 and Section 14-8.02a of the School Code [105 ILCS 5/14-8.02a]. In addition, the following requirements shall apply.</p> <p>a) The parents shall have access to the district's list of independent evaluators and may obtain an independent evaluation of their child at their own expense.</p> <ol style="list-style-type: none"> 1) If the parents believe that acquisition of a completed independent evaluation will require a delay in convening the hearing, the parents shall request such a delay as | <p>Sec. 300.512 Hearing rights.</p> <p>(a) General. Any party to a hearing conducted pursuant to Sections 300.507 through 300.513 or Sections 300.530 through 300.534, or an appeal conducted pursuant to Sec. 300.514, has the right to--</p> <ol style="list-style-type: none"> (1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities; (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses; (3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing; |

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| <p>provided in Section 226.640(c) of this Part.</p> <p>2) The parents may ask the hearing officer to determine whether an independent evaluation is needed. If the hearing officer concludes, after reviewing the available information, that an independent evaluation is necessary to inform the hearing officer concerning the services to which the student may be entitled, it shall be so ordered and provided at the school district's expense. The hearing officer shall delay the hearing as provided for in Section 226.640(b) of this Part.</p> <p>3) This subsection (a) shall not apply to expedited hearings conducted pursuant to Section 226.655 of this Part.</p> <p>b) Either party, or any other person participating in the hearing, may request that an interpreter be available during the hearing because one of the participants is hearing impaired and/or uses a primary language other than English. Interpreters shall be provided at the school district's expense.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>(4) Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing; and</p> <p>(5) Obtain written, or, at the option of the parents, electronic findings of fact and decisions.</p> <p>(b) Additional disclosure of information.</p> <p>(1) At least five business days prior to a hearing conducted pursuant to Sec. 300.511(a), each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.</p> <p>(2) A hearing officer may bar any party that fails to comply with paragraph (b)(1) of this section from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.</p> <p>(c) Parental rights at hearings. Parents involved in hearings must be given the right to--</p> <p>(1) Have the child who is the subject of the hearing present;</p> <p>(2) Open the hearing to the public; and</p> <p>(3) Have the record of the hearing and the findings of fact and decisions described in paragraphs (a)(4) and (a)(5) of this section provided at no cost to parents.</p> <p>(Authority: 20 U.S.C. 1415(f)(2), 1415(h))</p> <p><i>Referenced Regulations: See Pages 122-123 for Section 300.511, Pages 117-123 for Sections 300.507-300.512, Pages 127-128 for Section 300.513, Page 129 for Section 300.514, Pages 92-98 for Sections 300.530 - 300.534.</i></p> |
| <p>Section 226.630 Qualifications, Training, and Service of Impartial Due Process Hearing Officers</p> <p>a) Impartial due process hearing officers must possess qualifications in conformance with the requirements of 34 CFR 300.511 and Section 14-8.02c(b) of the School Code [105 ILCS 5/14-8.02c(b)]. "Relevant experience", as used in Section 14-8.02c(b) of the School Code, means at least three years' experience, whether paid or voluntary, in special education, disability-related issues, or advocacy.</p> <p>b) An individual wishing to be considered as an impartial due process hearing officer shall submit an application to the State Board. In completing the application form, which shall be provided by the State Board, the individual shall disclose at least the following information:</p> <ol style="list-style-type: none"> 1) name and address; 2) degrees held; 3) current employment status, including, if applicable, the employer's name and the title of the employee's position; | <p>Sec. 300.511 Impartial due process hearing.</p> <p>(a) General. Whenever a due process complaint is received under Sec. 300.507 or Sec. 300.532, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing, consistent with the procedures in Sec. 300.507, 300.508, and 300.510.</p> <p>(b) Agency responsible for conducting the due process hearing. The hearing described in paragraph (a) of this section must be conducted by the SEA or the public agency directly responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the SEA.</p> <p>(c) Impartial hearing officer.</p> <ol style="list-style-type: none"> (1) At a minimum, a hearing officer-- <ol style="list-style-type: none"> (i) Must not be-- <ol style="list-style-type: none"> (A) An employee of the SEA or the LEA that is involved in the education or care of the child; or (B) A person having a personal or professional interest that conflicts with the person's objectivity in the hearing; (ii) Must possess knowledge of, and the ability to understand, the provisions of |

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| <p>4) school district of residence; and 5) professional background and relevant experience.</p> <p>c) Conditions of Service Hearing officers' terms of service and subsequent reappointment shall be as provided in Section 14-8.02c(d) and (e) of the School Code.</p> <p>1) A hearing officer shall accept each case to which he or she is assigned, unless:</p> <p>A) the hearing officer is ill; B) the hearing officer has a personal, professional, or financial interest that would conflict with his or her objectivity with respect to a particular case; or C) the hearing officer is ineligible to accept a particular case pursuant to Section 226.635(a) of this Part.</p> <p>2) A hearing officer whose other commitments will interfere with his or her ability to accept cases for more than 15 days shall so notify the State Board of Education in writing.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> <p>Section 226.635 Appointment, Recusal, and Substitution of Impartial Due Process Hearing Officers</p> <p>The appointment, recusal, and substitution of due process hearing officers shall conform with the requirements of Section 14-8.02a(f-5) of the School Code [105 ILCS 5/14-8.02a(f-5)].</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>the Act, Federal and State regulations pertaining to the Act, and legal interpretations of the Act by Federal and State courts;</p> <p>(iii) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and (iv) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.</p> <p>(2) A person who otherwise qualifies to conduct a hearing under paragraph (c)(1) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.</p> <p>(3) Each public agency must keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.</p> <p>(d) Subject matter of due process hearings. The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under Sec. 300.508(b), unless the other party agrees otherwise.</p> <p>(e) Timeline for requesting a hearing. A parent or agency must request an impartial hearing on their due process complaint within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the due process complaint, or if the State has an explicit time limitation for requesting such a due process hearing under this part, in the time allowed by that State law.</p> <p>(f) Exceptions to the timeline. The timeline described in paragraph (e) of this section does not apply to a parent if the parent was prevented from filing a due process complaint due to--</p> <p>(1) Specific misrepresentations by the LEA that it had resolved the problem forming the basis of the due process complaint; or (2) The LEA's withholding of information from the parent that was required under this part to be provided to the parent. (Authority: 20 U.S.C. 1415(f)(1)(A), 1415(f)(3)(A)-(D))</p> <p><i>Referenced Regulations: See Pages 117-119 for Sections 300.507-300.508, Pages 120-121 for Section 300.510, and Page 96-97 for Section 300.532.</i></p> |
| <p>Section 226.640 Scheduling the Hearing and Pre-Hearing Conference</p> <p>The provisions of this Section shall not apply to expedited hearings conducted pursuant to Section 226.655 of this Part.</p> <p>a) The hearing officer shall schedule a pre-hearing conference in accordance with the requirements of Section 14-8.02a(g-40) of the School Code [105 ILCS 5/14-8.02a(g-40)].</p> | <p>Related Regulation: Sec. 300.515 Timelines and convenience of hearings and reviews.</p> <p>(a) The public agency must ensure that not later than 45 days after the expiration of the 30 day period under Sec. 300.510(b), or the adjusted time periods described in Sec. 300.510(c)--</p> <p>(1) A final decision is reached in the hearing; and (2) A copy of the decision is mailed to each of the parties.</p> <p>(b) The SEA must ensure that not later than 30 days after the receipt of a request for a review--</p> |

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| <p>b) Either party may request a delay in convening the hearing and/or the pre-hearing conference. The party requesting a delay shall do so in writing to the hearing officer, with a copy sent at the same time to the other party. The requesting party shall set forth the reasons for the request. The hearing officer shall either grant or deny the request and shall so inform the parties and the State Board of Education in writing. The hearing officer shall determine a new time and date for convening the hearing and/or pre-hearing conference.</p> <p>1) If the parties jointly propose a delay in convening the hearing or pre-hearing conference, it shall be delayed as agreed. The hearing officer, being advised of such agreement, shall confirm the delay in writing to the parties and the State Board of Education. Such notice shall become part of the administrative record.</p> <p>2) If the parties cannot agree to a mutually convenient time and place for convening the hearing and/or pre-hearing conference, the hearing officer shall fix the time and place, notify the parties in writing, and proceed to convene and conduct the pre-hearing conference and hearing, provided that the delay shall not continue for a period longer than necessitated by the circumstances that precipitated the delay.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> <p>Section 226.645 Conducting the Pre-Hearing Conference</p> <p>a) The hearing officer shall convene the pre-hearing conference in accordance with Section 14-8.02a(g-40) of the School Code.</p> <p>b) The provisions of this Section shall not apply to expedited hearings conducted pursuant to Section 226.655 of this Part.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>(1) A final decision is reached in the review; and</p> <p>(2) A copy of the decision is mailed to each of the parties.</p> <p>(c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party.</p> <p>(d) Each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved. (Authority: 20 U.S.C. 1415(f)(1)(B)(ii), 1415(g), 1415(i)(1))</p> |
| <p>Section 226.650 Child's Status During Due Process Hearing (Repealed)</p> <p>(Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Related Regulation:</p> <p>Sec. 300.518 Child's status during proceedings.</p> <p>(a) Except as provided in Sec. 300.533, during the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing under Sec. 300.507, unless the State or local agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement.</p> <p>(b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.</p> |

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| | <p>(c) If the complaint involves an application for initial services under this part from a child who is transitioning from Part C of the Act to Part B and is no longer eligible for Part C services because the child has turned three, the public agency is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services under Sec. 300.300(b), then the public agency must provide those special education and related services that are not in dispute between the parent and the public agency.</p> <p>(d) If the hearing officer in a due process hearing conducted by the SEA or a State review official in an administrative appeal agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the State and the parents for purposes of paragraph (a) of this section. (Authority: 20 U.S.C. 1415(j))</p> <p><i>Referenced Regulation: See Page 117 for Section 300.507, Page 97 for Section 300.533 and Pages 105-108 for Section 300.300.</i></p> |
| <p>Section 226.655 Expedited Due Process Hearing</p> <p>Requests for expedited due process hearings shall be made in accordance with 34 CFR 300.532 and 300.533 and Section 14-8.02b of the School Code [105 ILCS 5/14-8.02b].</p> <p>a) The hearing officer shall determine:</p> <ol style="list-style-type: none"> 1) whether the child shall be placed in the proposed alternative educational setting; or 2) whether the local school district has demonstrated that the child's behavior was not a manifestation of the child's disability. <p>b) The hearing officer shall consider the following factors in determining whether an interim alternative placement is appropriate:</p> <ol style="list-style-type: none"> 1) Whether the local school district has demonstrated by substantial evidence (i.e., 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; 2) Whether the child's current placement is appropriate; 3) Whether the district 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 4) Whether the interim alternative educational setting will permit full implementation of the student's IEP and includes services and modifications designed to prevent the undesired behavior from recurring. | <p>Sec. 300.532 Appeal.</p> <p>(a) General. The parent of a child with a disability who disagrees with any decision regarding placement under Sections 300.530 and 300.531, or the manifestation determination under Sec. 300.530(e), or an LEA 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. The hearing is requested by filing a complaint pursuant to Sections 300.507 and 300.508(a) and (b).</p> <p>(b) Authority of hearing officer.</p> <ol style="list-style-type: none"> (1) A hearing officer under Sec. 300.511 hears, and makes a determination regarding an appeal under paragraph (a) of this section. (2) In making the determination under paragraph (b)(1) of this section, the hearing officer may-- <ol style="list-style-type: none"> (i) Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of Sec. 300.530 or that the child's behavior was a manifestation of the child's disability; or (ii) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others. (3) The procedures under paragraphs (a) and (b)(1) and (2) of this section may be repeated, if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others. |

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| <p>c) If all the conditions set forth in subsection (b) of this Section are met, the hearing officer shall order a change in the child’s placement to an appropriate interim alternative educational setting for not more than 45 school days. If the district demonstrates that the student is substantially likely to injure himself or herself or others if returned to the placement that was used prior to the student’s removal, the hearing officer may order that the student remain in the interim setting for subsequent periods of up to 45 school days each.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>(c) Expedited due process hearing.</p> <p>(1) Whenever a hearing is requested under paragraph (a) of this section, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements of Sections 300.507 and 300.508(a) through (c) and Sections 300.510 through 300.514, except as provided in paragraph (c)(2) through (4) of this section.</p> <p>(2) The SEA or LEA 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.</p> <p>(3) Unless the parents and LEA agree in writing to waive the resolution meeting described in paragraph (c)(3)(i) of this section, or agree to use the mediation process described in Sec. 300.506--</p> <p>(i) A resolution meeting must occur within seven days of receiving notice of the due process complaint; and</p> <p>(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.</p> <p>(4) A State may establish different State-imposed procedural rules for expedited due process hearings conducted under this section than it has established for other due process hearings, but, except for the timelines as modified in paragraph (c)(3) of this section, the State must ensure that the requirements in Sections 300.510 through 300.514 are met.</p> <p>(5) The decisions on expedited due process hearings are appealable consistent with Sec. 300.514. (Authority: 20 U.S.C. 1415(k)(3) and (4)(B), 1415(f)(1)(A))</p> <p>Referenced Regulations: See Pages 113-114 for Section 300.506, Pages 1117-119 for Sections 300.507–300.508, Pages 120-123 for Sections 300.510-300.512, and Pages 127-129 for Sections 300.513-300.514.</p> <p>Sec. 300.533 Placement during appeals. When an appeal under Sec. 300.532 has been made by either the parent or the LEA, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in Sec. A300.530(c) or (g), whichever occurs first, unless the parent and the SEA or LEA agree otherwise. (Authority: 20 U.S.C. 1415(k)(4)(A))</p> <p>Referenced Regulation: See Pages 92-97 for Sections 300.530 – 300.532.</p> |

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| <p>Section 226.660 Powers and Duties of Hearing Officer</p> <p>The hearing officer shall conduct the hearing and, with respect to the hearing, shall have, but is not limited to, the following powers:</p> <ul style="list-style-type: none"> a) To administer, or to authorize the court reporter to administer, oaths; b) To examine witnesses; c) To authorize the issuance of subpoenas; d) To rule upon the admissibility of evidence; e) To order independent evaluations; f) To grant specific extensions of time; g) To read into the hearing record any stipulations of fact and other matters agreed upon at the pre-hearing conference and to enter into the record any pre-hearing orders; h) To render decisions and issue orders and clarifications. <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p><i>Related Regulations: See Pages 47-48 for Section 300.502, Pages 121-122 for Section 300.512, Page 129 for Section 300.514, Pages 123-124 for Section 300.515.</i></p> |
| <p>Section 226.665 Record of Proceedings</p> <p>A record of the hearing shall be made and the cost of such record borne in accordance with 34 CFR 300.512(a)(4) and Section 14-8.02a(g-55) of the School Code [105 ILCS 5/14-8.02a(g-55)].</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p><i>(Excerpt. See Pages 121-122 for complete Section.)</i></p> <p>Sec. 300.512 Hearing rights.</p> <p>(a) General. Any party to a hearing conducted pursuant to Sections 300.507 through 300.513 or Sections 300.530 through 300.534, or an appeal conducted pursuant to Sec. 300.514, has the right to--</p> <ul style="list-style-type: none"> ...(4) Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing;... <p><i>Referenced Regulations: See Pages 117-123 for Sections 300.507-300.512, Pages 127-128 for Section 300.513, and Pages 92-98 for Sections 300.530 – 300.534.</i></p> |
| <p>Section 226.670 Decision of Hearing Officer; Clarification</p> <p>The bases and timelines for decisions of hearing officers shall conform to the requirements of 34 CFR 300.513 and Section 14-8.02a(h) of the School Code [105 ILCS 5/14-8.02a(h)]. In addition, the hearing officer's decision shall be sent by certified mail</p> | <p>Sec. 300.513 Hearing decisions.</p> <p>(a) Decision of hearing officer on the provision of FAPE.</p> <ul style="list-style-type: none"> (1) Subject to paragraph (a)(2) of this section, a hearing officer's determination of whether a child received FAPE must be based on substantive grounds. (2) In matters alleging a procedural violation, a hearing officer may find that a child |

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| <p>to the parties enumerated in Section 14-8.02a(h) of the School Code. The decision shall be translated into the native language of the parents if their primary language is other than English.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>did not receive a FAPE only if the procedural inadequacies--</p> <ul style="list-style-type: none"> (i) Impeded the child's right to a FAPE; (ii) Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or (iii) Caused a deprivation of educational benefit. <p>(3) Nothing in paragraph (a) of this section shall be construed to preclude a hearing officer from ordering an LEA to comply with procedural requirements under Sections 300.500 through 300.536.</p> <p>(b) Construction clause. Nothing in Sections 300.507 through 300.513 shall be construed to affect the right of a parent to file an appeal of the due process hearing decision with the SEA under Sec. 300.514(b), if a State level appeal is available.</p> <p>(c) Separate request for a due process hearing. Nothing in Sections 300.500 through 300.536 shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.</p> <p>(d) Findings and decision to advisory panel and general public. The public agency, after deleting any personally identifiable information, must--</p> <ul style="list-style-type: none"> (1) Transmit the findings and decisions referred to in Sec. 300.512(a)(5) to the State advisory panel established under Sec. 300.167; and (2) Make those findings and decisions available to the public.(Authority: 20 U.S.C. 1415(f)(3)(E) and (F), 1415(h)(4), 1415(o)) <p>Referenced Regulations: See Page 100 for Section 300.500, Page 104 for Section 300.501, Pages 47-48 for Section 300.502, Pages 100-102 for Sections 300.502-300.505, Pages 113-114 for Section 300.506, Pages 117-132 for Sections 300.507-300.518, Pages 110-111 for Section 300.519, Page 132 for Section 300.520, and Pages 92-99 for Sections 300.530-300.536. (*300.521-300.529 – Reserved)</p> |
| <p>Section 226.675 Monitoring and Enforcement of Decisions; Notice of Ineligibility for Funding</p> <p>Upon receipt of the hearing officer's decision, the State Board of Education shall review the decision and monitor compliance by the parties with the terms of the decision. If the district fails to comply with the decision in the time specified by the hearing officer, the State Board of Education shall notify the parties in writing by certified mail that it finds the district to be in noncompliance with the decision, and that the noncompliance may result in loss of recognition status of the district's programs by the State, withholding of State or federal funds which the district would otherwise be eligible to receive, or in other enforcement action unless the district remedies the noncompliance within the time period specified in the notice of noncompliance.</p> | |

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| <p>Section 226.680 Reporting of Decisions (Repealed)</p> <p>(Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Select Related Regulations:</p> <p>Sec. 300.514 Finality of decision; appeal; impartial review. (a) Finality of hearing decision. A decision made in a hearing conducted pursuant to Sections 300.507 through 300.513 or Sections 300.530 through 300.534 is final, except that any party involved in the hearing may appeal the decision under the provisions of paragraph (b) of this section and Sec. 300.516. (b) Appeal of decisions; impartial review. (1) If the hearing required by Sec. 300.511 is conducted by a public agency other than the SEA, any party aggrieved by the findings and decision in the hearing may appeal to the SEA. (2) If there is an appeal, the SEA must conduct an impartial review of the findings and decision appealed. The official conducting the review must-- (i) Examine the entire hearing record; (ii) Ensure that the procedures at the hearing were consistent with the requirements of due process; (iii) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in Sec. 300.512 apply; (iv) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official; (v) Make an independent decision on completion of the review; and (vi) Give a copy of the written, or, at the option of the parents, electronic findings of fact and decisions to the parties. (c) Findings and decision to advisory panel and general public. The SEA, after deleting any personally identifiable information, must-- (1) Transmit the findings and decisions referred to in paragraph (b)(2)(vi) of this section to the State advisory panel established under Sec. 300.167; and (2) Make those findings and decisions available to the public. (d) Finality of review decision. The decision made by the reviewing official is final unless a party brings a civil action under Sec. 300.516. (Authority: 20 U.S.C. 1415(g) and (h)(4), 1415(i)(1)(A), 1415(i)(2))</p> <p>Sec. 300.150 SEA implementation of procedural safeguards. The SEA (and any agency assigned responsibility pursuant to Sec. 300.149(d)) must have in effect procedures to inform each public agency of its responsibility for ensuring effective implementation of procedural safeguards for the children with disabilities served by that public agency. (Authority: 20 U.S.C. 1412(a)(11); 1415(a))</p> <p>Sec. 300.516 Civil action. (a) General. Any party aggrieved by the findings and decision made under Sections 300.507 through 300.513 or Sections 300.530 through 300.534 who does not have the</p> |

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| <p>Procedural Safeguards</p> | <p>right to an appeal under Sec. 300.514(b), and any party aggrieved by the findings and decision under Sec. 300.514(b), has the right to bring a civil action with respect to the due process complaint notice requesting a due process hearing under Sec. 300.507 or Sections 300.530 through 300.532. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.</p> <p>(b) Time limitation. The party bringing the action shall have 90 days from the date of the decision of the hearing officer or, if applicable, the decision of the State review official, to file a civil action, or, if the State has an explicit time limitation for bringing civil actions under Part B of the Act, in the time allowed by that State law.</p> <p>(c) Additional requirements. In any action brought under paragraph (a) of this section, the court--</p> <ol style="list-style-type: none"> (1) Receives the records of the administrative proceedings; (2) Hears additional evidence at the request of a party; and (3) Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate. <p>(d) Jurisdiction of district courts. The district courts of the United States have jurisdiction of actions brought under section 615 of the Act without regard to the amount in controversy.</p> <p>(e) Rule of construction. Nothing in this part restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the Act, the procedures under Sections 300.507 and 300.514 must be exhausted to the same extent as would be required had the action been brought under section 615 of the Act. (Authority: 20 U.S.C. 1415(i)(2) and (3)(A), 1415(l))</p> <p><i>Referenced Regulations: See Pages 117-123 for Sections 300.507-300.512, Pages 127-129 for Sections 300.513-300.514 and Pages 92-98 for Sections 300.530-300.534..</i></p> <p>Sec. 300.517 Attorneys' fees.</p> <p>(a) In general.</p> <ol style="list-style-type: none"> (1) In any action or proceeding brought under section 615 of the Act, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to-- <ol style="list-style-type: none"> (i) The prevailing party who is the parent of a child with a disability; (ii) To a prevailing party who is an SEA or LEA against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, |

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| <p>Procedural Safeguards</p> | <p>or without foundation; or</p> <p>(iii) To a prevailing SEA or LEA against the attorney of a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.</p> <p>(2) Nothing in this subsection shall be construed to affect section 327 of the District of Columbia Appropriations Act, 2005.</p> <p>(b) Prohibition on use of funds.</p> <p>(1) Funds under Part B of the Act may not be used to pay attorneys' fees or costs of a party related to any action or proceeding under section 615 of the Act and subpart E of this part.</p> <p>(2) Paragraph (b)(1) of this section does not preclude a public agency from using funds under Part B of the Act for conducting an action or proceeding under section 615 of the Act.</p> <p>(c) Award of fees. A court awards reasonable attorneys' fees under section 615(i)(3) of the Act consistent with the following:</p> <p>(1) Fees awarded under section 615(i)(3) of the Act must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph.</p> <p>(2) (i) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under section 615 of the Act for services performed subsequent to the time of a written offer of settlement to a parent if--</p> <p>(A) The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins;</p> <p>(B) The offer is not accepted within 10 days; and</p> <p>(C) The court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.</p> <p>(ii) Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless the meeting is convened as a result of an administrative proceeding or judicial action, or at the discretion of the State, for a mediation described in Sec. 300.506.</p> <p>(iii) A meeting conducted pursuant to Sec. 300.510 shall not be considered--</p> <p>(A) A meeting convened as a result of an administrative hearing or judicial action; or</p> <p>(B) An administrative hearing or judicial action for purposes of this section.</p> <p>(3) Notwithstanding paragraph (c)(2) of this section, an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was</p> |

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| <p>Procedural Safeguards</p> | <p>substantially justified in rejecting the settlement offer.</p> <p>(4) Except as provided in paragraph (c)(5) of this section, the court reduces, accordingly, the amount of the attorneys' fees awarded under section 615 of the Act, if the court finds that--</p> <ul style="list-style-type: none"> (i) The parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy; (ii) The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience; (iii) The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or (iv) The attorney representing the parent did not provide to the LEA the appropriate information in the due process request notice in accordance with Sec. 300.508. <p>(5) The provisions of paragraph (c)(4) of this section do not apply in any action or proceeding if the court finds that the State or local agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of the Act. (Authority: 20 U.S.C. 1415(i)(3)(B)-(G))</p> <p><i>Referenced Regulation: See Pages 113-114 for Section 300. 506, Pages 118-119 for Section 300.508, and Pages 120-121 for Section 300.510.</i></p> |
| <p>Section 226.690 Transfer of Parental Rights</p> <p>This Section implements 34 CFR 300.520.</p> <p>a) When a student with a disability reaches the age of majority (18 years of age; see 755 ILCS 5/11-1) or becomes an emancipated minor pursuant to the Emancipation of Minors Act [750 ILCS 30] (except for a student with a disability who has been adjudged as a disabled person pursuant to 755 ILCS 5/11a-1):</p> <ul style="list-style-type: none"> 1) The school district shall provide any notice required by this Part to both the individual and the parents, and all other rights accorded to parents under Part B of the Individuals with Disabilities Education Act, the implementing regulations at 34 CFR 300, and this Part shall transfer to the student; and 2) All rights accorded to parents under Part B of the Individuals with Disabilities Education Act, the implementing regulations at 34 CFR 300, and this Part shall transfer to a child who is incarcerated in an adult or juvenile, State, or local correctional institution. <p>b) Whenever rights are transferred to a student pursuant to this Section, the district shall</p> | <p>Sec. 300.520 Transfer of parental rights at age of majority.</p> <p>(a) General. A State may provide that, when a child with a disability reaches the age of majority under State law that applies to all children (except for a child with a disability who has been determined to be incompetent under State law)--</p> <ul style="list-style-type: none"> (1) (i) The public agency must provide any notice required by this part to both the child and the parents; and (ii) All rights accorded to parents under Part B of the Act transfer to the child; (2) All rights accorded to parents under Part B of the Act transfer to children who are incarcerated in an adult or juvenile, State or local correctional institution; and (3) Whenever a State provides for the transfer of rights under this part pursuant to paragraph (a)(1) or (a)(2) of this section, the agency must notify the child and the parents of the transfer of rights. <p>(b) Special rule. A State must establish procedures for appointing the parent of a child with a disability, or, if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of the child's eligibility under Part B of the Act if, under State law, a child who has reached the age of majority, but has not been determined to be incompetent, can be determined not to have the ability to provide informed consent with respect to the child's educational program.</p> |

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| <p>notify the student and the parents of the transfer of rights.</p> <p>c) All notices that are required under this Part and 34 CFR 300 shall be provided to the student and the parent after the student reaches the age of majority.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>(Authority: 20 U.S.C. 1415(m))</p> |
| <p>SUBPART H: ADMINISTRATIVE REQUIREMENTS</p> <p>Section 226.700 General</p> <p>a) Each school district, independently or in cooperation with other districts, shall provide a comprehensive program of special education for children with disabilities who are from three through 21 years of age and who are resident in the district. A “comprehensive program” is one that includes:</p> <ol style="list-style-type: none"> 1) A viable organizational and financial structure; 2) Systematic procedures for identifying and evaluating the need for special education and related services; 3) A continuum of appropriate alternative placements available to meet the needs of children for special education and related services (see Section 226.300 of this Part); 4) Qualified personnel who are employed in sufficient number to provide: <ol style="list-style-type: none"> A) Administration of the program; B) Supervisory services; C) Instructional and resource services; D) Related services; and E) Transportation services; 5) Appropriate and adequate facilities, equipment and materials; 6) Functional relationships with public and private agencies that can supplement or enhance the special education services of the public schools; 7) Interaction with parents and other concerned persons that facilitates the educational development of children with disabilities; 8) Procedures for internal evaluation of the special education services provided; and 9) Continuous planning for program growth and improvement based on internal and external evaluation. <p>b) The school district is the primary agent for the delivery of special education services. Districts may carry out their obligations with regard to special education by forming cooperatives or joint agreements. These entities are:</p> <ol style="list-style-type: none"> 1) Authorized by State law to develop, manage, and provide services or programs on behalf of school districts; 2) Recognized as agencies for purposes of the provision of special education and | <p><i>Select Related Regulation:</i></p> <p>Sec. 300.149 SEA responsibility for general supervision.</p> <p>(a) The SEA is responsible for ensuring--</p> <ol style="list-style-type: none"> (1) That the requirements of this part are carried out; and (2) That each educational program for children with disabilities administered within the State, including each program administered by any other State or local agency (but not including elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior)-- <ol style="list-style-type: none"> (i) Is under the general supervision of the persons responsible for educational programs for children with disabilities in the SEA; and (ii) Meets the educational standards of the SEA (including the requirements of this part). (3) In carrying out this part with respect to homeless children, the requirements of subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.) are met. <p>(b) The State must have in effect policies and procedures to ensure that it complies with the monitoring and enforcement requirements in Sections 300.600 through 300.602 and Sections 300.606 through 300.608.</p> <p>(c) Part B of the Act does not limit the responsibility of agencies other than educational agencies for providing or paying some or all of the costs of FAPE to children with disabilities in the State.</p> <p>(d) Notwithstanding paragraph (a) of this section, the Governor (or another individual pursuant to State law) may assign to any public agency in the State the responsibility of ensuring that the requirements of Part B of the Act are met with respect to students with disabilities who are convicted as adults under State law and incarcerated in adult prisons. (Authority: 20 U.S.C. 1412(a)(11); 1416)</p> <p><i>Referenced Regulation: See Pages 149-150 for Section 300.600.</i></p> |

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| <p>related services provided within public elementary and secondary schools of the State;</p> <p>3) Considered as service agents of the participating districts; and</p> <p>4) Directed by, and responsible to, all the participating local districts.</p> <p>c) Special education and related services that would not comply with specific requirements of this Part shall require written approval from the State Board of Education prior to their implementation. A district's request for approval shall be submitted in writing to the State Board and shall include a description of the district's proposal. In determining whether to approve such a request, the State Board's staff shall consider whether the proposed program or service will compromise students' educational opportunity or prevent the full implementation of any student's IEP, in light of such factors as the students' disabilities and the proposed class size, staff qualifications, physical plant and evaluation plan. Denial of such a request may be appealed to the State Superintendent of Education.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | |
| <p>Section 226.710 Policies and Procedures</p> <p>a) Each local school district, or the cooperative entity of which it is a member, shall develop written policies and procedures conforming to the requirements of subsection (b) of this Section and shall submit these to the State Board of Education for approval, using a format supplied by the State Board. The State Board shall approve those that conform to the requirements of this Section and are consistent with applicable federal and State statutes and regulations. The State Board shall notify districts of any deficiencies that must be remedied before approval will be granted.</p> <p>b) Each set of policies and procedures shall address the district's compliance with at least the requirements for:</p> <ol style="list-style-type: none"> 1) the provision of a free appropriate public education; 2) child find; 3) evaluation and determination of eligibility; 4) Individualized Education Programs; 5) students' participation in assessments; 6) serving students in the least restrictive environment; 7) the provision of extended school year services; 8) transition of children served under Part C of the Individuals with Disabilities Education Act into preschool programs; 9) serving students who attend nonpublic schools; | <p><i>Select Related Regulation:</i></p> <p>Sec. 300.201 Consistency with State policies. The LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures established under Sections 300.101 through 300.163, and Sections 300.165 through 300.174. (Authority: 20 U.S.C. 1413(a)(1))</p> |

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| <p>10) procedural safeguards;</p> <p>11) establishing the goal of full educational opportunity;</p> <p>12) confidentiality of personally identifiable information; and</p> <p>13) the use of federal matching funds under the Medicaid (Title XIX) or Children’s Health Insurance (KidCare; Title XXI) program to supplement special education programs and services (if the district is participating in one or more of those federal programs).</p> <p>c) Any revision of a set of policies and procedures shall be submitted to the State Board for approval prior to its implementation.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | |
| <p>Section 226.720 Facilities and Classes</p> <p>a) Facilities used for special education services shall be appropriate to, and adequate for, the specific programs or services for which they are used and, pursuant to Section 14-8.01 of the School Code, shall be subject to the applicable provisions of 23 Ill. Adm. Code 180 (Health/Life Safety Code for Public Schools). The facilities shall be comparable to those provided to the students in the general education environment.</p> <p>b) The age range of students within a special education grouping shall not exceed four years at the elementary level and six years at the secondary level. Early childhood classes and services shall serve only children from three through five years of age, except that a district shall not be prohibited from permitting a child who reaches his or her sixth birthday during a year to complete that year.</p> <p>c) Special education classes and services shall be delivered in age-appropriate settings.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | |
| <p>Section 226.730 Class Size for 2009-10 and Beyond</p> <p>a) When a student’s IEP calls for services in a general education classroom, the student must be served in a class that is composed of students of whom at least 70 percent are without IEPs, that utilizes the general curriculum, that is taught by an instructor certified for general education, and that is not designated as a general remedial classroom.</p> <p>b) Class size means the total number of students an educator serves during any special education class. As used in this subsection (b), “class” means any circumstance where only students with IEPs are served and at least one special education teacher is assigned</p> | |

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| <p>and provides instruction and/or therapy exclusively to students with IEPs. In the formation of special education classes, consideration shall be given to the age of the students, the nature and severity of their disabilities, the educational needs of the students, and the degree of intervention necessary, subject to the limitations of this subsection (b).</p> <ol style="list-style-type: none"> 1) Except as provided in subsection (b)(5) of this Section, classes in which all the students receive special education services for 20 percent of the school day or less shall have at least one qualified teacher for each 15 students in attendance during any given class. However, the district may increase the class size by a maximum of two students when a paraprofessional is provided for the entire class. 2) Except as provided in subsection (b)(5) of this Section, each class in which any student receives special education services for more than 20 percent of the school day but no more than 60 percent of the school day shall have at least one qualified teacher for each ten students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class. 3) Except as provided in subsection (b)(5) of this Section, each class in which any student receives special education services for more than 60 percent of the school day shall have at least one qualified teacher for each eight students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class. 4) Each class for children ages three through five shall have at least one qualified teacher for each five students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class. 5) For any school year in which the amount of State reimbursement for teachers identified in Section 14-13.01 of the School Code [105 ILCS 5/14-13.01] exceeds the amount in effect on January 1, 2007, by at least 100 percent and no corresponding reduction has been made in other State sources of support for special education: <ol style="list-style-type: none"> A) The maximum class size stated in subsection (b)(1) of this Section shall be 13 rather than 15; B) The maximum class size stated in subsection (b)(2) of this Section shall be eight rather than 10; and C) The maximum class size stated in subsection (b)(3) of this Section shall be six rather than eight. 6) The provisions of subsections (b)(1) through (5) of this Section notwithstanding, class size shall be limited according to the needs of the students for individualized instruction and services. | |

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| <p>c) The maximum class sizes set forth in subsection (b) of this Section shall, if necessary, be further restricted at the local level to account for the activities and services in which the affected educators participate in order to provide students with IEPs the free, appropriate public education in the least restrictive environment to which they are entitled. (Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | |
| <p>Section 226.731 Class Size Provisions for 2007-08 and 2008-09</p> <p>a) When a student’s IEP calls for services in a general education classroom, the student must be served in a class that is composed of students of whom at least 70 percent are without IEPs, that utilizes the general curriculum, that is taught by an instructor certified for regular (general) education, and that is not designated as a general remedial classroom.</p> <p>b) A student shall be considered to require “instructional” classes when he or she receives special education instruction for 50 percent of the school day or more. Classes for such students shall be subject to the limitations of this subsection (b).</p> <ol style="list-style-type: none"> 1) Early childhood instructional classes shall have a maximum ratio of one qualified teacher to five students in attendance at any given time; total enrollment shall be limited according to the needs of the students for individualized programming. 2) Instructional classes for students who have either a severe/profound disability or multiple disabilities shall have a maximum enrollment of five students. 3) Instructional classes for children whose primary disability is a severe visual, auditory, physical, speech or language impairment, autism, traumatic brain injury, or an emotional disability or behavioral disorder shall have a maximum enrollment of eight students. 4) Instructional classes for children whose primary disability is a specific learning disability or that serve children who have different disabilities shall have a maximum enrollment of ten students. Instructional programs that group students who have different disabilities shall be formulated only under the following circumstances: <ol style="list-style-type: none"> A) The students are grouped in relation to a common educational need; or B) The program can be completely individualized and the teacher is qualified to plan and provide an appropriate educational program for each student in the group. 5) Instructional classes designed for children whose primary disability is moderate visual or auditory impairment shall have a maximum enrollment of 12 students. 6) Instructional classes for children whose primary disability is mild/moderate cognitive disability shall have a maximum enrollment of 12 students at the primary level and 15 students at the intermediate, middle, junior high, and secondary levels. | |

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| <p>7) A school district may increase the enrollment in an instructional class by a maximum of two students in response to unique circumstances that occur during the school year. Such additions may be made only when the educational needs of all students who would be enrolled in the expanded program can be adequately and appropriately met. Alternatively, the district may increase the enrollment in an instructional class by a maximum of five students when a full-time, noncertified assistant is provided.</p> <p>c) A student shall be considered to require “resource” classes when he or she receives special education instruction for less than 50 percent of the school day. Classes for such students shall be subject to the limitations of this subsection (c).</p> <ol style="list-style-type: none"> 1) Enrollment shall be limited to the number of students who can effectively and appropriately receive assistance, up to a maximum of 20 students. 2) The teacher shall participate in determining the appropriate enrollment. <p>d) The caseload/class size for any service provider includes each student who receives direct or indirect service, such as consultation services, as delineated in an IEP.</p> <p>(Source: Added at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | |
| <p>Section 226.735 Work Load for Special Educators</p> <p>In order to provide students with IEPs the free, appropriate education to which they are entitled, each entity subject to this Part shall adopt a plan specifying limits on the work load of its special educators so that all services required under students’ IEPs, as well as all needed ancillary and support services, can be provided at the requisite level of intensity.</p> <p>a) Each plan shall be developed in cooperation with the entity’s affected employees and, where there is an exclusive representative, in accordance with the Illinois Educational Labor Relations Act (IELRA) [115 ILCS 5]. Each plan shall take effect for the 2009-10 school year, or as soon as possible after that date, if a later date is necessary to comply with an agreement under the IELRA in effect at the beginning of that school year.</p> <p>b) Each plan shall be based on an analysis of the activities for which the entity’s special educators are responsible and shall encompass, but need not be limited to:</p> <ol style="list-style-type: none"> 1) individualized instruction; 2) consultative services and other collaboration among staff members; 3) attendance at IEP meetings and other staff conferences; and 4) paperwork and reporting. | |

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| <p>c) The number of children served by a speech-language pathologist shall be based on the speech-language needs of each child. The other provisions of this Section notwithstanding, at no time shall the caseload of a speech-language pathologist exceed 60 students.</p> <p>(Source: Added at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | |

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| <p>Section 226.740 Records; Confidentiality</p> <p>Students' records shall be maintained in accordance with 34 CFR 300.610 through 300.627, the School Student Records Act [105 ILCS 10] and the rules of the State Board of Education (23 Ill. Adm. Code 375). In addition, the following requirements shall apply:</p> <p>a) The portion of each district's policies and procedures that is required pursuant to Section 226.710(b)(3) of this Part shall require that all information maintained concerning a student receiving special education be directly related to the provision of services to that child and shall address:</p> <ol style="list-style-type: none"> 1) the method by which information concerning a student will be collected; 2) the confidential nature of the information; 3) the use to which the information will be put; 4) how the information will be recorded and maintained; 5) the period for which the information will be maintained; 6) the persons to whom the information will be available; and 7) under what circumstances the information will be made available. <p>b) The portion of each district's policies and procedures referred to in subsection (a) of this Section shall be consistent with:</p> <ol style="list-style-type: none"> 1) The Illinois School Student Records Act; 2) 23 Ill. Adm. Code 375 (Student Records); 3) 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision); 4) The Family Educational Rights and Privacy Act; and 5) The Illinois Domestic Violence Act of 1986 [750 ILCS 60]. <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Confidentiality of Information</p> <p>Sec. 300.610 Confidentiality. The Secretary takes appropriate action, in accordance with section 444 of GEPA, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by SEAs and LEAs pursuant to Part B of the Act, and consistent with Sections 300.611 through 300.627. (Authority: 20 U.S.C. 1417(c))</p> <p>Sec. 300.611 Definitions. As used in Sections 300.611 through 300.625--</p> <p>(a) Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.</p> <p>(b) Education records means the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).</p> <p>(c) Participating agency means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the Act. (Authority: 20 U.S.C. 1221e-3, 1412(a)(8), 1417(c))</p> <p>Sec. 300.612 Notice to parents.</p> <p>(a) The SEA must give notice that is adequate to fully inform parents about the requirements of Sec. 300.123, including--</p> <ol style="list-style-type: none"> (1) A description of the extent that the notice is given in the native languages of the various population groups in the State; (2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information; (3) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and (4) A description of all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in 34 CFR part 99. <p>(b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> |

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| <p>Section 226.740 Records; Confidentiality</p> | <p><i>Referenced Regulation: See end of Confidentiality for Section 300.123.</i></p> <p>Sec. 300.613 Access rights. (a) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to Sec. 300.507 or Sections 300.530 through 300.532, or resolution session pursuant to Sec. 300.510, and in no case more than 45 days after the request has been made. (b) The right to inspect and review education records under this section includes-- (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records; (2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and (3) The right to have a representative of the parent inspect and review the records. (c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p><i>Referenced Regulations: See Pages 117 for Sections 300.507, Pages 92-97 for Sections 300.530–300.532, and Pages 120-121 for Section 300.510.</i></p> <p>Sec. 300.614 Record of access. Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the Act (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p>Sec. 300.615 Records on more than one child. If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> |

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| <p>Section 226.740 Records; Confidentiality</p> | <p>Sec. 300.616 List of types and locations of information. Each participating agency must provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p>Sec. 300.617 Fees. (a) Each participating agency may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records. (b) A participating agency may not charge a fee to search for or to retrieve information under this part. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p>Sec. 300.618 Amendment of records at parent's request. (a) A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information. (b) The agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. (c) If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under Sec. 300.619. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p>Sec. 300.619 Opportunity for a hearing. The agency must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p>Sec. 300.620 Result of hearing. (a) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it must amend the information accordingly and so inform the parent in writing. (b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parent of the parent's right to place in the records the agency maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency. (c) Any explanation placed in the records of the child under this section must-- (1) Be maintained by the agency as part of the records of the child as long as the</p> |

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| <p>Section 226.740 Records; Confidentiality</p> | <p>record or contested portion is maintained by the agency; and (2) If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p>Sec. 300.621 Hearing procedures. A hearing held under Sec. 300.619 must be conducted according to the procedures in 34 CFR 99.22. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p><i>Referenced Regulation: See Family Educational Rights and Privacy Act- 34 CFR Section 99.22.</i></p> <p>Sec. 300.622 Consent. (a) Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with paragraph (b)(1) of this section, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 CFR part 99. (b) (1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this part. (2) Parental consent, or the consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with Sec. 300.321(b)(3). (3) If a child is enrolled, or is going to enroll in a private school that is not located in the LEA of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the LEA where the private school is located and officials in the LEA of the parent's residence. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p><i>Referenced Regulation: See Pages 51-53 for Section 300.321.</i></p> <p>Sec. 300.623 Safeguards. (a) Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. (b) One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information. (c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under Sec. 300.123 and 34 CFR part 99.</p> |

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| <p>Section 226.740 Records; Confidentiality</p> | <p>(d) Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p>Referenced Regulation: See end of Confidentiality for Section 300.123.</p> <p>Sec. 300.624 Destruction of information.</p> <p>(a) The public agency must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.</p> <p>(b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p>Sec. 300.625 Children's rights.</p> <p>(a) The SEA must have in effect policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.</p> <p>(b) Under the regulations for FERPA in 34 CFR 99.5(a), the rights of parents regarding education records are transferred to the student at age 18.</p> <p>(c) If the rights accorded to parents under Part B of the Act are transferred to a student who reaches the age of majority, consistent with Sec. 300.520, the rights regarding educational records in Sections 300.613 through 300.624 must also be transferred to the student. However, the public agency must provide any notice required under section 615 of the Act to the student and the parents. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p>Referenced Regulations: See end of confidentiality for 34 CFR 99.5 and Page 132 for Section 300.520.</p> <p>Sec. 300.626 Enforcement.</p> <p>The SEA must have in effect the policies and procedures, including sanctions that the State uses, to ensure that its policies and procedures consistent with Sections 300.611 through 300.625 are followed and that the requirements of the Act and the regulations in this part are met. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p>Sec. 300.627 Department use of personally identifiable information.</p> <p>If the Department or its authorized representatives collect any personally identifiable information regarding children with disabilities that is not subject to the Privacy Act of 1974, 5 U.S.C. 552a, the Secretary applies the requirements of 5 U.S.C. 552a(b)(1) and</p> |

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| | <p>(b)(2), 552a(b)(4) through (b)(11); 552a(c) through 552a(e)(3)(B); 552a(e)(3)(D); 552a(e)(5) through (e)(10); 552a(h); 552a(m); and 552a(n); and the regulations implementing those provisions in 34 CFR part 5b. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p><i>Also see Family Educational Rights and Privacy Act (20 USC 1232g; 34 CFR Part 99.)</i></p> <p>Referenced Regulations:</p> <p>Sec. 300.123 Confidentiality of personally identifiable information. The State must have policies and procedures in effect to ensure that public agencies in the State comply with Sections 300.610 through 300.626 related to protecting the confidentiality of any personally identifiable information collected, used, or maintained under Part B of the Act. (Authority: 20 U.S.C. 1412(a)(8); 1417(c))</p> <p>34 CFR Section 99-5(a): Section 99.5 What are the rights of students? (a) When a student becomes an eligible student, the rights accorded to, and consent required of, parents under this part transfer from the parents to the student. (b) The Act and this part do not prevent educational agencies or institutions from giving students rights in addition to those given to parents. (c) An individual who is or has been a student at an educational institution and who applies for admission at another component of that institution does not have the rights under this part with respect to records maintained by that other component, including records maintained in connection with the student's application for admission, unless the student is accepted and attends that other component of the institution. (Authority: 20 U.S.C. 1232g(d))</p> |

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| <p>Section 226.750 Additional Services</p> <p>Additional services and activities shall be provided to students whose IEPs require them in accordance with 34 CFR 300.105 (Assistive Technology), 300.106 (Extended School Year Services) and 300.108 (Physical Education). In addition, the following shall apply:</p> <p>a) Behavioral Intervention</p> <ol style="list-style-type: none"> 1) School districts shall establish local policies and procedures on the use of positive behavioral interventions to manage, intervene in, or change the behavior of students with disabilities. 2) Each district's policies and procedures shall require that IEP teams consider strategies including positive behavioral interventions and supports to address behaviors that impede a child's functioning or that of other children in the academic setting or in noninstructional contexts such as regular transportation and extracurricular activities. The district's policies and procedures shall include criteria for determining when a particular student's possible need for a behavioral intervention plan should be reviewed. 3) Behavioral interventions shall be used in consideration of the child's physical freedom, social interaction, and right to placement in the least restrictive environment and shall be administered in a manner that respects human dignity and personal privacy. <p>b) Transportation</p> <p>Each child who is eligible for special education and related services pursuant to this Part shall be eligible for special transportation. Such transportation shall be provided as the child's disability or the program location may require.</p> <ol style="list-style-type: none"> 1) Arrival and departure times shall ensure a full instructional day which is comparable to that of the regular education students. Any deviation from this standard must be based upon the individual needs of the child and reflected in the child's IEP. 2) Every effort should be made to limit the child's total travel time to not more than one hour each way to and from the special education facility. 3) The special transportation shall be scheduled in such a way that the child's health and ability to relate to the educational experience are not adversely affected. 4) Vehicles utilized for special transportation shall be adapted to the specific needs of the children receiving this service. 5) Personnel responsible for special transportation shall be given training experiences which will enable them to understand and appropriately relate to children with disabilities. | <p>Sec. 300.105 Assistive technology.</p> <p>(a) Each public agency must ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in Sections 300.5 and 300.6, respectively, are made available to a child with a disability if required as a part of the child's--</p> <ol style="list-style-type: none"> (1) Special education under Sec. 300.36; (2) Related services under Sec. 300.34; or (3) Supplementary aids and services under Sections 300.38 and 300.114(a)(2)(ii). <p>(b) On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP Team determines that the child needs access to those devices in order to receive FAPE. (Authority: 20 U.S.C. 1412(a)(1), 1412(a)(12)(B)(i))</p> <p><i>Referenced Regulations: See Page 13 for Sections 300.5 and 300.6, Pages 71-72 for Section 300.3 9 (special education), Pages 72-76 for Section 300.34, Page 31 for Section 300.42 (supplementary aids and services), and Pages 22-23 for Section 300.114.</i></p> <p>Sec. 300.106 Extended school year services.</p> <p>(a) General.</p> <ol style="list-style-type: none"> (1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section. (2) Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with Sections 300.320 through 300.324, that the services are necessary for the provision of FAPE to the child. (3) In implementing the requirements of this section, a public agency may not-- <ol style="list-style-type: none"> (i) Limit extended school year services to particular categories of disability; or (ii) Unilaterally limit the type, amount, or duration of those services. <p>(b) Definition. As used in this section, the term extended school year services means special education and related services that--</p> <ol style="list-style-type: none"> (1) Are provided to a child with a disability-- <ol style="list-style-type: none"> (i) Beyond the normal school year of the public agency; (ii) In accordance with the child's IEP; and (iii) At no cost to the parents of the child; and (2) Meet the standards of the SEA. (Authority: 20 U.S.C. 1412(a)(1)) <p><i>Referenced Regulation: See Pages 61-63 for Section 300.320 and Pages 49-56 for Sections 300.321-300.324.</i></p> |

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| <p>6) When a district has placed students in a State-operated or nonpublic day program, the district shall provide transportation for the children in that program.</p> <p>7) When a child is placed in a residential facility, the school district shall provide transportation services for the child's initial trip to the facility and return home at the close of the school term. The district shall likewise provide transportation for the child at the beginning and end of each school term thereafter.</p> <p>A) If the district assumes responsibility for transportation arrangements, it shall provide reasonable notice to parents of departure dates and times. It shall in all instances notify the parents within 48 hours after completing those arrangements.</p> <p>B) The modes of travel and degree of support and supervision to be provided shall be included in the student's IEP.</p> <p>C) The district shall provide transportation services for one round trip home, at a midterm break or at another time as mutually agreed by the district and the parents, and at any additional time when the facility is to be temporarily closed.</p> <p>D) The school district shall provide round-trip transportation at any time the district seeks additional diagnostic assessments of the student or if the parent wishes the child to be present during a due process hearing.</p> <p>E) The school district shall provide round-trip transportation in emergencies such as serious illness of the child or death or imminent death of an individual in the child's immediate family. "Immediate family" includes a parent, a grandparent, a sibling, or any person who resides in the child's immediate household. If the district questions the severity of an illness of the child or an immediate family member, it may require the opinion of a licensed physician to corroborate the severity of the illness.</p> <p>F) The school district may also provide transportation services to encourage family contacts and/or to reintegrate the child into the home and community. The district shall have the authority to determine, upon consultation with the parents, when transportation is appropriate for this purpose and shall incorporate this decision, with the specific reasons for it, into the student's IEP.</p> <p>c) Vocational Education Students eligible pursuant to this Part shall receive vocational education in accordance with their individual IEPs.</p> <p>1) Community work experiences that are part of a student's IEP shall occur during the school day, unless this is precluded by the nature of the experiences.</p> <p>2) All community work experiences which are provided by the school as part of the IEP and for which the student receives educational credit shall be supervised by school personnel.</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>Sec. 300.108 Physical education. The State must ensure that public agencies in the State comply with the following:</p> <p>(a) General. Physical education services, specially designed if necessary, must be made available to every child with a disability receiving FAPE, unless the public agency enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.</p> <p>(b) Regular physical education. Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless--</p> <p>(1) The child is enrolled full time in a separate facility; or</p> <p>(2) The child needs specially designed physical education, as prescribed in the child's IEP.</p> <p>(c) Special physical education. If specially designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child must provide the services directly or make arrangements for those services to be provided through other public or private programs.</p> <p>(d) Education in separate facilities. The public agency responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate physical education services in compliance with this section. (Authority: 20 U.S.C. 1412(a)(5)(A))</p> <p>Select Related Regulation: <i>(Excerpt: See complete Section on Pages 54-56.)</i></p> <p>Sec. 300.324 Development, review, and revision of IEP.</p> <p>(a) Development of IEP—</p> <p>(1) General. In developing each child's IEP, the IEP Team must consider--</p> <p>(i) The strengths of the child;</p> <p>(ii) The concerns of the parents for enhancing the education of their child;</p> <p>(iii) The results of the initial or most recent evaluation of the child; and</p> <p>(iv) The academic, developmental, and functional needs of the child.</p> <p>(2) Consideration of special factors. The IEP Team must--</p> <p>(i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;...</p> <p><i>(Excerpt. See Pages 72-76 for complete Section.)</i></p> <p>Sec. 300.34 Related services.</p> <p>(a) 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 speech-language pathology and audiology services,</p> |

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| | <p>interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment 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....</p> <p>(c) Individual related services terms defined. The terms used in this definition are defined as follows:...</p> <p>(16) Transportation includes--</p> <ul style="list-style-type: none"> (i) Travel to and from school and between schools; (ii) Travel in and around school buildings; and (iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability. <p>(Authority: 20 U.S.C. 1401(26))</p> <p>Sec. 300.39 Special education.</p> <p>(a) General.</p> <p>(1) Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including--</p> <ul style="list-style-type: none"> (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and (ii) Instruction in physical education. <p>(2) Special education includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section--</p> <ul style="list-style-type: none"> (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards; (ii) Travel training; and (iii) Vocational education. <p>(b) Individual special education terms defined. The terms in this definition are defined as follows:</p> <p>(1) 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 regular education program.</p> <p>(2) Physical education means--</p> <ul style="list-style-type: none"> (i) The development of-- <ul style="list-style-type: none"> (A) Physical and motor fitness; (B) Fundamental motor skills and patterns; and (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and |

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| | <p>(ii) Includes special physical education, adapted physical education, movement education, and motor development.</p> <p>(3) Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction--</p> <p>(i) To address the unique needs of the child that result from the child's disability; and</p> <p>(ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.</p> <p>(4) 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--</p> <p>(i) Develop an awareness of the environment in which they live; and</p> <p>(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).</p> <p>(5) 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. (Authority: 20 U.S.C. 1401(29))</p> |
| <p>Section 226.760 Evaluation of Special Education</p> <p>a) The extent to which a school district is fulfilling its responsibilities to children with disabilities shall be determined by the State Board of Education. Official representatives of the State Board shall be authorized to examine all documentation, including student records, that would facilitate the determination.</p> <p>b) Evaluation by the State Board of Education shall focus on the district's provision of special education services, on each special education cooperative organization of which it is a participant, and on community resources utilized by the district.</p> <p>c) Evaluation of special education services shall be based on all of the following elements.</p> <ol style="list-style-type: none"> 1) The performance of the program, as evidenced by data that state education agencies must collect, including without limitation the information collected pursuant to 34 CFR 300.170, 300.600, 300.601, 300.602, and 300.646; 2) The adequacy of the policies and procedures developed pursuant to Section 226.710 of this Part; 3) The extent to which children with disabilities are being adequately served and the effectiveness of each special education service; and | <p>Sec. 300.170 Suspension and expulsion rates.</p> <p>(a) General. The SEA must examine data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities--</p> <ol style="list-style-type: none"> (1) Among LEAs in the State; or (2) Compared to the rates for nondisabled children within those agencies. <p>(b) Review and revision of policies. If the discrepancies described in paragraph (a) of this section are occurring, the SEA must review and, if appropriate, revise (or require the affected State agency or LEA to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that these policies, procedures, and practices comply with the Act. (Authority: 20 U.S.C. 1412(a)(22))</p> <p>Monitoring, Technical Assistance, and Enforcement</p> <p>Sec. 300.600 State monitoring and enforcement.</p> <p>(a) The State must monitor the implementation of this part, enforce this part in accordance with Sec. 300.604(a)(1) and (a)(3), (b)(2)(i) and (b)(2)(v), and (c)(2), and annually report on performance under this part.</p> <p>(b) The primary focus of the State's monitoring activities must be on--</p> <ol style="list-style-type: none"> (1) Improving educational results and functional outcomes for all children with |

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| <p>Section 226.760 Evaluation of Special Education</p> <p>4) Records maintained to demonstrate compliance with the assurances furnished in applications for State and federal funds.</p> <p>d) The State Board of Education shall provide written reports of its evaluations and any subsequent recommendations or actions to the appropriate boards of education.</p> <p>e) Compliance with the requirements of this Part shall be a factor in determining a district's recognition status pursuant to 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision).</p> <p>f) A district whose status is changed to "nonrecognized" due to an unfavorable evaluation of its compliance with the requirements of this Part shall have the opportunity to request a hearing pursuant to the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and the State Board's rules for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475).</p> <p>(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)</p> | <p>disabilities; and</p> <p>(2) Ensuring that public agencies meet the program requirements under Part B of the Act, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.</p> <p>(c) As a part of its responsibilities under paragraph (a) of this section, the State must use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas identified in paragraph (d) of this section, and the indicators established by the Secretary for the State performance plans.</p> <p>(d) The State must monitor the LEAs located in the State, using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:</p> <ol style="list-style-type: none"> (1) Provision of FAPE in the least restrictive environment. (2) State exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in Sec. 300.43 and in 20 U.S.C. 1437(a)(9). (3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification. (Authority: 20 U.S.C. 1416(a)) <p>Sec. 300.601 State performance plans and data collection.</p> <p>(a) General. Not later than December 3, 2005, each State must have in place a performance plan that evaluates the State's efforts to implement the requirements and purposes of Part B of the Act, and describes how the State will improve such implementation.</p> <ol style="list-style-type: none"> (1) Each State must submit the State's performance plan to the Secretary for approval in accordance with the approval process described in section 616(c) of the Act. (2) Each State must review its State performance plan at least once every six years, and submit any amendments to the Secretary. (3) As part of the State performance plan, each State must establish measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in Sec. 300.600(d). <p>(b) Data collection.</p> <ol style="list-style-type: none"> (1) Each State must collect valid and reliable information as needed to report annually to the Secretary on the indicators established by the Secretary for the State performance plans. (2) If the Secretary permits States to collect data on specific indicators through State monitoring or sampling, and the State collects the data through State monitoring or sampling, the State must collect data on those indicators for each LEA at least once during the period of the State performance plan. |

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| <p>Section 226.760 Evaluation of Special Education</p> | <p>(3) Nothing in Part B of the Act shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under Part B of the Act. (Authority: 20 U.S.C. 1416(b))</p> <p>Sec. 300.602 State use of targets and reporting.</p> <p>(a) General. Each State must use the targets established in the State's performance plan under Sec. 300.601 and the priority areas described in Sec. 300.600(d) to analyze the performance of each LEA.</p> <p>(b) Public reporting and privacy—</p> <p>(1) Public report.</p> <p>(i) Subject to paragraph (b)(1)(ii) of this section, the State must--</p> <p>(A) Report annually to the public on the performance of each LEA located in the State on the targets in the State's performance plan; and</p> <p>(B) Make the State's performance plan available through public means, including by posting on the Web site of the SEA, distribution to the media, and distribution through public agencies.</p> <p>(ii) If the State, in meeting the requirements of paragraph (b)(1)(i) of this section, collects performance data through State monitoring or sampling, the State must include in its report under paragraph (b)(1)(i)(A) of this section the most recently available performance data on each LEA, and the date the data were obtained.</p> <p>(2) State performance report. The State must report annually to the Secretary on the performance of the State under the State's performance plan.</p> <p>(3) Privacy. The State must not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children, or where the available data are insufficient to yield statistically reliable information. (Authority: 20 U.S.C. 1416(b)(2)(C))</p> <p>Sec. 300.646 Disproportionality.</p> <p>(a) General. Each State that receives assistance under Part B of the Act, and the Secretary of the Interior, must provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the LEAs of the State with respect to—</p> <p>(1) The identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3) of the Act;</p> <p>(2) The placement in particular educational settings of these children; and</p> <p>(3) The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.</p> |

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| <p>Section 226.760 Evaluation of Special Education</p> | <p>(b) Review and revision of policies, practices, and procedures. In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of these children, in accordance with paragraph (a) of this section, the State or the Secretary of the Interior must--</p> <ol style="list-style-type: none"> (1) Provide for the review and, if appropriate revision of the policies, procedures, and practices used in the identification or placement to ensure that the policies, procedures, and practices comply with the requirements of the Act. (2) Require any LEA identified under paragraph (a) of this section to reserve the maximum amount of funds under section 613(f) of the Act to provide comprehensive coordinated early intervening services to serve children in the LEA, particularly, but not exclusively, children in those groups that were significantly overidentified under paragraph (a) of this section; and (3) Require the LEA to publicly report on the revision of policies, practices, and procedures described under paragraph (b)(1) of this section. (Authority: 20 U.S.C. 1418(d)) <p>Select Related Regulation:</p> <p>Sec. 300.157 Performance goals and indicators. The State must--</p> <ol style="list-style-type: none"> (a) Have in effect established goals for the performance of children with disabilities in the State that-- <ol style="list-style-type: none"> (1) Promote the purposes of this part, as stated in Sec. 300.1; (2) Are the same as the State's objectives for progress by children in its definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under section 1111(b)(2)(C) of the ESEA, 20 U.S.C. 6311; (3) Address graduation rates and dropout rates, as well as such other factors as the State may determine; and (4) Are consistent, to the extent appropriate, with any other goals and academic standards for children established by the State; (b) Have in effect established performance indicators the State will use to assess progress toward achieving the goals described in paragraph (a) of this section, including measurable annual objectives for progress by children with disabilities under section 1111(b)(2)(C)(v)(II)(cc) of the ESEA, 20 U.S.C. 6311; and (c) Annually report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under paragraph (a) of this section, which may include elements of the reports required under section 1111(h) of the ESEA. (Authority: 20 U.S.C. 1412(a)(15)) |

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| <p>Section 226.760 Evaluation of Special Education</p> | <p>Sec. 300.211 Information for SEA. The LEA must provide the SEA with information necessary to enable the SEA to carry out its duties under Part B of the Act, including, with respect to Sections 300.157 and 300.160, information relating to the performance of children with disabilities participating in programs carried out under Part B of the Act. (Authority: 20 U.S.C. 1413(a)(7))</p> <p>Sec. 300.173 Overidentification and disproportionality. The State must have in effect, consistent with the purposes of this part and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in Sec. 300.8. (Authority: 20 U.S.C. 1412(a)(24))</p> |
| <p>Section 226.770 Fiscal Provisions</p> <p>a) Requirements Related to the Provision of FAPE</p> <ol style="list-style-type: none"> 1) A school district is responsible for developing students' IEPs and remains responsible for ensuring that children receive all the services described in their IEPs in a timely fashion, regardless of whether another agency will ultimately pay for the services. 2) A school district may look to non-educational entities such as insurance companies and the Medicaid program to pay for services for which such entities are otherwise responsible. The district must have written consent from parents in order to use their private insurance. 3) Services required by an IEP must be provided at no cost to the child's parents, whether they have public or private insurance. Parents shall be notified that the use of their private insurance proceeds to pay for services is voluntary. In the case of a child who is dually insured (through private insurance and Medicaid), a family shall not be required to draw upon private insurance whose use is a prerequisite to billing Medicaid if that use of insurance will result in financial costs to the family. 4) "Financial costs to the family" include: <ol style="list-style-type: none"> A) Out-of-pocket expenses incurred in filing a claim, such as the payment of a deductible or required co-payment, but not including incidental costs such as the time needed to file an insurance claim or the postage needed to mail the claim; B) A decrease in available lifetime coverage or any other benefit under an insurance policy; C) Payment by the family for services that would otherwise be covered by the public insurance program and that are required for the child outside of the time the child is in school; | <p><i>Select Related Regulation:</i></p> <p>Methods of Ensuring Services</p> <p>Sec. 300.154 Methods of ensuring services. (a) Establishing responsibility for services. The Chief Executive Officer of a State or designee of that officer must ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each noneducational public agency described in paragraph (b) of this section and the SEA, in order to ensure that all services described in paragraph (b)(1) of this section that are needed to ensure FAPE are provided, including the provision of these services during the pendency of any dispute under paragraph (a)(3) of this section. The agreement or mechanism must include the following:</p> <ol style="list-style-type: none"> (1) An identification of, or a method for defining, the financial responsibility of each agency for providing services described in paragraph (b)(1) of this section to ensure FAPE to children with disabilities. The financial responsibility of each noneducational public agency described in paragraph (b) of this section, including the State Medicaid agency and other public insurers of children with disabilities, must precede the financial responsibility of the LEA (or the State agency responsible for developing the child's IEP). (2) The conditions, terms, and procedures under which an LEA must be reimbursed by other agencies. (3) Procedures for resolving interagency disputes (including procedures under which LEAs may initiate proceedings) under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism. (4) Policies and procedures for agencies to determine and identify the interagency |

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| <p>Section 226.770 Fiscal Provisions</p> <p>D) An increase in premiums or the discontinuation of a policy; and E) A risk in terms of loss of eligibility for home- and community-based waivers, based on aggregate health-related expenditures.</p> <p>b) The federal regulations implementing the Individuals with Disabilities Education Act (see 34 CFR 300) establish detailed requirements for the use of federal funds in connection with service to students who are eligible under this Part. School districts and cooperative entities are required to comply with those federal requirements.</p> <p>c) School districts and cooperative entities shall use federal matching funds received under Medicaid or the KidCare program only to supplement special education programs and services.</p> <p>d) Computation of Reimbursement Under Section 14-7.03 of the School Code The amount of reimbursement for which a district shall be eligible under Section 14-7.03 of the School Code shall be computed by determining the actual cost of maintaining the program in accordance with the State Board's rules for Determining Special Education Per Capita Tuition Charge (23 Ill. Adm. Code 130), as further specified in this subsection (d).</p> <ol style="list-style-type: none"> 1) The district's cost for administration and supervision shall be computed based on the relationship that the average daily membership of children in special education classes bears to the district's total average daily membership. 2) The cost of buildings and facilities shall not exceed 10% of the expenditures for classes. 3) All payments authorized by law, including State or federal grants for the education of children, shall be deducted when program reimbursement or per capita tuition is calculated. 4) The total reimbursement for a child who is living in a residential care facility and who has been placed in a nonpublic special education program by the responsible district shall not exceed the amount authorized under Section 14-7.02 of the School Code. <p>e) Eligibility of Students for Funding Under Section 14-7.03 of the School Code 1) A student who meets the requirements of Section 14-1.11a(5) of the School Code [105 ILCS 5/14-1.11a(5)] is eligible for reimbursement under Section 14-7.03 of the School Code if he or she:</p> <ol style="list-style-type: none"> A) is a resident of one of the residential care facilities described in Section 226.320 of this Part; | <p>coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services described in paragraph (b)(1) of this section.</p> <p>(b) Obligation of noneducational public agencies.</p> <ol style="list-style-type: none"> (1) (i) If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy or pursuant to paragraph (a) of this section, to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in Sec. 300.5 relating to assistive technology devices, Sec. 300.6 relating to assistive technology services, Sec. 300.34 relating to related services, Sec. 300.41 relating to supplementary aids and services, and Sec. 300.42 relating to transition services) that are necessary for ensuring FAPE to children with disabilities within the State, the public agency must fulfill that obligation or responsibility, either directly or through contract or other arrangement pursuant to paragraph (a) of this section or an agreement pursuant to paragraph (c) of this section. (ii) A noneducational public agency described in paragraph (b)(1)(i) of this section may not disqualify an eligible service for Medicaid reimbursement because that service is provided in a school context. (2) If a public agency other than an educational agency fails to provide or pay for the special education and related services described in paragraph (b)(1) of this section, the LEA (or State agency responsible for developing the child's IEP) must provide or pay for these services to the child in a timely manner. The LEA or State agency is authorized to claim reimbursement for the services from the noneducational public agency that failed to provide or pay for these services and that agency must reimburse the LEA or State agency in accordance with the terms of the interagency agreement or other mechanism described in paragraph (a) of this section. <p>(c) Special rule. The requirements of paragraph (a) of this section may be met through--</p> <ol style="list-style-type: none"> (1) State statute or regulation; (2) Signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or (3) Other appropriate written methods as determined by the Chief Executive Officer of the State or designee of that officer and approved by the Secretary. <p>(d) Children with disabilities who are covered by public benefits or insurance.</p> <ol style="list-style-type: none"> (1) A public agency may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under this part, as permitted under the public benefits or insurance program, except as provided in paragraph (d)(2) of this section. (2) With regard to services required to provide FAPE to an eligible child under this part, the public agency-- <ol style="list-style-type: none"> (i) May not require parents to sign up for or enroll in public benefits or |

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| <p>Section 226.770 Fiscal Provisions</p> <p>B) would not be a resident of that school district except by virtue of his or her placement in one of the residential care facilities described in Section 226.320(a) of this Part; and</p> <p>C) has been declared eligible for special education and related services pursuant to this Part.</p> <p>2) A student who has been declared eligible for special education and related services pursuant to this Part and is living in a State residential unit or county-operated detention center is eligible for reimbursement under Section 14-7.03 of the School Code.</p> <p>(Source: Amended at 27 Ill. Reg. 8126, effective April 28, 2003)</p> | <p>insurance programs in order for their child to receive FAPE under Part B of the Act;</p> <p>(ii) May not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to this part, but pursuant to paragraph (g)(2) of this section, may pay the cost that the parents otherwise would be required to pay;</p> <p>(iii) May not use a child's benefits under a public benefits or insurance program if that use would--</p> <p>(A) Decrease available lifetime coverage or any other insured benefit;</p> <p>(B) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;</p> <p>(C) Increase premiums or lead to the discontinuation of benefits or insurance; or</p> <p>(D) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures; and</p> <p>(iv)(A) Must obtain parental consent, consistent with Sec. 300.9, each time that access to public benefits or insurance is sought; and</p> <p>(B) Notify parents that the parents' refusal to allow access to their public benefits or insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.</p> <p>(e) Children with disabilities who are covered by private insurance.</p> <p>(1) With regard to services required to provide FAPE to an eligible child under this part, a public agency may access the parents' private insurance proceeds only if the parents provide consent consistent with Sec. 300.9.</p> <p>(2) Each time the public agency proposes to access the parents' private insurance proceeds, the agency must--</p> <p>(i) Obtain parental consent in accordance with paragraph (e)(1) of this section; and</p> <p>(ii) Inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.</p> <p>(f) Use of Part B funds.</p> <p>(1) If a public agency is unable to obtain parental consent to use the parents' private insurance, or public benefits or insurance when the parents would incur a cost for a specified service required under this part, to ensure FAPE the public agency may use its Part B funds to pay for the service.</p> <p>(2) To avoid financial cost to parents who otherwise would consent to use private insurance, or public benefits or insurance if the parents would incur a cost, the public agency may use its Part B funds to pay the cost that the parents otherwise</p> |

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| <p>Section 226.770 Fiscal Provisions</p> | <p>would have to pay to use the parents' benefits or insurance (e.g., the deductible or co-pay amounts).</p> <p>(g) Proceeds from public benefits or insurance or private insurance.</p> <p>(1) Proceeds from public benefits or insurance or private insurance will not be treated as program income for purposes of 34 CFR 80.25.</p> <p>(2) If a public agency spends reimbursements from Federal funds (e.g., Medicaid) for services under this part, those funds will not be considered "State or local" funds for purposes of the maintenance of effort provisions in Sections 300.163 and 300.203.</p> <p>(h) Construction. Nothing in this part should be construed to alter the requirements imposed on a State Medicaid agency, or any other agency administering a public benefits or insurance program by Federal statute, regulations or policy under title XIX, or title XXI of the Social Security Act, 42 U.S.C. 1396 through 1396v and 42 U.S.C. 1397aa through 1397jj, or any other public benefits or insurance program. (Authority: 20 U.S.C. 1412(a)(12) and (e))</p> <p><i>Referenced Regulation: See Page 13 for Sections 300.5 and 300.6, Page 105 for Section 300.9, Pages 72-76 for Section 300.34, Page 2 for Section 300.41, and Page 31 for Section 300.42.</i></p> <p><i>Select Related Regulations:</i></p> <p>Subpart C--Local Educational Agency Eligibility</p> <p>Sec. 300.200 Condition of assistance. An LEA is eligible for assistance under Part B of the Act for a fiscal year if the agency submits a plan that provides assurances to the SEA that the LEA meets each of the conditions in Sections 300.201 through 300.213.(Authority: 20 U.S.C. 1413(a))</p> <p>Sec. 300.201 Consistency with State policies. The LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures established under Sections 300.101 through 300.163, and Sections 300.165 through 300.174. (Authority: 20 U.S.C. 1413(a)(1))</p> <p>Sec. 300.202 Use of amounts.</p> <p>(a) General. Amounts provided to the LEA under Part B of the Act--</p> <p>(1) Must be expended in accordance with the applicable provisions of this part;</p> <p>(2) Must be used only to pay the excess costs of providing special education and related services to children with disabilities, consistent with paragraph (b) of this</p> |

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| <p>Section 226.770 Fiscal Provisions</p> | <p>section; and</p> <p>(3) Must be used to supplement State, local, and other Federal funds and not to supplant those funds.</p> <p>(b) Excess cost requirement—</p> <p>(1) General.</p> <p>(i) The excess cost requirement prevents an LEA from using funds provided under Part B of the Act to pay for all of the costs directly attributable to the education of a child with a disability, subject to paragraph (b)(1)(ii) of this section.</p> <p>(ii) The excess cost requirement does not prevent an LEA from using Part B funds to pay for all of the costs directly attributable to the education of a child with a disability in any of the ages 3, 4, 5, 18, 19, 20, or 21, if no local or State funds are available for nondisabled children of these ages. However, the LEA must comply with the nonsupplanting and other requirements of this part in providing the education and services for these children.</p> <p>(2) (i) An LEA meets the excess cost requirement if it has spent at least a minimum average amount for the education of its children with disabilities before funds under Part B of the Act are used.</p> <p>(ii) The amount described in paragraph (b)(2)(i) of this section is determined in accordance with the definition of excess costs in Sec. 300.16. That amount may not include capital outlay or debt service.</p> <p>(3) If two or more LEAs jointly establish eligibility in accordance with Sec. 300.223, the minimum average amount is the average of the combined minimum average amounts determined in accordance with the definition of excess costs in Sec. 300.16 in those agencies for elementary or secondary school students, as the case may be. (Authority: 20 U.S.C. 1413(a)(2)(A))</p> <p>Sec. 300.16 Excess costs.</p> <p>Excess costs means those costs that are in excess of the average annual per-student expenditure in an LEA during the preceding school year for an elementary school or secondary school student, as may be appropriate, and that must be computed after deducting--</p> <p>(a) Amounts received--</p> <p>(1) Under Part B of the Act;</p> <p>(2) Under Part A of title I of the ESEA; and</p> <p>(3) Under Parts A and B of title III of the ESEA and;</p> <p>(b) Any State or local funds expended for programs that would qualify for assistance under any of the parts described in paragraph (a) of this section, but excluding any amounts for capital outlay or debt service. (See Appendix A to part 300 for an example of how excess costs must be calculated.) (Authority: 20 U.S.C. 1401(8))</p> |

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| <p>Section 226.770 Fiscal Provisions</p> | <p>Sec. 300.203 Maintenance of effort. (a) General. Except as provided in Sections 300.204 and 300.205, funds provided to an LEA under Part B of the Act must not be used to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal year. (b) Standard. (1) Except as provided in paragraph (b)(2) of this section, the SEA must determine that an LEA complies with paragraph (a) of this section for purposes of establishing the LEA's eligibility for an award for a fiscal year if the LEA budgets, for the education of children with disabilities, at least the same total or per capita amount from either of the following sources as the LEA spent for that purpose from the same source for the most recent prior year for which information is available: (i) Local funds only. (ii) The combination of State and local funds. (2) An LEA that relies on paragraph (b)(1)(i) of this section for any fiscal year must ensure that the amount of local funds it budgets for the education of children with disabilities in that year is at least the same, either in total or per capita, as the amount it spent for that purpose in the most recent fiscal year for which information is available and the standard in paragraph (b)(1)(i) of this section was used to establish its compliance with this section. (3) The SEA may not consider any expenditures made from funds provided by the Federal Government for which the SEA is required to account to the Federal Government or for which the LEA is required to account to the Federal Government directly or through the SEA in determining an LEA's compliance with the requirement in paragraph (a) of this section. (Authority: 20 U.S.C. 1413(a)(2)(A))</p> <p>Sec. 300.204 Exception to maintenance of effort. Notwithstanding the restriction in Sec. 300.203(a), an LEA may reduce the level of expenditures by the LEA under Part B of the Act below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the following: (a) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel. (b) A decrease in the enrollment of children with disabilities. (c) The termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child-- (1) Has left the jurisdiction of the agency; (2) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or (3) No longer needs the program of special education.</p> |

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| <p>Section 226.770 Fiscal Provisions</p> | <p>(d) The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.</p> <p>(e) The assumption of cost by the high cost fund operated by the SEA under Sec. 300.704(c). (Authority: 20 U.S.C. 1413(a)(2)(B))</p> <p>Sec. 300.205 Adjustment to local fiscal efforts in certain fiscal years.</p> <p>(a) Amounts in excess. Notwithstanding Sec. 300.202(a)(2) and (b) and Sec. 300.203(a), and except as provided in paragraph (d) of this section and Sec. 300.230(e)(2), for any fiscal year for which the allocation received by an LEA under Sec. 300.705 exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by Sec. 300.203(a) by not more than 50 percent of the amount of that excess.</p> <p>(b) Use of amounts to carry out activities under ESEA. If an LEA exercises the authority under paragraph (a) of this section, the LEA must use an amount of local funds equal to the reduction in expenditures under paragraph (a) of this section to carry out activities that could be supported with funds under the ESEA regardless of whether the LEA is using funds under the ESEA for those activities.</p> <p>(c) State prohibition. Notwithstanding paragraph (a) of this section, if an SEA determines that an LEA is unable to establish and maintain programs of FAPE that meet the requirements of section 613(a) of the Act and this part or the SEA has taken action against the LEA under section 616 of the Act and subpart F of these regulations, the SEA must prohibit the LEA from reducing the level of expenditures under paragraph (a) of this section for that fiscal year.</p> <p>(d) Special rule. The amount of funds expended by an LEA for early intervening services under Sec. 300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under paragraph (a) of this section. (Authority: 20 U.S.C. 1413(a)(2)(C))</p> <p>Sec. 300.206 Schoolwide programs under title I of the ESEA.</p> <p>(a) General. Notwithstanding the provisions of Sections 300.202 and 300.203 or any other provision of Part B of the Act, an LEA may use funds received under Part B of the Act for any fiscal year to carry out a schoolwide program under section 1114 of the ESEA, except that the amount used in any schoolwide program may not exceed--</p> <p>(1) (i) The amount received by the LEA under Part B of the Act for that fiscal year; divided by</p> <p>(ii) The number of children with disabilities in the jurisdiction of the LEA; and multiplied by (2) The number of children with disabilities participating in the schoolwide program.</p> <p>(b) Funding conditions. The funds described in paragraph (a) of this section are subject</p> |

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| <p>Section 226.770 Fiscal Provisions</p> | <p>to the following conditions:</p> <ul style="list-style-type: none"> (1) The funds must be considered as Federal Part B funds for purposes of the calculations required by Sec. 300.202(a)(2) and (a)(3). (2) The funds may be used without regard to the requirements of Sec. 300.202(a)(1). <p>(c) Meeting other Part B requirements. Except as provided in paragraph (b) of this section, all other requirements of Part B of the Act must be met by an LEA using Part B funds in accordance with paragraph (a) of this section, including ensuring that children with disabilities in schoolwide program schools--</p> <ul style="list-style-type: none"> (1) Receive services in accordance with a properly developed IEP; and (2) Are afforded all of the rights and services guaranteed to children with disabilities under the Act. (Authority: 20 U.S.C. 1413(a)(2)(D)) <p>Sec. 300.208 Permissive use of funds.</p> <p>(a) Uses. Notwithstanding Sections 300.202, 300.203(a), and 300.162(b), funds provided to an LEA under Part B of the Act may be used for the following activities:</p> <ul style="list-style-type: none"> (1) Services and aids that also benefit nondisabled children. For the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a child with a disability in accordance with the IEP of the child, even if one or more nondisabled children benefit from these services. (2) Early intervening services. To develop and implement coordinated, early intervening educational services in accordance with Sec. 300.226. (3) High cost special education and related services. To establish and implement cost or risk sharing funds, consortia, or cooperatives for the LEA itself, or for LEAs working in a consortium of which the LEA is a part, to pay for high cost special education and related services. <p>(b) Administrative case management. An LEA may use funds received under Part B of the Act to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP of children with disabilities, that is needed for the implementation of those case management activities. (Authority: 20 U.S.C. 1413(a)(4))</p> <p>Methods of Ensuring Services</p> <p>Sec. 300.162 Supplementation of State, local, and other Federal funds.</p> <p>(a) Expenditures. Funds paid to a State under this part must be expended in accordance with all the provisions of this part.</p> <p>(b) Prohibition against commingling.</p> <ul style="list-style-type: none"> (1) Funds paid to a State under this part must not be commingled with State funds. |

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| <p>Section 226.770 Fiscal Provisions</p> | <p>(2) The requirement in paragraph (b)(1) of this section is satisfied by the use of a separate accounting system that includes an audit trail of the expenditure of funds paid to a State under this part. Separate bank accounts are not required. (See 34 CFR 76.702 (Fiscal control and fund accounting procedures).)</p> <p>(c) State-level nonsupplanting.</p> <p>(1) Except as provided in Sec. 300.202, funds paid to a State under Part B of the Act must be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of the SEA or LEAs) expended for special education and related services provided to children with disabilities under Part B of the Act, and in no case to supplant those Federal, State, and local funds.</p> <p>(2) If the State provides clear and convincing evidence that all children with disabilities have available to them FAPE, the Secretary may waive, in whole or in part, the requirements of paragraph (c)(1) of this section if the Secretary concurs with the evidence provided by the State under Sec. 300.164. (Authority: 20 U.S.C. 1412(a)(17))</p> <p>Sec. 300.163 Maintenance of State financial support.</p> <p>(a) General. A State must not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.</p> <p>(b) Reduction of funds for failure to maintain support. The Secretary reduces the allocation of funds under section 611 of the Act for any fiscal year following the fiscal year in which the State fails to comply with the requirement of paragraph (a) of this section by the same amount by which the State fails to meet the requirement.</p> <p>(c) Waivers for exceptional or uncontrollable circumstances. The Secretary may waive the requirement of paragraph (a) of this section for a State, for one fiscal year at a time, if the Secretary determines that--</p> <p>(1) Granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or</p> <p>(2) The State meets the standard in Sec. 300.164 for a waiver of the requirement to supplement, and not to supplant, funds received under Part B of the Act.</p> <p>(d) Subsequent years. If, for any fiscal year, a State fails to meet the requirement of paragraph (a) of this section, including any year for which the State is granted a waiver under paragraph (c) of this section, the financial support required of the State in future years under paragraph (a) of this section shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support. (Authority: 20 U.S.C. 1412(a)(18))</p> |

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| Section 226.770 Fiscal Provisions | <p>Sec. 300.164 Waiver of requirement regarding supplementing and not supplanting with Part B funds.</p> <p>(a) Except as provided under Sections 300.202 through 300.205, funds paid to a State under Part B of the Act must be used to supplement and increase the level of Federal, State, and local funds (including funds that are not under the direct control of SEAs or LEAs) expended for special education and related services provided to children with disabilities under Part B of the Act and in no case to supplant those Federal, State, and local funds. A State may use funds it retains under Sec. 300.704(a) and (b) without regard to the prohibition on supplanting other funds.</p> <p>(b) If a State provides clear and convincing evidence that all eligible children with disabilities throughout the State have FAPE available to them, the Secretary may waive for a period of one year in whole or in part the requirement under Sec. 300.162 (regarding State-level nonsupplanting) if the Secretary concurs with the evidence provided by the State.</p> <p>(c) If a State wishes to request a waiver under this section, it must submit to the Secretary a written request that includes--</p> <ol style="list-style-type: none"> (1) An assurance that FAPE is currently available, and will remain available throughout the period that a waiver would be in effect, to all eligible children with disabilities throughout the State, regardless of the public agency that is responsible for providing FAPE to them. The assurance must be signed by an official who has the authority to provide that assurance as it applies to all eligible children with disabilities in the State; (2) All evidence that the State wishes the Secretary to consider in determining whether all eligible children with disabilities have FAPE available to them, setting forth in detail-- <ol style="list-style-type: none"> (i) The basis on which the State has concluded that FAPE is available to all eligible children in the State; and (ii) The procedures that the State will implement to ensure that FAPE remains available to all eligible children in the State, which must include-- <ol style="list-style-type: none"> (A) The State's procedures under Sec. 300.111 for ensuring that all eligible children are identified, located and evaluated; (B) The State's procedures for monitoring public agencies to ensure that they comply with all requirements of this part; (C) The State's complaint procedures under Sections 300.151 through 300.153; and (D) The State's hearing procedures under Sections 300.511 through 300.516 and Sections 300.530 through 300.536; (3) A summary of all State and Federal monitoring reports, and State complaint decisions (see Sections 300.151 through 300.153) and hearing decisions (see Sections 300.511 through 300.516 and Sections 300.530 through 300.536), issued |

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| <p>Section 226.770 Fiscal Provisions</p> | <p>within three years prior to the date of the State's request for a waiver under this section, that includes any finding that FAPE has not been available to one or more eligible children, and evidence that FAPE is now available to all children addressed in those reports or decisions; and</p> <p>(4) Evidence that the State, in determining that FAPE is currently available to all eligible children with disabilities in the State, has consulted with the State advisory panel under Sec. 300.167.</p> <p>(d) If the Secretary determines that the request and supporting evidence submitted by the State makes a prima facie showing that FAPE is, and will remain, available to all eligible children with disabilities in the State, the Secretary, after notice to the public throughout the State, conducts a public hearing at which all interested persons and organizations may present evidence regarding the following issues:</p> <p>(1) Whether FAPE is currently available to all eligible children with disabilities in the State.</p> <p>(2) Whether the State will be able to ensure that FAPE remains available to all eligible children with disabilities in the State if the Secretary provides the requested waiver.</p> <p>(e) Following the hearing, the Secretary, based on all submitted evidence, will provide a waiver, in whole or in part, for a period of one year if the Secretary finds that the State has provided clear and convincing evidence that FAPE is currently available to all eligible children with disabilities in the State, and the State will be able to ensure that FAPE remains available to all eligible children with disabilities in the State if the Secretary provides the requested waiver.</p> <p>(f) A State may receive a waiver of the requirement of section 612(a)(18)(A) of the Act and Sec. 300.164 if it satisfies the requirements of paragraphs (b) through (e) of this section.</p> <p>(g) The Secretary may grant subsequent waivers for a period of one year each, if the Secretary determines that the State has provided clear and convincing evidence that all eligible children with disabilities throughout the State have, and will continue to have throughout the one-year period of the waiver, FAPE available to them. (Authority: 20 U.S.C. 1412(a)(17)(C), (18)(C)(ii))</p> <p>Sec. 300.166 Rule of construction. In complying with Sections 300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to LEAs, including funding based on student attendance or enrollment, or inflation. (Authority: 20 U.S.C. 1412(a)(20))</p> |

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| <p>SUBPART I: PERSONNEL</p> <p>Section 226.800 Personnel Required to be Qualified</p> <p>a) General</p> <ol style="list-style-type: none"> 1) Each school district, or the cooperative entity of which it is a member, shall employ sufficient professional and noncertified personnel to deliver and supervise the full continuum of special education and related services needed by the eligible students who reside in the district. The number and types of personnel employed shall be based on students' need rather than administrative convenience. 2) Each district or cooperative entity shall periodically submit to the State Board of Education, on forms supplied by the State Board, the roster of the individuals who will be or are providing special education or related services. The State Board may request any additional documentation needed in order to verify that each individual holds the qualifications that are required for his or her assignments. 3) Reimbursement for personnel expenditures shall be made by the State Board only with respect to individuals who are qualified pursuant to this Section or pursuant to Section 226.810 or 226.820 of this Part. 4) Each district or cooperative entity shall develop and implement a comprehensive personnel development program for all personnel involved with the education of children with disabilities. <p>b) Professional Instructional Personnel</p> <p>Each individual employed in a professional instructional capacity shall hold either:</p> <ol style="list-style-type: none"> 1) a valid special certificate and the qualifications required for the teaching area pursuant to 23 Ill. Adm. Code 25.40 and 25.43; or 2) another valid teaching certificate and approval issued by the State Board of Education specific to the area of responsibility (see Section 226.810 of this Part). <p>c) An individual assigned as a vocational coordinator shall be required to hold approval for this position, which shall be granted provided that the individual submits an application demonstrating that he or she:</p> <ol style="list-style-type: none"> 1) has two years' teaching experience; 2) holds either a special preschool-age 21 certificate or a high school certificate; and 3) has completed at least 16 semester hours of college coursework, which shall at least include each of the areas identified in subsections (c)(3)(A) through (D) and may include one or more of the areas identified in subsections (c)(3)(E) through (I) of this Section: <ol style="list-style-type: none"> A) Survey of the exceptional child; B) Characteristics of the mentally retarded student; | <p><i>Select Related Regulations:</i></p> <p>Sec. 300.156 Personnel qualifications.</p> <p>(a) General. The SEA must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.</p> <p>(b) Related services personnel and paraprofessionals. The qualifications under paragraph (a) of this section must include qualifications for related services personnel and paraprofessionals that--</p> <ol style="list-style-type: none"> (1) Are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services; and (2) Ensure that related services personnel who deliver services in their discipline or profession-- <ol style="list-style-type: none"> (i) Meet the requirements of paragraph (b)(1) of this section; and (ii) Have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and (iii) Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services under this part to children with disabilities. <p>(c) Qualifications for special education teachers. The qualifications described in paragraph (a) of this section must ensure that each person employed as a public school special education teacher in the State who teaches in an elementary school, middle school, or secondary school is highly qualified as a special education teacher by the deadline established in section 1119(a)(2) of the ESEA.</p> <p>(d) Policy. In implementing this section, a State must adopt a policy that includes a requirement that LEAs in the State take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services under this part to children with disabilities.</p> <p>(e) Rule of construction. Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this part shall be construed to create a right of action on behalf of an individual student or a class of students for the failure of a particular SEA or LEA employee to be highly qualified, or to prevent a parent from filing a complaint about staff qualifications with the SEA as provided for under this part. (Authority: 20 U.S.C. 1412(a)(14))</p> |

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| <p>C) Characteristics of the socially and/or emotionally maladjusted student; D) Vocational programming for students with disabilities; E) Characteristics of other exceptionalities; F) Methods course in special education; G) Guidance and counseling; H) Educational and psychological diagnosis; I) Vocational and technical education.</p> <p>d) An individual assigned as a teacher coordinator shall be required to hold approval for this position, which shall be granted provided that the individual submits an application demonstrating that he or she:</p> <ol style="list-style-type: none"> 1) holds either a special preschool – age 21 certificate endorsed for the disability area of assignment or a high school certificate with special education approval in the applicable disability area issued pursuant to Section 226.810 of this Part; 2) has completed a course in vocational programming for students with disabilities; and 3) has at least one year’s work experience outside the field of education or has completed at least one course in either guidance and counseling or vocational and technical education. <p>e) An individual assigned as a business manager’s assistant shall hold an administrative certificate endorsed for chief school business official pursuant to 23 Ill. Adm. Code 25.344.</p> <p>f) Qualified Bilingual Specialists Professional staff otherwise qualified pursuant to this Section shall be considered “qualified bilingual specialists” if they meet the applicable requirements set forth in this subsection (f).</p> <ol style="list-style-type: none"> 1) A holder of a special certificate endorsed in the area of responsibility pursuant to 23 Ill. Adm. Code 25.40 or 25.43 shall successfully complete a language examination in the non-English language of instruction and shall have completed coursework covering: <ol style="list-style-type: none"> A) Psychological/educational assessment of students with disabilities who have limited English proficiency; B) Theoretical foundations of bilingual education and English as a second language, including the study of first and second language acquisition; and C) Methods and materials for teaching students of limited English proficiency or students with disabilities who have limited English proficiency. 2) A holder of an early childhood, elementary, or high school certificate who also holds special education approval in the area of responsibility (see Section 226.810 of | <p>Sec. 300.207 Personnel development. The LEA must ensure that all personnel necessary to carry out Part B of the Act are appropriately and adequately prepared, subject to the requirements of Sec. 300.156 (related to personnel qualifications) and section 2122 of the ESEA. (Authority: 20 U.S.C. 1413(a)(3))</p> <p>Sec. 300.18 Highly qualified special education teachers. (a) Requirements for special education teachers teaching core academic subjects. For any public elementary or secondary school special education teacher teaching core academic subjects, the term highly qualified has the meaning given the term in section 9101 of the ESEA and 34 CFR 200.56, except that the requirements for highly qualified also-- <ol style="list-style-type: none"> (1) Include the requirements described in paragraph (b) of this section; and (2) Include the option for teachers to meet the requirements of section 9101 of the ESEA by meeting the requirements of paragraphs (c) and (d) of this section. </p> <p>(b) Requirements for special education teachers in general. <ol style="list-style-type: none"> (1) When used with respect to any public elementary school or secondary school special education teacher teaching in a State, highly qualified requires that-- <ol style="list-style-type: none"> (i) The teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, highly qualified means that the teacher meets the certification or licensing requirements, if any, set forth in the State's public charter school law; (ii) The teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and (iii) The teacher holds at least a bachelor's degree. (2) A teacher will be considered to meet the standard in paragraph (b)(1)(i) of this section if that teacher is participating in an alternative route to special education certification program under which-- <ol style="list-style-type: none"> (i) The teacher-- <ol style="list-style-type: none"> (A) Receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teaching; (B) Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program; (C) Assumes functions as a teacher only for a specified period of time not to exceed three years; and (D) Demonstrates satisfactory progress toward full certification as </p> |

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| <p>this Part) shall successfully complete a language examination in the non-English language of instruction and shall have completed the coursework listed in subsections (f)(1)(A), (B), and (C) of this Section.</p> <p>3) A holder of an early childhood, elementary, or high school certificate who also holds approval to teach bilingual education or English as a second language shall have completed coursework covering:</p> <ul style="list-style-type: none"> A) Methods for teaching in the special education area of assignment; B) Psychological/educational assessment of students with disabilities who have limited English proficiency, or psychological diagnosis for children with all types of disabilities; and C) Characteristics of students, or characteristics of students with limited English proficiency specifically, in the special education area of assignment. <p>4) A holder of a transitional bilingual certificate issued pursuant to 23 Ill. Adm. Code 25.90 and endorsed for the language of assignment shall have completed two years of successful teaching experience and have completed coursework covering:</p> <ul style="list-style-type: none"> A) Survey of children with all types of disabilities; B) Assessment of the bilingual student, or psychological/educational assessment of the student with disabilities who has limited English proficiency; C) Theoretical foundations of bilingual education and English as a second language, including the study of first and second language acquisition; D) Methods for teaching in the special education area of assignment; and E) Characteristics of students, or characteristics of students with limited English proficiency specifically, in the special education area of assignment. <p>5) A holder of a school service personnel certificate endorsed for guidance, school social work, or school psychology shall successfully complete an examination in the non-English language and shall have completed coursework in assessment of the bilingual student or psychological/educational assessment of the student with disabilities who has limited English proficiency.</p> <p>g) Directors and Assistant Directors of Special Education Each school district, or the cooperative entity of which it is a member, shall employ a full-time director of special education, who shall be the chief administrative officer of the special education programs and services of the district or cooperative entity. The provisions of subsections (g)(1) and (2) of this Section shall apply through June 30, 2005. Beginning July 1, 2005, directors and assistant directors of special education shall be subject to the requirements of 23 Ill. Adm. Code 29.140 and 29.150.</p> <ul style="list-style-type: none"> 1) Each director or assistant director of special education shall hold a valid administrative certificate issued pursuant to 23 Ill. Adm. Code 25.315 and a master's degree, including 30 semester hours of coursework distributed among all the following areas: | <p>prescribed by the State; and</p> <ul style="list-style-type: none"> (ii) The State ensures, through its certification and licensure process, that the provisions in paragraph (b)(2)(i) of this section are met. <p>(3) Any public elementary school or secondary school special education teacher teaching in a State, who is not teaching a core academic subject, is highly qualified if the teacher meets the requirements in paragraph (b)(1) or the requirements in (b)(1)(iii) and (b)(2) of this section.</p> <p>(c) Requirements for special education teachers teaching to alternate achievement standards. When used with respect to a special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards established under 34 CFR 200.1(d), highly qualified means the teacher, whether new or not new to the profession, may either--</p> <ul style="list-style-type: none"> (1) Meet the applicable requirements of section 9101 of the ESEA and 34 CFR 200.56 for any elementary, middle, or secondary school teacher who is new or not new to the profession; or (2) Meet the requirements of paragraph (B) or (C) of section 9101(23) of the ESEA as applied to an elementary school teacher, or, in the case of instruction above the elementary level, meet the requirements of paragraph (B) or (C) of section 9101(23) of the ESEA as applied to an elementary school teacher and have subject matter knowledge appropriate to the level of instruction being provided and needed to effectively teach to those standards, as determined by the State. <p>(d) Requirements for special education teachers teaching multiple subjects. Subject to paragraph (e) of this section, when used with respect to a special education teacher who teaches two or more core academic subjects exclusively to children with disabilities, highly qualified means that the teacher may either--</p> <ul style="list-style-type: none"> (1) Meet the applicable requirements of section 9101 of the ESEA and 34 CFR 200.56(b) or (c); (2) In the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher who is not new to the profession under 34 CFR 200.56(c) which may include a single, high objective uniform State standard of evaluation (HOUSSE) covering multiple subjects; or (3) In the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate, not later than two years after the date of employment, competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher under 34 CFR 200.56(c), which may include a single HOUSSE covering multiple subjects. <p>(e) Separate HOUSSE standards for special education teachers. Provided that any</p> |

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| <p>A) Survey of exceptional children; B) Special methods courses (3 areas of exceptionality); C) Educational and psychological diagnosis and remedial techniques; D) Guidance and counseling; and E) Supervision of programs for exceptional children.</p> <p>2) Each individual who will function as a director or assistant director of special education shall submit an application for special education administrative approval on a form supplied by the State Board of Education.</p> <p>3) Each school district, or the cooperative entity of which it is a member, shall submit to the State Board of Education a letter identifying the individual employed as the director of special education. If the individual is qualified as required, the State Board shall confirm that the individual is the State-approved director of special education for the district or cooperative entity.</p> <p>h) Supervisors</p> <p>1) Each district or cooperative entity shall employ sufficient supervisory personnel to provide consultation to and coordination of special education services.</p> <p>2) Each individual performing a supervisory function shall hold a master's degree, including at least 15 semester hours of coursework distributed among all the following areas:</p> <p>A) Survey of exceptional children; B) Characteristics courses in the areas to be supervised; C) Methods courses in the areas to be supervised; D) Educational and psychological diagnosis and remedial techniques; and E) Supervision of programs for exceptional children.</p> <p>3) Each individual performing a supervisory function shall also hold either:</p> <p>A) a valid special certificate in the area to be supervised, endorsed for supervision pursuant to 23 Ill. Adm. Code 25.322, with two years' teaching experience in that area; or B) a valid school service personnel certificate endorsed for supervision and two years' experience in the area to be supervised; or C) a valid administrative certificate and either a valid special certificate endorsed for the area to be supervised or special education approval in that area.</p> <p>i) Chief Administrator of Special School The chief administrator of a special school shall hold an administrative certificate with a general administrative endorsement issued pursuant to 23 Ill. Adm. Code 25.344 and either:</p> <p>1) the qualifications required under 23 Ill. Adm. Code 25.43 in at least one disability area served by the school; or</p> | <p>adaptations of the State's HOUSSSE would not establish a lower standard for the content knowledge requirements for special education teachers and meets all the requirements for a HOUSSSE for regular education teachers--</p> <p>(1) A State may develop a separate HOUSSSE for special education teachers; and (2) The standards described in paragraph (e)(1) of this section may include single HOUSSSE evaluations that cover multiple subjects.</p> <p>(f) Rule of construction. Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this part shall be construed to create a right of action on behalf of an individual student or class of students for the failure of a particular SEA or LEA employee to be highly qualified, or to prevent a parent from filing a complaint under Sections 300.151 through 300.153 about staff qualifications with the SEA as provided for under this part.</p> <p>(g) Applicability of definition to ESEA; and clarification of new special education teacher.</p> <p>(1) A teacher who is highly qualified under this section is considered highly qualified for purposes of the ESEA. (2) For purposes of Sec. 300.18(d)(3), a fully certified regular education teacher who subsequently becomes fully certified or licensed as a special education teacher is a new special education teacher when first hired as a special education teacher.</p> <p>(h) Private school teachers not covered. The requirements in this section do not apply to teachers hired by private elementary schools and secondary schools including private school teachers hired or contracted by LEAs to provide equitable services to parentally-placed private school children with disabilities under Sec. 300.138. (Authority: 20 U.S.C. 1401(10))</p> |

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| <p>2) approval issued by the State Board of Education pursuant to Section 226.810 of this Part for at least one disability area served by the school.</p> <p>j) Other Professional Personnel Each individual employed in a professional capacity not specified in subsections (a) through (i) of this Section shall, as appropriate to his or her assignment, hold:</p> <ol style="list-style-type: none"> 1) the school service personnel certificate endorsed as appropriate to the area of responsibility (see 23 Ill. Adm. Code 25, Subpart D); or 2) a valid license or permission to practice, if the individual's profession is governed by such a requirement and either no educational credential in the same or a related field is issued by the State Board of Education (e.g., for a physical therapist) or the School Code permits the individual to perform the functions assigned; or 3) a credential, regardless of title, issued by a professional association or organization in the relevant field, when no educational credential in the same or a related field is issued by the State Board of Education and no license or permission to practice is required by the State (e.g., for a music therapist or a daily living skills specialist). <p>k) Noncertified Personnel</p> <ol style="list-style-type: none"> 1) Each noncertified professional individual employed in a special education class, program, or service, and each individual providing assistance at a work site, shall function under the general direction of a professional staff member. 2) Each program assistant/aide, as well as each nonemployee providing any service in the context of special education, shall function under the direct supervision of a professional staff member. 3) Each district shall provide training experiences appropriate to the nature of their responsibilities to the individuals discussed in subsections (k)(1) and (2) of this Section. Training shall be in lieu of the requirements for noncertified personnel set forth in 23 Ill. Adm. Code 1, Subpart G. <p>(Source: Amended at 27 Ill. Reg. 8126, effective April 28, 2003)</p> <p>Section 226.810 Special Education Teaching Approval</p> <p>Special education approval may be issued by the State Board of Education to an individual who does not hold a special certificate or who lacks some of the qualifications for one of the endorsements enumerated in 23 Ill. Adm. Code 25.43.</p> <p>a) Special education teaching approval will be issued in the following areas:</p> <ol style="list-style-type: none"> 1) Educable mentally handicapped; | |

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| <p>2) Learning disabilities; 3) Social/emotional disorders; 4) Trainable mentally handicapped; and 5) Physically handicapped.</p> <p>b) An individual who holds an early childhood, elementary, or high school certificate shall receive approval to teach in a special education area listed in subsection (a) of this Section if he or she has successfully completed at least one college-level course in each of the following areas:</p> <ol style="list-style-type: none"> 1) Survey of exceptional children; 2) Characteristics of special education students in the specific area of approval sought; 3) Methods of teaching in the area of special education approval sought; and 4) Psychological diagnosis for children with all types of disabilities. <p>c) Except as provided in subsection (d) of this Section, an individual who wishes to receive special education teaching approval shall submit an application for a special certificate on a form supplied by the State Board of Education and shall comply with such other application procedures as the State Board may require.</p> <ol style="list-style-type: none"> 1) If the individual qualifies for a special certificate, the State Board shall issue one and endorse it as warranted. 2) If the individual does not qualify for a special certificate, the State Board shall evaluate the application for special education approval and either issue such approval or notify the applicant of any deficiencies. <p>d) The State Board shall issue early childhood special education approval to an individual who holds either an early childhood certificate or a special certificate in one of the areas of specialization enumerated at 23 Ill. Adm. Code 25.43, provided that the individual makes application for such approval on a form supplied by the State Board demonstrating that he or she has successfully completed coursework in all the following areas:</p> <ol style="list-style-type: none"> 1) Survey of exceptional children; 2) The development of language in young children; 3) Early childhood assessment; and 4) Early childhood or elementary school curriculum and organization. <p>e) Special education approval shall not be limited with regard to time or district of employment but shall be valid only for the special education area(s) indicated and the grade level(s) to which the individual's certificate applies.</p> | |

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| <p>Section 226.820 Authorization for Assignment</p> <p>In the circumstances described in this Section, neither the qualifications required by Section 226.800 of this Part nor special education approval under Section 226.810 of this Part shall be required. When authorized pursuant to this Section, reimbursement shall be available for staff providing special education and related services.</p> <p>a) No Fully Qualified Individual Available</p> <ol style="list-style-type: none"> 1) When a district or cooperative entity demonstrates to the State Board of Education that it is unable to secure the services of an individual who holds the required credentials for a particular assignment, the State Board may authorize the assignment of another individual if the director of special education submits a written request through the regional superintendent of schools, on a form provided by the State Board, that: <ol style="list-style-type: none"> A) describes the position or assignment involved or the services to be provided and identifies the required certificate or approval; B) describes the population to be served, including the number of students in each disability category represented; C) describes the type and frequency of supervision and technical assistance to be provided to the individual, including the name(s) and title(s) of the supervisor and any other individual(s) who will provide technical assistance; D) describes the unique training, education, experience, or other qualifications that will assist the individual in fulfilling the requirements of the position; E) describes the district's or cooperative entity's efforts to locate a fully qualified individual to fill the position, including contacts with universities, regional superintendents, and the State Board of Education; and F) indicates that the individual to be assigned is working toward attainment of the required certificate, endorsement, or approval for the position. 2) The State Board's authorization to assign such an individual shall be specific to the affected position and to the district or cooperative entity requesting the authorization and shall be limited to two years in duration. <p>b) Interns</p> <p>The State Board may also authorize the assignment of interns in school psychology, school social work, school nursing, and speech/language pathology who will work under the supervision of fully qualified professionals, subject to the requirements of this subsection (b).</p> <ol style="list-style-type: none"> 1) For each intern in school psychology, school social work, or school nursing, the director of special education shall submit, on forms supplied by the State Board: <ol style="list-style-type: none"> A) verification provided by an educational institution that the candidate is | |

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| <p>participating in a formal internship under its auspices; and</p> <p>B) a request for authorization to assign the individual to an intern's position.</p> <p>2) For each intern in speech/language pathology, the director of special education shall submit evidence that the individual holds a valid teaching certificate and has a bachelor's degree in communication disorders. The individual shall also either have completed graduate-level coursework in communication disorders or be enrolled in a program providing such coursework. The director of special education shall provide evidence that the intern will be supervised by an individual who holds a special certificate endorsed for speech and language impaired pursuant to 23 Ill. Adm. Code 25.45.</p> <p>c) No Specific Credential Required</p> <p>1) When a school district or cooperative entity needs to fill a position for which no specific certificate, endorsement, or other credential is required, the district or cooperative entity shall seek authorization from the State Board of Education to assign the individual who has been selected.</p> <p>2) The director of special education shall submit a written request through the regional superintendent of schools, on a form provided by the State Board, that:</p> <p>A) describes the position or the service to be provided, why it is needed, and for how long it is expected to be needed; and</p> <p>B) describes the training, education, experience, or other qualifications held by the individual selected that will be relevant to the unique needs of the students to be served (e.g., experience in teaching students with similar disabilities, experience in providing the specific service(s) involved).</p> <p>3) The State Board's authorization to assign such an individual shall be limited to the period for which the service is stated to be needed and shall be specific to the affected position and to the requesting entity.</p> <p>d) Other Positions Attributed to Special Education</p> <p>A district or cooperative entity may be reimbursed for the services of other individuals who hold regular education credentials but serve special education students, e.g., a teacher who provides adaptive physical education.</p> <p>1) In order to claim reimbursement for the services of such individuals, the director of special education shall submit:</p> <p>A) A description of the individual's duties and an indication of the certificate required for those duties;</p> <p>B) Information about the special education pupils to be served and the percentage of the individual's time that will be spent serving these students; and</p> <p>C) A description of the individual's related education and experience.</p> <p>2) The State Board's authorization of reimbursement for such individuals shall be specific to</p> | |

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| the requesting entity but shall not be limited in duration. | | | | | |
| <p>Section 226.830 List of Independent Evaluators</p> <p>a) The State Board of Education shall develop a list of independent educational evaluators who hold the credentials required for the performance of the various evaluation components pursuant to Section 226.840 of this Part.</p> <p>b) No person shall be included in the State Board’s list unless he or she has provided in writing to the State Board the following specific information for each credential for which the Board’s acknowledgment is sought:</p> <ol style="list-style-type: none"> 1) name of license, certificate, or other credential; 2) name of credentialing agency or body; 3) number of certificate, license, registration, or other credential; 4) date of issue; and 5) period of validity. <p>c) An individual who wishes to be considered a qualified bilingual specialist shall identify any language(s) other than English in which he or she is proficient and identify the specific qualifications held that correspond to the relevant requirements of Section 226.800(f) of this Part.</p> <p>d) Persons wishing to be included on this list may submit the information about their credentials required under subsection (b) of this Section to the State Board at any time. The State Board shall update the list as changes may warrant and shall provide the list to school districts.</p> <p>Section 226.840 Qualifications of Evaluators</p> <p>The following list identifies the credentials required to administer certain types of evaluations. Where no requirements are established, an evaluation may be performed by an individual who is qualified to administer it according to the technical specifications of the publisher.</p> <table border="0" data-bbox="71 1266 1047 1448"> <thead> <tr> <th data-bbox="71 1266 357 1307">TYPE</th> <th data-bbox="359 1266 1047 1307">REQUIRED QUALIFICATIONS</th> </tr> </thead> <tbody> <tr> <td data-bbox="71 1315 357 1448">Academic Performance</td> <td data-bbox="359 1315 1047 1448">Teaching certificate/approval appropriate for the age or disability of the child, or School Service Personnel Certificate endorsed for school psychology or guidance. (See Article 21 of the School Code [105 ILCS 5/Art.21] and the State Board’s</td> </tr> </tbody> </table> | TYPE | REQUIRED QUALIFICATIONS | Academic Performance | Teaching certificate/approval appropriate for the age or disability of the child, or School Service Personnel Certificate endorsed for school psychology or guidance. (See Article 21 of the School Code [105 ILCS 5/Art.21] and the State Board’s | <p><i>Select Related Regulations:</i></p> <p><i>(Excerpt. See Pages 36-37 for complete Section.)</i></p> <p>Sec. 300.304 Evaluation procedures.</p> <p>...(c) Other evaluation procedures. Each public agency must ensure that--</p> <ol style="list-style-type: none"> (1) Assessments and other evaluation materials used to assess a child under this part-- <ol style="list-style-type: none"> (i) Are selected and administered so as not to be discriminatory on a racial or cultural basis; (ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer; (iii) Are used for the purposes for which the assessments or measures are valid and reliable; (iv) Are administered by trained and knowledgeable personnel; and (v) Are administered in accordance with any instructions provided by the producer of the assessments. <p>Sec. 300.502 Independent educational evaluation.</p> <p>(a) General.</p> <ol style="list-style-type: none"> (1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section. (2) Each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section. (3) For the purposes of this subpart-- <ol style="list-style-type: none"> (i) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and (ii) Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with Sec. 300.103. <p>(b) Parent right to evaluation at public expense.</p> <ol style="list-style-type: none"> (1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b)(2) through (4) of this section. |
| TYPE | REQUIRED QUALIFICATIONS | | | | |
| Academic Performance | Teaching certificate/approval appropriate for the age or disability of the child, or School Service Personnel Certificate endorsed for school psychology or guidance. (See Article 21 of the School Code [105 ILCS 5/Art.21] and the State Board’s | | | | |

| 23 Illinois Administrative Code Part 226 (June 28, 2007) | | IDEA Regulations (August 3, 2006) |
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| | rules at 23 Ill. Adm. Code 1 and 23 Ill. Adm. Code 25.) | |
| Adapted Physical Education | Special Certificate endorsed for physical education with approval in adapted physical education (23 Ill. Adm. Code 25.40 and 25.43). | (2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either-- (i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or (ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to Sections 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria. |
| Assistive Technology | To the extent that a test is used in performing this assessment, qualification for administering the test according to the instructions provided by the test's publisher. | (3) If the public agency files a due process complaint notice to request a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense. (4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation. (5) A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees. |
| Audiological | License to practice as an Audiologist issued by the Department of Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]. | (c) Parent-initiated evaluations. If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation-- (1) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and (2) May be presented by any party as evidence at a hearing on a due process complaint under subpart E of this part regarding that child. |
| Clinical Psychological | License issued pursuant to the Clinical Psychologist Licensing Act [225 ILCS 15]. | (d) Requests for evaluations by hearing officers. If a hearing officer requests an independent educational evaluation as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense. |
| Cultural Background Assessment | School Service Personnel Certificate endorsed for school psychology, school social work, or school counseling. | (e) Agency criteria. (1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation. (2) Except for the criteria described in paragraph (e)(1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense. (Authority: 20 U.S.C. 1415(b)(1) and (d)(2)(A)) |
| Hearing Screening | License to practice as an Audiologist issued by the Department of Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110], Special Certificate endorsed for speech and language impairment (23 Ill. Adm. Code 25.45), or certificate of training issued by the Department of Public Health (77 Ill. Adm. Code 675). | |
| Learning Processes Evaluation | School Service Personnel Certificate endorsed for school psychology or Special Certificate endorsed for learning disabilities. | |
| Medical Review | School Service Personnel Certificate endorsed for school nursing (23 Ill. Adm. Code 25.240), or license to practice medicine in all of its branches. | |
| Neurological Evaluation | Licensure/registration issued by the Department of Professional Regulation pursuant to the Medical Practice Act of 1987 [225 ILCS 60]. | |

| 23 Illinois Administrative Code Part 226 (June 28, 2007) | | IDEA Regulations (August 3, 2006) |
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| Occupational Therapy Evaluation | Certificate/Registration issued by the Department of Professional Regulation pursuant to the Illinois Occupational Therapy Practice Act [225 ILCS 75]. | <i>Referenced Regulation: See Page 6 for Section 300.103, and Pages 117-123 for Sections 300.507-300.512 and Pages 127-128 for Section 300.513.</i> |
| Orientation/Mobility | Certification for orientation/mobility instruction and evaluation (Certification for Orientation and Mobility, Orientation and Mobility Division, Association for Education and Rehabilitation of the Blind and Visually Impaired, 4600 Duke Street, #430, P.O. Box 22397, Alexandria, Virginia 22304; 1984; no later amendments or editions are included). | |
| Physical Therapy Evaluation | Certificate/registration issued by the Department of Professional Regulation pursuant to the Illinois Physical Therapy Act [225 ILCS 90]. | |
| Psychiatric Evaluation | Licensure/registration issued by the Department of Professional Regulation pursuant to the Medical Practice Act of 1987. | |
| School Psychological | School Service Personnel Certificate endorsed for school psychology. | |
| Social Developmental Study (Adaptive Behavior, Cultural Background, Family History) | School Service Personnel Certificate endorsed for social work, guidance, or school psychology (23 Ill. Adm. Code 25.210, 25.220, or 25.230). | |
| Speech and Language Assessment | Special Certificate endorsed for speech and language impairment (23 Ill. Adm. Code 25.45). | |
| Vision Screening | Certificate of training issued by the Department of Public Health (77 Ill. Adm. Code 675). | |