

**I. FREE APPROPRIATE PUBLIC EDUCATION**  
**34 CFR 300.121 and 300.122**  
**IAC 226.50, 226.220, 226.400, 226.410, and 226.700**

Section I. The Provision of a Free Appropriate Public Education (FAPE)

- A. (226.50) (226.700 b)) (226.710) TCSEA policies and procedures provide an opportunity for parents or guardians of children with disabilities to participate in the establishment of the full educational opportunity goal (FEOG).
- B. (226.50) (226.700) (226.710) The TCSEA has developed procedures for the internal evaluation of special education programs and services for the purpose of assessing the extent to which children with disabilities and suspected disabilities are being adequately served and the effectiveness of each special education program and service. These procedures shall include:
1. A needs assessment of the quality of special education services, which is completed by teachers, parents, local agencies and students every 3 years.
  2. An evaluation of the adequacy of programs and services provided to students with disabilities, including their access to general education programs.
  3. An evaluation of appropriate and adequate facilities, equipment, and materials.
  4. (226.700 d)4)) Assessment to insure that there are sufficient numbers of qualified personnel employed by the district who can provide:
    - a) Administration of the program
    - b) Supervisory services
    - c) Instructional programs
    - d) Related services
    - e) Transportation services
    - f) Resource programs
  5. (226.300) (226.700 d)3)) Review of the continuum of program options which incorporates appropriate instructional programs, resource programs and related services.
  6. (226.700 d)6)) Review of the functional relationship with those public and private agencies, which can supplement or enhance the special education programs of the public schools.
  7. (226.700 d)7)) Interaction with parents and with other concerned persons, which facilitates the educational development of children with disabilities.
  8. (226.700 d)9)) Procedures for internal evaluation of the special education programs and services for the purpose of assessing the extent to which children with disabilities and

suspected disabilities are being adequately served and the effectiveness of each special education program and service.

- C. (226.50) (226.700) TCSEA has established a viable organizational and financial structure and annually assesses the need for program growth and improvement.
- D. (300.121) (226.50) Each member school district within TCSEA will provide free appropriate public education (FAPE) to all children with disabilities between the ages of 3 through 21, including children with disabilities who have been suspended or expelled from school for more than 10 consecutive school days during the school year, or who receive a series of removals that constitute a pattern. In order to meet the requirements of a free appropriate public education, the district ensures that:
1. (300.300(a)(2)) (226.50) (226.100) All children ages birth through 21 who are suspected of having a disability which adversely affects educational performance are identified, located and evaluated in accordance with the Child Identification procedures found in Chapter IV. As part of this obligation, the school district shall develop and implement procedures found in Chapter IV for creating public awareness of special education and related services and for advising the public of the rights of children with disabilities.
  2. (300.301(b)) (226.50) All services identified on the student's IEP are provided at no cost to the parent. The district may look to non-educational agencies such as insurance and Medicaid to pay for such services. The local school district must have written consent from the parents in order to use private insurance. Services must be provided at no cost to the child's parents, whether they have public or private insurance. Parents must be notified that the use of their insurance proceeds to pay for services identified on the child's IEP is totally voluntary. In the case of a child who is dually insured (private insurance and Medicaid), the family cannot be required to access private insurance that is a prerequisite to billing Medicaid, if that insurance claim could result in financial loss to the family.
  3. (300.300(a)(3)(i)) (226.50) All IEP's are developed in accordance with the procedures set forth in Chapter VI, Individualized Education Programs. The IEP must specify the special education and related services needed in order to ensure that the child receives FAPE, including any extended school year services, if appropriate. The services and placement needed by each child with a disability to receive FAPE must be based on the child's unique needs and not on the child's disability. Each school district shall ensure that students with disabilities are afforded the rights and privileges equal to those of all other children including nonacademic and extracurricular services and activities.
  4. All special education and related services identified on the IEP are provided as documented on the IEP.
- E. (300.121(c)(1)(i)) (226.50 c)) A free appropriate public education shall be made available to all eligible children with disabilities no later than the child's third birthday. When a child is referred to the district who does not have an IFSP, the district shall within 60 school days complete the full and individual evaluation and initiate services in accordance with the evaluation and placement requirements. If the child turns 3 over the summer, the child's IEP team shall determine the date when services under the IEP or IFSP will begin. Services on the IEP or IFSP

must begin no later than the first day of school of the fall semester for a child who turns 3 during the summer and is determined eligible for special education services.

- F. (300.121(e)(1)(2)) Children with disabilities shall not be excluded from services solely on the grounds that they are advancing from grade to grade. The decision as to whether a student with a disability who is advancing from grade to grade is eligible for services shall be determined on an individual basis by the child's IEP Team in accordance with the Evaluation and Determination of Eligibility Procedures found in Chapter V.
- G. (226.50 g)) No child with a disability between the ages of 3 and 21 shall be permanently excluded from school, either by direct action of the district, by indication of the district's inability to provide an educational program, or by informal agreement between the parents and the district.
- H. (226.50 h) If a child with a disability who is receiving special education from a local school district transfers to another district, the receiving district shall ensure that the child receives FAPE in conformity with the child's IEP. If the receiving school district is unable to obtain a copy of the child's current IEP or a verbal confirmation of the requirements of the IEP from the previous school district, the child shall be enrolled and serviced in the setting that the 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 district. In no case shall a child be allowed to remain without services during the interim period. Procedures for enrolling transfer students can be found in Chapter VI, Individualized Educational Programs, Section VII.A.
- I. (226.50 i)) Each member district is responsible for ensuring that no eligible student with disabilities is denied FAPE due to jurisdictional disputes among agencies.

## Section II. Exceptions to a Free and Appropriate Public Education (FAPE)

- A. (300.122(a)(3)(i)) (226.50 k)) A free appropriate public education shall cease once the student with a disability graduates from high school with a standard high school diploma. Students with disabilities receiving "certificates of attendance" shall remain eligible for FAPE through the student's 21<sup>st</sup> birthday. Children who become 21 during the school year shall be allowed to complete that year which may include extended school year services.
- B. (300.122(a)(2)(i)) (226.50 l) Each member of the district shall not provide a free appropriate public education to students who prior to their incarceration in adult correctional facilities, were not identified as having a disability requiring special education and related services. This exception does not apply to students with disabilities aged 18-21 who had been identified as a child with a disability and had received services in accordance with an IEP, but who left school prior to their incarceration, or who were known to have a disability requiring special education and related services but for whatever reason did not have an IEP in their last educational setting.

## Section III. Provision of FAPE for Children Suspended or Expelled from school

The IEP must be implemented in accordance with the procedures found in Chapter VI. Individualized Education Programs and the discipline regulations cited in IAC 226 Sub Part E (226.400 through 226.440).

## II. FULL EDUCATIONAL OPPORTUNITY GOAL

### III. 34 CFR 300.123-125

#### IAC 226.50, 226.220, 226.700, 226.740, AND 226.800

##### Section I. Establishment of the Goal

- A. (300.123) Each member district has established a goal of providing a full educational opportunity to each child with disability ages 3 through 21, regardless of the severity of the child's disability. A resolution of the TCSEA executive committee formally adopting the full educational opportunity goal (FEOG) was passed on June 5, 2001.
1. (225.50c) Each Director of Special Education or district superintendent is responsible for insuring that for each child with a disability an IEP or IFSP is developed and implemented by the child's third birthday.
  2. (300.124) (226.700b) Each districts superintendent is responsible for ensuring that the full education opportunity goal is fully achieved for all children with disabilities.
- B. Attainment of the full educational opportunity goal for children, ages birth through two will be accomplished through full participation in, and full implementation of the "Infants and Toddlers with Disabilities Act" (Public Law 105-17, Part C). A resolution of the school TCSEA executive committee formally adopting the goal was passed on June 5, 2001. Full achievement of the goal will include:
1. The provision of a free appropriate public education to all children with disabilities ages 3 through 21; and
  2. Full implementation of all requirements of Public Law 105-17, Part C and applicable State standards for children, birth through two; and
  3. Tri-County Special Education Association representative serves on the ITEC (Interagency Transitional Education Council) for successful transitioning of eligible children from birth to two programs to public school programming at the age of three years.
- C. Each member district shall annually collect the following information regarding children with disabilities:
1. The number of children with disabilities ages birth through 21 in need of special education and related services.
  2. The number of children with disabilities ages birth through 21 receiving special education and related services by disability category.
  3. The number of private school children with disabilities attending private schools (annual "census") who may or may not be receiving special education and related services but who have been determined eligible for services through a full and individual evaluation or re-evaluation and an IEP team meeting.

- D. (20 USC 1418, Sec. 618(a)) (34 CFR 300.125 (b)(3)(i)) (226.700) (226.800) TCSEA through each member district annually collects the following information:
1. The number of children with disabilities, by race and ethnicity, who are receiving a free appropriate public education.
  2. The number of children with disabilities, by race and ethnicity, who are receiving early intervention services.
  3. The number of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education.
  4. The number of children with disabilities, by race, ethnicity, and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities.
  5. The number of children with disabilities, by race, ethnicity, and disability category between the ages of 14 to 21, stopped receiving special education and related services.
  6. The number of children with disabilities, by race, ethnicity, and disability category, who under subparagraph (A)(ii) and (B) of Section 615(K)(1) of IDEA are removed to an interim alternative educational setting.
  7. The number of children with disabilities who are subject to long-term suspensions or expulsions.
  8. The number of special education teachers.
  9. The number of related services personnel.
  10. The cost of all personnel.
  11. The number of students receiving special education transportation.
  12. The types of alternative placements available for children with disabilities.
  13. The number of children served in each type of placement.

**III. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION**  
**34 CFR 300.127, 300.560-576**  
**IAC 226.270, and 226.740**

Section I. Confidentiality

- A. (105 ILCS 10/4(a)) (300.572(c)) (226.740) Each member district shall designate a Records Custodian to ensure compliance with the confidentiality requirements of the Illinois School Code, Illinois School Student Records Act, Individuals with Disabilities Education Act Amendments of 1997, and Family Educational Rights and Privacy Act.

- B. (105 ILCS 10/4(a)) (300.562) (300.572) Each Records Custodian shall assume responsibility for ensuring the confidentiality of any personally identifiable information and shall:
1. Respond to any request for inspection and review of an education record, including a request for a copy of an educational record;
  2. Respond to any request for an explanation or interpretation of an education record;
  3. Respond to any requests to amend an education record;
  4. Respond to any request to disclose or release personally identifiable information;
  5. Respond to any requests to destroy an educational record;
  6. Keep a record of parties obtaining access to education records (except access by parents and authorized employees of the school district), including the name of the party, the date access took place, and the purpose of the authorized use;
  7. (226.740d) Maintain, for public inspection, a current listing of the names and positions of the employees who may have access to personally identifiable information;
  8. Provide upon request from the parents or the student at the age of majority, a list of the types and locations of education records collected, maintained, or used by the school district;
  9. (300.572(a)) (226.740(b)) Ensure that the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages is protected; and
  10. (300.572(c)) Train the district personnel to ensure that each person collecting or using personally identifiable information is knowledgeable of the policies and procedures governing confidentiality of personally identifiable information.
- C. (300.562) (105 ILCS 10/5, 10/6, 10/7) (23 IAC Subpart K 375.30) The school district will notify the parent or the student at the age of majority, in their primary language, of their right to access the education record, to request amendments and to request a records hearing:
1. Upon the initial enrollment or transfer of a student to the school, the school will notify the student and the student's parents(s) if the student is under the age of majority, of their rights under the Illinois School Student Records Act and the Individuals with Disabilities Education Act Amendments (IDEA), including, but not limited to, the following:
    - a) (300.565) The types and location of information contained in the permanent and temporary records.
    - b) The right to inspect and copy permanent and temporary records and the cost of copying such records. The local district shall not charge a fee to search for or to retrieve information from that child's educational record.
    - c) The right to control access and release of school student records and the right to request a copy of information released.

- d) The rights and procedures for challenging the contents of the school student record.
  - e) The persons, agencies or organizations having access to the student records without parental consent.
  - f) The right to copy any school student record or information contained therein proposed to be destroyed or deleted and the school's schedule for reviewing and destroying such information.
  - g) The categories of information the school has designated as "directory information" and the right of the parents to prohibit the release of such information.
2. Notification will be delivered by the means most likely to reach the parents or the student at the age of majority, including direct mail, parent-teacher conferences, delivery by the student to the parent, or incorporated in a "parent-student" handbook or other informational brochure for students and parents disseminated by the school.

## Section II. Inspection and Review of Education Records

- A. (300.562(a)) (226.740.(e)) Each member district shall permit an authorized person and/or a representative of the parent to inspect and review all educational records relating to their student maintained by the school district or by a party acting for the school district.
- B. Upon receiving a request from any authorized person to inspect and review an education record, the Records Custodian shall verify that the person requesting to inspect and review the record is an authorized person. The Records Custodian shall presume that the parent has authority to inspect and review records relating to his or her child unless the school district has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce. 750 ILCS sets forth the rights, responsibilities and powers of joint custody and the access to the child's records.
- C. Upon receiving a request to inspect and review a record from a person authorized to do so, the Records Custodian shall review the record and determine whether the record, which the authorized person has identified, is an education record as defined in Section III of these procedures.
  - 1. In determining whether a record that an authorized person wishes to inspect and review is an education record within the meaning of Section 7 of the Illinois School Student Records Act (105 ILCS 10/7), the Records Custodian may exclude from parental inspection and review any record prepared by a school district staff member that is exclusively maintained by the individual and not disclosed to another person other than an individual temporarily substituting for the staff member who prepared the record.
  - 2. In determining whether an education record is in the possession of a party acting for the school district, the Records Custodian shall include any agency or person who, through formal or informal agreement, understanding or practice, collects or maintains information for the school district.

3. (300.564) The Records Custodian will protect the confidentiality of other children named or referred to in an education record. An authorized person will be allowed to review only those portions of an education record that contains information on one student. Any other specific information regarding the student that cannot be directly inspected or reviewed because of the confidentiality rights of other students will be discussed and interpreted by the Records Custodian.
- D. (105 ILCS 10/5 (c)) The Records Custodian shall comply with a request by an authorized person to inspect and review an education record without unnecessary delay:
1. Before any meeting or hearing relating to the identification, evaluation, or placement of the student; and
  2. In no case more than 15 school days after the request has been made.
- E. The Records Custodian shall ensure that an authorized person who requests and explanation or interpretation of any information contained in an education record receives an appropriate explanation or interpretation.
1. For an authorized person who is deaf, an appropriate explanation or interpretation of the information contained in the education record may be provided in writing.
  2. For an authorized person who cannot be physically present at a meeting held by the school district to explain the record, an appropriate explanation or interpretation may be provided either by telephone or in writing.
  3. For an authorized person for who English is not the primary language, an appropriate explanation or interpretation of the information contained in the education record must be provided in the primary language of the person.
- F. (300.566) (23 IAC, Subpart K Section 375.50) If requested by an authorized person, the Records Custodian shall provide copies of the education record if he/she determines that the parent will be effectively prevented from exercising his/her right to inspect and review an education record at the location where it is normally maintained (or at any other location where the school district offers to produce it) without incurring significant expense or personal hardship. The district may charge a reasonable fee for copies of records. The district shall not charge a fee when the Records Custodian determines that, for the parent in question, the amount of the fee for the copying of the document would result in a significant expense or personal hardship.

### Section III. Type of Records Entitled to Access

- A. (105 ILCS 10/5) (300.563) Upon receiving a request to inspect and review a record from a person authorized to do so, the Records Custodian shall review the record and determine whether the record the authorized person has identified is an educational record.
1. Information maintained in the “Student Permanent Record” shall consist of:
    - a) Basic identifying information, including the student’s parents’ names and address, and the student’s birth date, place of birth, and gender;

- b) Academic transcript, including grades, class rank, graduation date, grade level achieved and scores on college entrance examinations;
  - c) Attendance record;
  - d) Accident report and health record;
  - e) Record of release of permanent record information; and
2. May also consist of:
- a) Honors and awards received; and
  - b) Information concerning participation in school-sponsored activities or athletics, or offices held in school-sponsored organizations.
3. No other information shall be placed in the student permanent record.
4. (23 IAC Subchapter K 375.10) Information maintained in the “Student Temporary Record” shall include a record of release of temporary record information and all information required to be in the student permanent record, which may include:
- a) Family background information;
  - b) Intelligence test scores, group and individual;
  - c) Aptitude test scores;
  - d) Reports of psychological evaluations including information on intelligence, personality and academic information obtained through test administration, observation, or interviews;
  - e) Elementary and secondary level achievement test result;
  - f) Participation in extracurricular activities including any offices held in school-sponsored clubs or organizations;
  - g) Honors and awards received;
  - h) Teacher anecdotal records;
  - i) Disciplinary information;
  - j) Special education files including screenings, evaluation reports, IEP’s and all records and tape recordings related to special education placement, hearings, and appeals;
  - k) Any verified reports or information from non-educational persons, agencies or organizations;

- l) Other verified information of clear relevance to the education of the student; and
  - m) (300.576) Information regarding serious disciplinary infractions that resulted in expulsion, suspension, or the imposition of punishment or sanction. For purposes of this provision, serious disciplinary infractions means: infractions involving drugs, weapons, or bodily harm to another.
- B. The student record shall not include information maintained by law enforcement professionals working in the school.

#### Section IV. Amendment of Education Records

- A. (105 ILCS 10/7) (300.567) An authorized person who believes that information in the education record is inaccurate or misleading or violates the privacy or other rights of the student exclusive of grades of the student and references to expulsions or out-of-school suspensions may request the school district to amend the information.
- B. The Records Custodian, upon receiving a request from an authorized person, shall decide whether to amend the information as requested within fifteen (15) school days from the date of receipt of the request.
- 1. The Records Custodian will amend information determined to be “inaccurate or untrue or that cannot be substantiated.”
  - 2. The Records Custodian will amend information determined to be misleading. The Records Custodian will amend an education record if he/she concludes that a reader who is unfamiliar with the content of the education record would be likely to arrive at an inaccurate conclusion regarding the personal characteristics or history of the student who is the subject of the education record.
  - 3. The Records Custodian shall determine that the information contained in an education record “violates the privacy or other rights of the student.”
    - a) If disclosure would cause severe embarrassment or other adverse consequences for the student and the student’s parents; and
    - b) The information need not be included in the education record in order for the education record to be appropriately used by the school district.
- C. (23 IAC Subchapter K 375.90) (300.568) (300.570) If the Records Custodian refuses to amend the information, the Records Custodian shall inform the authorized person of the refusal and advise the authorized person of his or her right to an informal conference and hearing.
- 1. An initial informal conference with parents must be held within fifteen (15) school days from the date of the request for a hearing.
  - 2. If the dispute is not resolved by the informal conference, formal procedures shall be initiated:

- a) A hearing officer, who shall not be employed in the attendance center where the student is enrolled, shall be appointed by the school district.
  - b) The hearing officer shall conduct a hearing within a reasonable time, but no later than fifteen (15) school days after the informal conference, unless the parents and school officials agree upon an extension of time. The hearing officer shall notify the parents and the school officials of the time and place of the hearing.
- D. (23 IAC subchapter K 375.90c)2D)) A verbatim record of the hearing shall be made by a tape recorder or a court reporter. The district shall provide a typewritten transcript in the event of an appeal of the hearing officer's decision.
- E. (23 IAC Subchapter K 375.90) The written decision of the hearing officer shall, no later than 10 days after the conclusion of the hearing, be transmitted to the parents and the school district. It shall be based solely on the information presented at the hearing and shall be one of the following:
- 1. To retain the challenged contents of the student record;
  - 2. To remove the challenged contents of the student record; or
  - 3. To change, clarify or add to the challenged contents of the student record.
- F. Any party shall have the right to appeal the decision of the local hearing officer to the Superintendent of the Educational Service Region serving the school district within twenty (20) school days after such decision is transmitted. If the parent appeals, the parent shall so inform the school district. Within ten (10) school days, the school district shall forward a transcript of the hearing, a copy of the record entry in question and any other pertinent materials to the superintendent of the Educational Service Region. The school may initiate an appeal by the same procedures. Upon receipt of such documents, the Superintendent of the Educational Service Region shall examine the documents and record to determine whether the school district's proposed action in regard to the student's record is in compliance with the School Student Record Act, make findings and issue a written decision to the parents and the school within twenty (20) school days of the receipt of the appeal documents. If the subject of the appeal involves the accuracy, relevance, or propriety of any entry in special education records, the Educational Service Region Superintendent should seek advice from special education personnel:
- 1. who were not authors of the entry; and
  - 2. whose special education skills are relevant to the subject(s) of the entry in question.
- G. (23 IAC Subchapter K 375.90) (300.574) The school district shall be responsible for implementing the decision of the Superintendent of the Educational Service Region.
- H. (300.569(a)) If, as a result of the hearing, it is determined that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the Records Custodian shall amend the information within 10 days and shall provide written notice to the authorized person requesting the amendment.

- I. (300.569)(b) If, as a result of the hearing, it is determined that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the Records Custodian shall inform the authorized person within five (5) days of the decision of their right to place in the record a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the school district.
- J. (105 ILCS 10/7(d)) (300.569(c)) The Records Custodian shall ensure that a statement placed in an education record as described in subsection I above:
  - 1. Is maintained by the school district as part of the record of the student as long as the record or contested portion is maintained by the school district; and
  - 2. Is disclosed by the school district to any party to whom the records of the student are disclosed.

Section V. Release of Personally Identifiable Information

- A. (300.571) The Records Custodian shall obtain written parental consent or consent from the student at age of majority before permitting personally identifiable information to be used for any purpose other than meeting a requirement under these procedures.

In certain instances information maintained in the student's education record may constitute a mental health record, the release of which must comply with the requirements of the Mental Health and Developmental Disabilities Act (740 ILCS 110/3), which requires the written consent of any student 12 years of age or older.

- B. (300.517) The Records Custodian shall obtain written parental consent or consent from the student at the age of majority before permitting personally identifiable information to be disclosed to anyone other than officials of participating agencies collecting or using information for the purposes described in these procedures and only where the disclosure is consistent with all applicable federal statutes and of the Illinois School Code.
- C. (300.563) The Records Custodian shall 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.
- D. (105 ILCS 10/6) The school district may not release, transfer, disclose or otherwise disseminate information maintained in the school student record, except as follows:
  - 1. To a parent or student or person specifically designated as a representative by a parent.
  - 2. To an employee or official of the school or school district or State Board of Education with current demonstrable educational or administrative interest in the student, in furtherance of such interest.
  - 3. To the official Records Custodian of another school within Illinois or an official with similar responsibilities of a school outside Illinois, in which the student has enrolled, or intends to enroll, upon the request of such official or student.

4. To any person for the purpose of research, statistical reporting or planning, provided that no student or parent can be identified from the information released and the person to whom the information is released signs an affidavit agreeing to comply with all applicable statutes and rules pertaining to school student records.
5. Pursuant to a court order, provided that the parent shall be given prompt written notice upon receipt of such order of the terms of the order, the nature and substance of the information proposed to be released in compliance with such order and an opportunity to inspect and copy the school student records and to challenge their contents.
6. To any person as specifically required by state or federal law.
7. (300.576) To juvenile authorities when necessary for the discharge of their official duties who request information prior to adjudication of the student and who certify in writing that the information will not be disclosed to any other party except as provided under law or order of the court. For purposes of this Section “Juvenile Authorities” means: (i) a judge of the circuit court and members of the staff of the court designated by the judge; (ii) parties to the proceedings under the Juvenile Court Act of 1987 and their attorneys; (iii) probation officers and court-appointed advocates for the juvenile authorized by the judge hearing the case; (iv) any individual, public or private agency having custody of the child pursuant to court order; (v) any individual, public or private agency providing education, medical or mental health service to the child when the requested information is needed to determine appropriate service or treatment for the minor; (vi) any potential placement provider when such release is authorized by the court for the limited purpose of determining the appropriateness of the potential placement; (vii) law enforcement officers and prosecutors; (viii) adult and juvenile prisoner review boards; (ix) authorized military personnel; (x) individuals authorized by court.
8. Subject to regulations of the State Board, in connection with an emergency to appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons.
9. To any person, with the prior specific-dated written consent of the parent designating the person to whom the records may be released, provided that at the time any such consent is requested or obtained, the parent shall be advised in writing that he has the right to inspect and copy such records in accordance with Section 5, to challenge their contents in accordance with Section 7 and to limit any such consent to designated records or designated portions of the information contained therein.

#### Section VI. Destruction of Records

- A. (300.573) (105ILCS 10/4) The Records Custodian shall send a written notice to inform parents when personally identifiable information collected, maintained, or used by the school district is no longer needed to provide educational services to the student. The determination as to whether personally identified information is needed to provide educational services to a student shall be made by the Records Custodian after careful review of the information and with the concurrence of the student’s current teacher or teachers if the student is currently enrolled in the school district.

- B. (105 ILCS 10/4) The written notice sent to the parents shall describe the personally identifiable information that the school district intends to destroy and shall inform the parents that the information will be destroyed no earlier than 60 days from the date of the notice. The notice shall also outline the procedure that the parents may follow if they wish to formally object to the destruction of the records in question.

## Section VII. Transfer of Records

- A. (23 IAC Subchapter K 375.70) (300.576) The Records Custodian shall forward within ten (10) calendar days of notice of the student's transfer to any other private or public elementary or secondary school located in this or any other state a copy of the student's unofficial record of the student's grades to the school to which the student is transferring. The Records Custodian at the same time shall forward to the school to which the student is transferring the remainder of the student's school student record and a "Certification of Good Standing" form. "In good standing" means that the student's medical records are up-to-date and complete and the student is not being disciplined by a suspension or expulsion.
1. Prior written notice must be provided to the parent regarding the nature and substance of the information being released/transferred. Written parental consent is not required to transfer the student's School Student Record to the receiving public school district, unless the record constitutes a mental health record as defined in the Mental Health and Developmental Disabilities Act (740 ILCS 110/3) which requires the written consent of the student 12 years of age or older.
  2. The Records Custodian shall send the parent and the student at age of majority notice that the record is being forwarded to the new district. The notice shall advise the parent and the student at the age of majority of their right to inspect the record being transferred.
  3. (105 ILCS 5/4(f)) The district shall maintain a copy of the transferring student's temporary record for a period of not less than 5 years. The student temporary record will be destroyed after the student's permanent withdrawal from educational programs or graduation, whichever occurs first. The district shall maintain for 60 years the student's permanent record as defined in Section III.A.1.a)-e).
- B. (23 IAC Subchapter K 375.75) Students with disabilities whose "Certificate of Good Standing" form shows incomplete medical records must be treated the same as non-transfer students regarding the October 15 date for exclusion for failure to obtain the required examinations or immunizations. Students with disabilities whose "Certificate of Good Standing" form shows that the student is currently serving a suspension or expulsion must be enrolled and FAPE must be provided in accordance with an IEP. The school district shall follow the procedures for transfer students outlined in Chapter VI – Individualized Education Programs, Section VII.

## **IV. CHILD IDENTIFICATION/CHILD FIND** **34 CFR 300.125,300.220** **IAC 226.50, 226.100,226.110**

### Section I. Public Awareness and Child-Find

- A. (300.125), (226.50), (226.100) Each member district conducts activities for creating public awareness of special education programs, advising the public of the rights of eligible children

and parents and alerting community residents of the need to identify, locate and evaluate children, aged birth through 21, who are suspected of having a disability which adversely affects educational performance. This includes children who are between the ages of birth and 21 attending private and religiously affiliated schools. TCSEA together with its member districts are responsible for:

1. Developing and revising all child-find materials.
2. Ensuring that all birth through 21 children identified through child-find activities are referred for appropriate services as required by 23 Illinois Administrative Code 226 and 34 CFR Part 300 of the IDEA Amendments of 1997;
3. (226.100 (3)) Establishing and maintaining ongoing communication with all staff, organizations, agencies, and individuals to ensure that all activities are carried out in a manner consistent with the requirements of 23 Illinois Administrative Code 226 and 34 CFR Part 300 of the IDEA Amendments of 1997; and
4. Conducting professional development activities and ongoing training for staff, organizations, agencies, and individuals to ensure that child-find, referral, and screening activities are carried out in a manner consistent with the timelines and requirements found at 23 Illinois Administrative Code 226 and 34 CFR Part 300 of the IDEA Amendments of 1997.

B. Methods utilized by the school district to conduct the awareness activities include the following:

1. Utilization of various local media resources including television, radio, and newspaper.
2. Development of communication links with various agencies that provide services to eligible children within the community and dissemination of child-find materials to hospitals, clinics, pediatricians, pediatric nurses, and social service professionals involved in family or child services.

C. (226.50) (226.100) The Director of Special Education is responsible for annually developing and disseminating materials to the organizations, public and non-public agencies and schools, and individuals which include:

1. (226.50a)2)) Information regarding relevant state and federal regulations and their right to receive a copy of the school districts procedures upon request.
2. Explanations of any amendments to 23 Illinois Administrative Code 226 and 34 CFR Part 300 of the IDEA Amendments of 1997;
3. IAC 226.50a)2) Notification of the availability of special education services, children's rights to a free, appropriate public education, persons to contact for initiating a referral; and

D. (226.100) Each member district will use an ongoing system to locate, identify and evaluate all children suspected of being eligible for special education who are not currently enrolled in the

school's educational program, who are aged birth through 21 and who meet residency requirements including children in nonpublic schools. This ongoing system will include the following:

1. (300.125(b)(3)(i)(ii)) Collecting, maintaining and reporting current and accurate data on all child identification activities;
2. (300.125(b)(3)(i)(ii)) Evaluating the overall success and effectiveness of both the public awareness campaign and the total identification process;
3. (300.125(b)(3)(i)(ii)) Utilizing data to plan for the delivery of services to students with disabilities and the general improvement of the educational program.

## Section II. Screening

- A. (300.125) Screening is an activity to locate children, birth through 21 years of age, who may need special education services to maintain satisfactory educational performance even though they are advancing grade-to-grade. The screening procedures described in this section shall be available to all children residing within the district, including children with suspected disabilities attending private and religiously affiliated schools and highly mobile children such as migrants and homeless children.
- B. (226.100) The school district implements the following types of screenings:
  1. (226.100 a) 1) Annual screening of children ages birth to five to identify those who may need early intervention or special education and related services to maintain satisfactory educational performance;
  2. Hearing and vision screening at regular intervals during the child's school career (see the Child Vision and Hearing Test Act 410 ILCS 205 and Section 27-8 of the School Code – 105 ILCS 5/27-8):

(Illinois Department of Human Services, Rules and Regulations Pursuant to Hearing Screening, 77 Illinois Administrative Code 675.110 specifically requires hearing screening: a) annually for all preschool children three years of age or older; b) annually for children in grades kindergarten, 1, 2, and 3; and c) after grade 3 for teacher referrals and students transferring into schools who have not been previously screened. Rules and Regulations Pursuant to Vision Screening requires vision screening: a) annually for all preschool children 3 years of age or older; b) for all children in kindergarten or first, 5<sup>th</sup>, and 9<sup>th</sup> grades; and for teacher referrals and students transferring into schools who have not been previously screened.)
  3. Provision of inservice training in the areas of normal speech and language development and disorders will be provided to appropriate school personnel by the speech-language pathologist on an as needed basis. Notification of inservice training will be provided to staff in both public and non-public schools.

4. (226.100 a) 2)) Ongoing screening by teachers and other professional personnel for referral of those children who exhibit problems that interfere with their educational progress and/or their adjustment to the educational setting;
5. Upon request, the screening of all children suspected of having a disability that will interfere with educational performance; and
6. Annual hearing and vision screening of all students receiving special education and related services (77 Illinois Administrative Code 675.110 and 685.110).

C. (300.125) (226.100) The Member District or designee is responsible for:

1. Planning and scheduling all screening activities;
2. (226.100) Coordinating and consulting with nonpublic schools located within the district that results in child find activities comparable to those affecting students in the public schools:
3. (300.453(b)) Consulting with representatives of private school children in deciding how to conduct the annual child count;
4. Ensuring that all screening activities are performed in accordance with the state and federal requirements;
5. Providing training as needed to all staff involved in screening activities including training on state and federal requirements;
6. Collecting and maintaining information regarding the results of the screening;
7. Ensuring that all screening instruments used are nonbiased and age-appropriate; and
8. Participating in transition planning conferences arranged by the Illinois Department of Human Services, which is the designated lead agency under Section 337(a)(8) of the Individuals with Disabilities Education Act, in order to develop a transition plan for the public school to implement the IFSP or IEP by the child's third birthday. See Chapter VIII – Transition to Children from Part C to Preschool Programs.

D. (77 IAC 675.110) Screening must be performed by personnel who meet the certification or other relevant licensing standards and must include:

1. Vision assessment performed to identify any loss of sight, acuity, or other vision-related problem;
2. Hearing screening that includes an audiological assessment to identify any hearing impairment; and
3. Developmental screening to identify problems that may interfere with the child's educational benefits.

- E. Parental permission/consent is not required when the screening procedures do not involve direct individual contact with the student (observation, interviewing of teachers or reviewing of records). When all students in a given group, e.g., all third graders, participate in the same screening procedure with the same criteria being applied, consent is not required.
- F. Notice and written permission is required prior to the implementation of any selective screening procedure applied to a single child to determine if further evaluation is warranted in order to eliminate any suspicion of a disability. Notice to the parent regarding the screening and parental permission to screen cannot be obtained using the state-mandated notice and consent forms. The state-mandated notice and consent forms can only be used to notify a parent/guardian of the district's intent to evaluate or not evaluate the student and to obtain consent for a comprehensive full and individual evaluation or reevaluation. State law does not mandate the use of a uniform notice and permission form for screening. When notice is required and permission necessary, the district will provide notice and obtain permission on a locally developed form.
- G. Any child who is screened and exhibits any problems as indicated in (D) of this Section must be referred to the Assistance Team (A-Team) for further consideration or referred for an individual and full evaluation.
- H. (226.110) The results of each child's screening must be communicated in writing to the parent if follow-up is required.
- I. The notice sent to the parent must include a description of the problem identified and the date, time and location of the screening activity, as well as an explanation of the follow-up action to be taken, i.e., re-screening, and referral to A-Team or referral for an individual and full evaluation.

### Section III. Intervention for Students Exhibiting Educational Difficulties

- A. Each member district has established, in each school, and A-Team to assist teachers serving children who are experiencing problems that interfere with educational success. The A-Team serves all teachers and all students.
- B. The A-Team may include the following members:
  - 1. The principal;
  - 2. The student's classroom teacher;
  - 3. An appropriate staff member with experience and training in the area in which the child is exhibiting a problem.
  - 4. TCSEA representative
- C. The A-Team engages in the following activities:
  - 1. Reviewing the problem areas in which the child is having difficulty;
  - 2. Recommending specific in-school program modifications to attempt to remedy the problem;

3. Arranging for special program support from personnel who are teaching and providing other services to the child, as needed;
  4. Monitoring the effectiveness of the modifications recommended and implemented and suggesting further modifications where appropriate.
  5. Collecting and reviewing information regarding academic and social performance; and
  6. Notwithstanding 1-5 above, immediately referring for a full and individual evaluation any student who is suspected of having a disability that interferes with educational performance.
- D. Following the A-Team coordinators receipt of a request, the A-Team must meet and consider interventions of the following:
1. The type of interventions to be used and the reasons for the interventions;
  2. The time frame established to implement the interventions and their review.
  3. The parents' right to meet with the person(s) involved in the interventions; and
  4. The parents' right to initiate a formal request for a full and individual evaluation.

#### Section IV. Referral

- A. (226.110 b)) Referrals may result from child-find efforts or the failure of three or more attempts to meet the needs of the child in the regular program. Any concerned person, including but not limited to school district personnel, the parents of the child, or an employee of the Illinois State Board of Education may make a referral.
- B. (226.110 a)) The school district maintains an organized referral process that is communicated annually to all professional personnel within the system and to persons within the community. The referral procedures shall include:
1. The steps to be taken in making a referral (a request for an evaluation to determine if a student may have a disability);
  2. The person to whom a referral may be made;
  3. The information which must be provided;
  4. Technical assistance, if needed;
  5. Documentation that the parents were provided notice of their rights with respect to procedural safeguards; and
  6. (226.110 a)4)) The provision of any assistance that may be needed by the person to meet the requirements for requesting an evaluation.

- C. (226.110) (226.75) Any person who chooses to make a referral shall be instructed to do so in writing and sign the request for referral and provide written consent to complete an evaluation.
- D. The request for a special education evaluation should be given to the building principal or LEA designee where the child attends school or would attend school if enrolled. If such a request is given to an employee of the district, the employee will give the referral to the building principal or the designee.
- E. (105 IL CS 5/14-8.02(b) (226.75) (226.110) The date of referral, triggering the 60-school-day timeline, is the date on which informed written parental consent to complete an evaluation is obtained or provided, or the date of application for admittance to the public school by the parents of the child. A school day is any day, including a partial day during the regular school year that students are in attendance at school for instructional purposes. When a child is referred for evaluation with fewer than 60 pupil attendance days left in the school year, the eligibility determination must be made and, if the student is eligible, and IEP must be in effect prior to the first day of the beginning of the next school year.
- F. (226.110f) If it is determined that a referral for a full and individual evaluation is not warranted, the parent and the individual making the request must be notified in writing using the mandated notice form. A copy of the notice not to conduct a full and individual evaluation shall be maintained in the student's education record. The parent shall be provided written notice of the date of the referral and the reasons for which the full and individual evaluation was requested and the reasons for which the district decided not to conduct a full and individual evaluation. The parents must be notified of their right to challenge the district's decision not to conduct a full and individual evaluation by requesting a due process hearing. The district's decision to not conduct a full and individual evaluation can occur after written parental consent is obtained, but should occur as soon as possible after the written referral is received or provided.
- G. When a child is referred for further assessment, such assessment will be conducted in accordance with the district's evaluation and determination of eligibility procedures. (See Chapter V – Evaluation and Determination of Eligibility.)

**V. EVALUATION AND DETERMINATION OF ELIGIBILITY**  
**34 CFR 300.126, 300.350-300.536**  
**105 ILCS 5/14-8.02**  
**IAC 226.130, 226.140, 226.150, 226.160,226.170, 226.180,226.190,**  
**226.200, 226.210, 226.220, 226.230**

Section I. Establishment of an IEP/Eligibility Team and Securing Parental Consent

- A. (300.320) (300.531) Upon receipt of a referral for a full and individual evaluation, the principal or designee who shall be responsible for:
1. Securing written parental consent for the full and individual evaluation utilizing the state mandated consent form (parental consent should be obtained after the decision is made regarding what diagnostics/evaluations will be done) (226.110e)) If consent cannot be obtained, the school district may request a due process hearing to secure consent.
  2. Appointing members of the IEP team, including appropriate evaluators, convened for the student; and
  3. (226.120) Ensuring that all of the evaluation requirements of 34 CFR 300.530 and 23 Illinois Administrative Code are met and that a full and individual evaluation is conducted for each child being considered for special education and related services.
- B. (300.344) (300.534) (226.210) The principal or designee shall ensure that the IEP team convened for a student shall be formed on the basis of the student's presenting problem(s) and the suspected disability and shall be comprised of the following participants:
1. (226.210a)) **One or both of the student's parents;**
  2. (226.210j)) **The student** at age of majority (18 years of age), or if the parent chooses to have the student participate at any age. Either the district or the parent may invite the student who is the subject of the IEP meeting to attend. The district must invite the student when the purpose of the IEP meeting is to plan for transition services needed by the student. The notice to the student shall conform to the requirements of Section 226.520 (b) (8) of the Illinois Rules. If the student does not attend, the district shall take other steps to ensure the student's preferences and interests are considered. If the student does not attend the IEP, the district shall attempt to secure his/her participation and document those attempts in the educational record; (226.210j)3))
  3. (226.210e) **Representative of school/district**, other than the child's teacher, who is qualified to provide or supervise the provision of special education, who is knowledgeable about the general curriculum and is knowledgeable about the availability of resources of the LEA and who can commit services;
  4. (226.210d) **At least one regular education teacher** of the child (if the child is, or may be, participating in the regular education environment.) If the child has more than one regular or special education teacher the principal or designee shall designate which teacher(s) will participate.

5. (226.210 c)) **At least one special education teacher** of the child, or if appropriate, at least one special education provider for the child. If the child is receiving only speech and language services, the speech and language pathologist shall fulfill this role;
  6. (226.210 h)) **Qualified professionals whose expertise is necessary to interpret the evaluation data** and make an informed determination as to whether the child needs special education and related services.
  7. (300.540) If a student is suspected of having a **learning disability**, a person qualified to conduct a **diagnostic examination** of students; and
  8. (226.210 k)) At the discretion of either the parent or the school district, **other individuals having significant information** regarding the child; and
  9. **Interpreter** for the deaf or foreign language, as necessary.
  10. (226.210 f)) May 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 and cultural factors as they relate to the child's instructional need.
  11. (226.210 i)) In the case of a student for whom transition services must be planned, the principal or designee shall invite a **representative of any agency** that is likely to be responsible for providing or paying for transition services.
  12. (226.210(g)) May include a **person knowledgeable about positive behavior strategies**, if the child's behavior impedes his or her learning or the learning of others.
- C. (300.344 (a)(5)) A single member of the IEP team may meet two or more of the qualifications specified in this section with the exception of the individual assigned to represent the student's regular classroom teacher.
- D. (300.533) (226.120) Prior to the conducting of the evaluation, the principal or designee shall:
1. Convene a meeting or contact the members of the IEP team to determine specifically what assessments are needed in order to determine if the child has a disability adversely affecting educational performance. The evaluation shall cover all domains that are relevant to the individual child being evaluated. The IEP team shall determine the specific assessments needed to evaluate the individual needs of the child. The IEP team shall review and evaluate existing information about the child, including information from a variety of formal and informal sources such as information provided by the child's parents; current classroom-based assessments and observations by the teachers and providers of related services; information provided by the child; and information from specialized evaluations such as those performed by independent evaluators. The IEP team may conduct its review without a meeting. Documentation should be maintained in the student's record regarding the input received from the team members in a collaborative manner.
  2. (226.120f)) For those children previously diagnosed, the team may determine that no new assessments are necessary in order to establish eligibility. In those unique situations the team must document on the IEP the following:

- (a) The evaluation(s) conducted were multidisciplinary and that the results and recommendations are valid and current;
  - (b) Based on the team's review of the evaluation results, it is the consensus of the team that the child does have a disability that adversely impacts educational performance;
  - (c) The information provided is sufficient to ensure that the IEP team can develop an appropriate program for the child; and
  - (d) The parents were involved and notified in writing of the decision not to conduct new or additional testing and they agree with the team's decision. If they disagree or request new or additional assessments the team must conduct a new evaluation consistent with the procedures set forth in this Section.
3. (226.140 a) d) Ensure that the student's language use pattern and cultural background, the language(s) spoken in the student's home and the language(s) used most comfortably and frequently by the student have been determined and documented in the student's education record.
  4. (226.140 c)) Ensure that the student's mode of communication has been determined by assessing the extent to which the student uses expressive language and the use he or she makes of other modes of communication (e.g., gestures, signing, unstructured sounds) as a substitute for expressive language and is documented in the student's education record.
  5. (226.140) If the child has a non-English speaking background, a determination shall be made of his/her per proficiency in English.

## Section II. Timeline for Convening the IEP Meeting

- A. (105 ILCS 5/14-8.02 (b)) (226.75) (226.110 d)) The IEP meeting must be convened within 60 school days of the date written consent to conduct the evaluation is received.
- B. (105ILCS 5/14-8.02 (b)) (226.110) When there are fewer than 60 pupil attendance days left in the school year, the school district will complete the full and individual evaluation and convene the IEP meeting prior to the first day of the fall semester.
- C. (226.110 d)) The IEP team must be convened to consider the results of a triennial reevaluation within 60 days from the date parental consent was provided and no more than 3 years from the date of the prior IEP meeting where the student's eligibility was established or reaffirmed. The IEP meeting convened to determine what additional data are needed to complete the re-evaluation does not trigger the 60-school-day timeline, but rather, it is triggered by the date written consent is provided,

## Section III. Purpose of the Full and Individual Evaluation

- A. (300.530) (226.120) The primary purpose of conducting a full and individual evaluation is to gather educationally relevant information sufficient to permit the IEP team to determine whether the student is a student with a disability for whom a free appropriate public education must be made available.

- B. (300.534) In order to determine that a student who has been evaluated is a student with a disability and is eligible for special education and related services, the IEP team must conclude that:
1. The student has a mental impairment, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, other health impairment, a specific learning disability, deaf-blindness, or a multiple disability as defined in 34 C.F.R. 300.7 (b)(1)-(13));
  2. The presence of such a disability has adversely affected the educational performance of the student; and
  3. Because of such adverse effect on the educational performance, the student is in need of special education and related services.
- C. An individual evaluation has several outcomes, which include:
1. Identification of the skills the student has (strengths);
  2. Identification of the actual disability a student may have;
  3. Collection of sufficient information to measure the adverse effect of the disabilities on educational performance (weaknesses);

#### Section IV. Content of the Full and Individual Evaluation

- A. (226.110) Immediately upon receipt of written parental consent, the principal or designee shall appoint an IEP team. No assessments shall be conducted until 10 days after consent has been secured, or the notice requirement is waived by the parent/guardian.
- B. (300.532) (226.120) The members of the IEP team appointed by the principal designee shall conduct a full and individual evaluation. The evaluation shall include a thorough assessment of all areas related to the suspected disability and must include an individual assessment in the domains related to the child's suspected disability including, as appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communication status and motor abilities.
- C. (226.130 j)) If a needed individual assessment cannot be completed due to the lack of parental involvement, religious beliefs of the family, or inability of the child to participate in the evaluation procedure, the principal or designee must ensure that the reasons for the missing assessment(s) are documented in the child's temporary record.
- D. (300.541 – 300.543) (226.170) If it is suspected that the child may have a specific learning disability the following procedures must be followed:
1. A member of the IEP team must include the child's regular education teacher, or if the child does not have a regular classroom teacher, another teacher qualified to teach children of his/or her age, or for a child of less than school age, an individual qualified to teach a child of his or her age. At least one member of the team must be an individual

qualified to conduct individual diagnostic examinations of children such as a school psychologist, LD teacher or remedial reading teacher.

2. The determination of a specific learning disability may be made if:
  - a) The child does not achieve commensurate with his or her age and ability levels.
  - b) The team finds a severe discrepancy between achievement and intellectual ability in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematics calculation, mathematics reasoning.
  - c) The team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of a visual, hearing, or motor impairment; mental retardation; emotional disturbances; or environmental, cultural or economic disadvantage.

#### Section V. Nondiscriminatory Assessment (Full and Individual Evaluation)

- A. (300.532) (300.535) (226.130 a)) (226.150) No single procedure shall be used by the IEP team to assess whether or not a student has a disability, and any instrument or procedure used by the team shall be:
  1. Necessary and appropriate to determine the nature and extent of a learning impairment or a suspected learning impairment or to assess general or specific areas of educational need;
  2. Appropriate for the age and stage of development of each student to whom it is administered;
  3. Validated for the specific purpose(s) for which it is used and administered in conformance with instructions provided by its producer;
  4. Free of racial, cultural, language or sex bias;
  5. Written and administered in the native language or conducted in the mode of communication most familiar to the person being assessed, unless it is clearly not feasible to do so;
    - a) The “native language” of a student is the primary language used in the student’s home, i.e., the language most frequently used for communication between the student and his or her parents, siblings, and other extended family members.
    - b) A determination that it is clearly not feasible to write or administer an evaluation instrument in the native language or to conduct an evaluation in the mode of communication most frequently used for communication may only be made if no individual within the State can be identified who is capable and willing to communicate effectively with the student and/or his or her parents, for a reasonable fee;

- 1) In their native language; or
  - 2) In another mode of communication.
6. Administered in conformity with the instructions for administration developed by its producer;
  7. Technically sound and designed to assess the relative contributions of cognitive, behavioral, physical, and developmental factors; and
  8. Interpreted in a manner which does not measure the level of sensory, manual or speaking skills of the person being assessed, but rather the specified test objectives (e.g., achievement, intelligence), and which is free from racial, cultural and sex bias.
- B. (300.532) (226.130) The principal or designee and the members of the IEP team shall ensure proper evaluation procedures are utilized in accordance with the following requirements:
1. (226.130 a)) Tests and other materials shall be selected and administered so as not to be discriminatory on a racial or cultural basis.
  2. (226.130 a)) Tests shall be provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so.
  3. (226.130 d)) Each test shall be a valid standardized individual test designed to measure a specific aspect of the student's functioning.
  4. (226.130 d)) Each test will be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the test.
  5. (226.130 c)) When a student is suspected of having a specific learning disability, an observation shall be conducted.
  6. (226.130 e)) Tests and other evaluation materials shall be tailored to assess specific areas of educational need and may not be merely those that are designed to provide a single general intelligence quotient.
  7. (226.130 b) and g)) No single procedure and no single individual shall be used as the sole criterion or evaluator for determining whether a child is eligible for special education and related services.
  8. (226.130 h)) Assessment tools and strategies must be used that provide relevant information and are sufficiently comprehensive to assist in identifying the child's need for special education and related services, whether or not commonly linked to the disability according to which the child has been classified.
  9. (226.130 i)) If the assessment is conducted under nonstandard conditions, a description of the extent to which the assessment varied from standard conditions shall be included
  10. (226.130J)) 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 the evaluation procedure, the district shall include in the child's evaluation report the reason(s) why such portion(s) were not completed.

11. (226.130 k) The individual conducting a portion of the child's evaluation shall be qualified in accordance with Section 226.840 of the Illinois Administrative Code.
- C. (300.532) The principal or designee shall ensure the use of uniform nondiscriminatory criteria in order to ensure a racially and culturally nondiscriminatory full and individual evaluation process.
  - D. (300.532) Tests and other full and individual evaluation procedures used by the school district to assess minority students shall measure and assess equally well all significant factors related to the learning process, including, but not limited to, consideration of sensorimotor, physical, social, cultural and intellectual development, as well as adaptive behavior (i.e., the effectiveness or degree to which the individual meets the standards of personal independence and social responsibility expected of his or her age and cultural group).
  - E. (300.532) If within the school district apparently valid and reliable testing and full and individual evaluation materials appear to have led to the overrepresentation of students who are members of a particular race, national origin or cultural group in any special education category, then the school district shall conduct a thorough self-evaluation in order to determine:
    1. Whether additional or substitute materials and procedures, which have at least equal predictive validity, but do not have such an adverse effect on members of a particular racial, national origin or cultural group, can be identified.
    2. Whether any of the following resulted in racial or cultural bias:
      - a) The use of tests with inherent content and/or language bias;
      - b) The use of tests that lack validity for a group of persons with whom or the purposes for which they are used;
      - c) The use of tests that lack reliability for a group of persons with whom they are used;
      - d) The presence of culturally and linguistically incompetent test administration;
      - e) Student unfamiliarity with test behaviors and assumptions;
      - f) Student discomfort with the test administrator and/or testing environment;
      - g) Lack of student motivation to perform well; and/or
      - h) The failure to integrate full and individual evaluation information from multiple sources and/or to reconcile inconsistent or conflicting full and individual evaluation results.

## Section VI. Evaluation Results

- A. The decision regarding eligibility for special education can only be made by the IEP team at the conclusion of the IEP meeting where the evaluation results are shared and interpreted. The sources used to determine eligibility must be documented and carefully considered. The individual assessment reports may include:
1. Demographic data
  2. Reasons for the referral
  3. Assessment methods used and the results of the assessment(s);
  4. The interpretation of the results including the student's strengths and weaknesses; and
  5. The date the assessment(s) was administered.
- B. When appropriate, the written report may also include:
1. Observation of the student's behavior during assessment;
  2. The relationship of the behavior during the assessment to the student's assessment results and educational performance;
  3. (300.542) (226.130 c)) For the student suspected of having a specific learning disability or behavior disorder, observations of the student's academic and behavioral performance in the regular classroom setting by at least one member of the evaluation team other than the student's regular teacher. In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age;
  4. A statement, when nonstandardized or group assessment techniques or other informal procedures are utilized, of:
    - a) The specific techniques utilized,
    - b) An explanation of the results and the relationship to the recommendation.
  5. Relevant information from sources other than formal assessment instrument/procedures that has been gathered and considered in formulating the recommendations.
- C. (300.543) (226.170) For a student suspected of having a specific learning disability, the individual assessment should include a statement of:
1. Whether the student has a specific learning disability;
  2. The basis for making the determination;
  3. The relevant behavior noted during the observation of the student;
  4. The relationship of that behavior to the student's academic functioning;

5. The educationally relevant medical findings, if any;
6. Whether there is a severe discrepancy between achievement and ability which is not correctable without special education and related services;
7. The determination concerning the effects of environmental, cultural or economic disadvantage; and
8. The determination that the behavior and/or problem exhibited by the child that resulted in the referral is not a result of the lack of instruction in math or reading or because of limited English proficiency.

Section VII. Encouraging Parent Participation

- A. (300.345) (226.530) Each member district shall take steps to ensure that one or both parents of the student are present at all IEP meetings. These steps must consist of reasonable efforts to convince parents to attend the meeting and must include;
  1. Scheduling the meeting at a mutually agreed upon time and place.
  2. (226.520) At least 10 days prior to the meeting, notifying parents (in their native language if other than English) and other persons who will be attending, using the State-mandated notice from of:
    - a) The purpose, time and location of the meeting;
    - b) The names of the persons expected to attend;
    - c) A copy of the “Explanation of Procedural Safeguards Available to Parents of Children with Disabilities:” and
    - d) The fact that if their child is determined to be eligible, an IEP will be developed.
  3. (226.530) Affording parents the opportunity to attend through the use of individual or conference telephone calls;
  4. (226.530) Using reasonable efforts to convince the parents to participate may including:
    - a) Visits to the parent’s home or place of employment; and
    - b) Telephone calls to parents.
    - c) E-Mails
    - d) Certified letter
- B. (300.345 (d)) Each member district may conduct an IEP meeting without a parent in attendance if the parent(s) do not respond to the notice provided within 10 days of receipt of the notice, or, if the school district is unable to convince the parents to attend after attempts to arrange a mutually agreed upon time and place for the meeting. The district shall make at least three attempts to

secure parental participation. The attempts shall be documented in the students educational record including detailed records of visits made to the parent's home or place of employment and the results of those visits.

- C. In cases of divorce, the custodial parent has complete decision-making authority with respect to the educational needs of his or her child. The resident district of the child is that district in which the custodial parent resides. Therefore, in such cases, it is necessary to determine who the custodial parent is. The Judgment of Dissolution specifically names the custodial parent.

The problem arises in those cases where the parents have joint legal custody and they cannot agree on the educational needs of the child. The typical Joint Parenting Agreement requires that the parents resolve any differences through non-binding mediation. If, after mediation, the parents still disagree, they must go to court to seek a final decision on the issue being mediated.

Parents with joint legal custody are entitled to an administrative review of any action agreed to by the district and the other parent. Since only one signature is required for consent, the recommended action/placement can go forward with the parental consent of only one parent. A request for due process from the challenging parent (provided the parent has demonstrated that he/she has joint legal custody) shall serve to stay the action until the administrative process is completed, provided the request was initiated within 10 days of the notice regarding the proposed action or prior to the implementation of the proposed action.

Unless there is a court order to the contrary awarding both parents joint legal custody, the parent with sole physical custody has educational decision-making authority.

750 ILCS 5/602.1(a)-(e) sets forth the rights, responsibilities and powers of joint custody and the access to the child's records. This statute provides a mechanism for resolving differences. It also requires that all records be provided to the non-resident parent unless there is a court order to the contrary.

#### Section VIII. Recording IEP Meetings

- A. (Notice of Interpretation – Appendix A to Part 300, Question 21) If any member of the IEP Team needs an electronic recording of the meeting in order to understand the proceedings and their capacity to understand the proceedings is limited due to a disability, then the school district must provide a recording of the entire meeting.
- B. Any recording made of an IEP meeting must be maintained with the student's educational record and protected under the district's confidentiality procedures.
- C. Requests for a recording of the IEP meeting must be made 24 hours prior to the meeting. If prior to the meeting a parent requests a recording be made for reasons stated above, the district shall arrange for the meeting to be recorded.

#### Section IX. Determination of Whether a Student Is Eligible

- A. (300.534) (226.160) On the basis of the assessment data, supporting information collected by the IEP team, and information presented during the meeting, the team shall determine whether the student:

1. Has a disability defined 34 C.F.R. 300.5 and Section 226.75 of the Illinois Administrative Code and meets the written eligibility criteria developed by the school district;
  2. (300.7) Has a disability which has had an adverse effect on educational performance; and
  3. As a result of the adverse effect on educational performance, is in need of special education and related services to minimize the adverse affect.
- B. (300.534) In making eligibility determinations the IEP shall:
1. Rely primarily on the results of the full and individual evaluation;
  2. Carefully review and consider all assessment data;
  3. Consider the strengths and weaknesses of the student; and
  4. Ensure that the determination is not based on the student's lack of instruction in math or reading, or because of limited English proficiency.
  5. (226.160b)) Determine that eligibility is not because of lack of instruction in reading, math or limited English proficiency.
- C. (300.535) No single procedure shall be used as the sole criterion for determining whether or not a student has a disability, which adversely affects educational performance, nor shall the IEP Team rely solely upon the results of tests administered by the IEP Team.
- D. (300.534) (300.7) (226.160 f) If the IEP team determines that the student meets eligibility criteria and is entitled to a free appropriate public education, an IEP must be developed. Eligibility for special education programs and services shall be determined by the presence of one or more of the following exceptional characteristics:
1. (300.7) (226.75) **Autism** impairment means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, which 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. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance. A child who manifests the characteristics of "autism" after age 3 could be diagnosed as having "autism" if the eligibility criteria are satisfied.
  2. (300.7) (226.75) **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 child with blindness.
  3. (300.7) (226.75) **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.

4. (300.7) (226.75) **Emotional disturbance** (includes schizophrenia but does not apply to children who are socially maladjusted unless it is determined that they have an 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 adversely affects a child's educational performance:
  - 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; or
  - e) A tendency to develop physical symptoms or fears associated with personal or school problems.
5. (300.7) (226.75) **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.
6. (300.7) (226.75) **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.
7. (300.7) (226.75) **Multiple disabilities** means concomitant impairments (such as mental, retardation-blindness, mental retardation-orthopedic impairment, etc.), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness.
8. (300.7) (226.75) **Orthopedic impairment** means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractions).
9. (300.7) (226.75) **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 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, and sickle cell anemia, adversely affects a child's education performance.

10. (300.7) (226.75) **Specific learning disabilities** 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 an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia, the term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities; of mental retardation; of emotional disturbance; or of environmental, cultural, or economic disadvantage. Section IXD11: Add the following sentence to the end of the definition of speech or language impairment: “Further, in accordance with ASHA’s current Scope of Practice, additional areas of disorder may include central auditory processing, swallow and other aerodigestive functions.”
  11. (300.7) (226.75) **Speech or language impairment** means a communication disorder, such as stuttering, impaired articulation, language impairment, or a voice impairment, that adversely affects a child’s educational performance.
  12. (300.7) (226.75) **Traumatic brain injury** means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both that adversely affects a child’s educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgement; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical behavior, physical functions; information processing; and speech. The term does not apply to brain injuries induced by birth trauma.
  13. (300.7) (226.75) **Visual impairment** including blindness means an impairment in vision that, even with correction, adversely affects a child’s educational performance. The term includes both partial sight and blindness.
  14. (300.7) (300.313 (a) (1)) (226.75) **Developmental delay** means one or more disabilities as defined in 1-13 above for children aged 3-5.
- E. (105 ILCS 5/14-8.02 (g)) If the IEP team determines that the student does not meet eligibility criteria, the team will notify the parent using the mandated notice form that the student is not eligible for special education and related services.
- F. (105 ILCS 5/14-8.02(g)) If a parent disagrees with a determination made by the team pursuant to either subsection (D) or (E) of this Section, the parent must be advised of his or her right to request an independent educational evaluation at public expense and/or a due process hearing to resolve the dispute.

Section X. The IEP Team Report

- A. (20 USC 1414, Section 614(b)(4)(B)) (300.534) (226.160c)) The Case Manager will complete, during the IEP meeting, the portion of the IEP that addresses the following:
  1. The results and recommendations of the IEP team including a summary of all educationally relevant information collected during the full and individual evaluation;

2. The summary and findings with respect to each domain assessed, identifying all evaluation data obtained as part of the full and individual evaluation;
  3. A description of the team's consideration of pre-existing information about the child, all new evaluation results obtained and any other information relevant to the decision about the child's eligibility;
  4. The date of the meeting;
  5. The names, positions and signatures of those in attendance at the meeting;
  6. 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.
  7. Special accommodations needed in curriculum, materials, or instructional practices.
- B. (226.160 e)) A copy of the written evaluation report/IEP must be maintained in the student's education record and is subject to the school district's confidentiality procedures.
- C. (226.160d)) (300.345 (f)) A copy of the IEP must be given to the parents at the conclusion of the meeting. If requested by the parent, the parent shall also be given copies of any evaluation reports.
- D. (226.160 d)) The Case Manager shall provide the parent within 10 school days after the meeting, written notice conforming to the requirements of Section 226.520 of 23 Illinois Administrative Code.
- E. (105 ILCS 5/14-8.02 (b)) (300.502) If the parents disagree with the eligibility determination, the Case Manager will document on the IEP that the parents were advised of their rights as outlined in Chapter XII, Procedural Safeguards; Section X, Independent Evaluation including their right to an independent educational evaluation at public, or private expense. (226.180) To obtain an independent educational evaluation at public expense, the Case Manager shall ensure that at a minimum the following steps are followed:
1. The parents are given a copy of the Procedural Safeguards Statement, which explains the parent's right to an independent educational evaluation at public expense.
  2. The parents are given a list of independent evaluators, all of whom the district finds suitable to conduct the evaluation(s) needed. A listing of independent evaluators from which the district and parent may choose an independent evaluator is accessible on the ISBE Internet homepage at [www.isbe.state.il.us](http://www.isbe.state.il.us).
  3. The district and the parent jointly agree upon an individual(s) to perform the evaluation. If agreement cannot be reached as to who should conduct the independent evaluation, the district shall inform the parents of its intent to request a due process hearing.
  4. It shall be the district's responsibility to contact the independent evaluator to negotiate the cost of the evaluation, the nature of the evaluation, timeline for conducting the evaluation, and the need to have the evaluator(s) present to discuss their findings at the IEP meeting. While the district shall not limit by board policy the amount of money to be

expended on an individual assessment, every effort should be made to ensure that the cost for the evaluation is within the normal, reasonable and customary rate. If the evaluation cannot be conducted and the written report of the findings provided to the IEP Team within 30 days from the date the evaluator was contacted, then the parent and the district shall attempt to locate another suitable evaluator. The parent and district may mutually agree to waive the 30-day time period. Should the parties agree to waive the 30-day timeline, such agreement shall be obtained in writing and documentation of the agreement maintained in the student's educational record.

## Section XI. Reevaluation

- A. (300.534) (300.536) (226.190) The Case Manager shall ensure that a student with a disability receiving special education and related services receives a reevaluation every three years, or more frequently if conditions warrant, or if the student's parent or teacher requests, in writing, such an individual full and individual evaluation. At a minimum a reevaluation must be completed in the following instances:
1. Every three years (300.536 (b));
  2. Prior to a change in eligibility (300.534(c)(1));
  3. If the child's parent or teacher requests a reevaluation (300.536(b));
  4. When ordered by a hearing officer; and
  5. (226.190 c)) A reevaluation is not required for a student who graduates from high school with a regular high school diploma, or its equivalent or attains the age of 21.
- B. (300.505) (226.540 d) The Case Manager must ensure that written consent for the reevaluation is obtained using the state-mandated notice and consent form. If written consent is not obtained within 10 days, the district must request a due process hearing to secure parental consent for the reevaluation.
- C. (105 ILCS 5/14-8.02/ (b)) Each reevaluation, other than a regularly scheduled triennial reevaluation, shall be completed and the IEP convened within 60 school days from the date of referral.
- D. (300.533) (300.536) (226.120 (226.130) (266.140) (226.150) The full and individual evaluation (reevaluation) shall be carried out by an IEP team which includes as one of its members the child's parent(s) and must include a review of existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom based assessments and observations, and teacher and related service provider observation. Based on that review, and input from the child's parents, the IEP team shall identify what additional data, if any, are needed. Section 300.533(b) of IDEA does not require that a meeting be convened for the purpose of determining what additional evaluation data are needed. However, to ensure that the decision is made by a group that includes the individuals described in Section 226.210 of Illinois Administrative Code (IEP team) and other qualified professionals, as appropriate. The district will convene an IEP meeting to determine what additional data are needed with the exception of speech/language reevaluations.

1. If the parent requests additional testing be conducted as part of the reevaluation, the testing shall be completed. The parent must be included in the meeting where the determination is made regarding the district's need to conduct additional testing.
  2. The reevaluation must address all the domains of the past full and individual evaluation.
  3. If it is determined that no new testing is necessary in order to document continued eligibility for special education and related services and to assist the IEP Team in the development of an appropriate individual educational program, the IEP Team must document continued eligibility using the procedures described in Section I. C 2a) through d) of this (Evaluation and Determination of Eligibility Procedures).
- E. (105 ILCS 5/14-8.02 (g)) If the district determines that a reevaluation is not warranted and three years has not elapsed since the last evaluation, the parent and the individual (if other than the parent) requesting the reevaluation must be notified of the district's decision not to evaluate using the state-mandated form and must be advised of the procedure for challenging that decision.

**VI. INDIVIDUALIZED EDUCATION PROGRAMS**  
**34 CFR 300.128, 300.340-350**  
**IAC 226.200, 226.210, 226.220 226.230, 226.240, 226.250, 226.260,**  
**226.300, 226.310, 226.320, 226.330, 226.530, 226.800**  
**105 ILCS 5/14-8.02**

Section I. Development of IEP

- A. (225.200) (300.340) (300.342) (300.343(b)(2)) Within 30 days after reaching a determination that a student who is the subject of the IEP team is a student with a disability, one or more meetings must be convened for the purpose of developing an IEP (or, if consistent with IDEA an IFSP) for the student. Every child with a disability receiving special education and related services must have an IEP developed in compliance with these procedures and in effect at the beginning of each school year.
- B. (300.344) (226.210) The specified group of persons responsible for the development of the IEP (IEP Team) includes:
1. (225.210 e)) A representative of the school district (other than the child's teacher) who is qualified to provide or supervise the provision of special education, is knowledgeable about the general curriculum, is knowledgeable about the district's resources and has the authority to make commitments for the provision of resources set forth in the IEP;
  2. (226.210 c)) At least one special education teacher, or where appropriate, at least one special education provider of the child. If known, the special education teacher should be the person who is or will be responsible for implementing a portion of the child's IEP. If the child is receiving only speech and language services, the speech and language pathologist shall fulfill this role;
  3. (226.210b)) At least one regular education teacher of the child (if the child is, or may be, participating in regular education environment). The regular education teacher assigned to

the IEP meeting should be an individual with classroom responsibility, preferably a teacher who has had special education students in his/her classroom and who will possibly have the student who is the subject of the meeting.

4. (227.210 a)) One or both of the child's parents;
  5. 227.210 j)) (300.344(b)(1)) The student may be invited by either the district or the parents. The district shall invite the student with the purpose of the IEP meeting is to consider and plan transition services. When the student does not attend the IEP meeting, the school district shall take other steps to ensure that the student's preferences and interests are considered:
  6. (226.210 k)) Other individuals at the discretion of the parent or district who have knowledge or special expertise regarding the child, including related services personnel as appropriate;
  7. (226.210 h)) For a student who has been evaluated, the members of the IEP Team who conducted the individual evaluations of the child. If a member of the evaluation team cannot attend, another person who is familiar with the evaluation procedures and results must represent them.
  8. (226.210f)) if appropriate, a qualified bilingual specialist or bilingual teacher,
  9. (226.210g)) If appropriate and in those cases where the child's behavior impedes his or her learning or the learning of others, a person knowledgeable about positive behavior strategies;
  10. (226.210i)) If transition services will be discussed, the school district shall invite representative(s) of other agency(s) that are likely to be responsible for providing or paying for transition services.
- C. (300.345) (226.530) The school district will promote and encourage parental participation in the IEP process.
1. The school district will schedule each IEP meeting at a mutually agreed upon time and place, whenever possible.
  2. The school district will notify parents at least 10 days prior to any IEP meeting using the mandated notice form of the purpose, time and location of the meeting and the names of the persons who will be in attendance.
  3. A school district may conduct an IEP meeting without a parent in attendance If the school district is unable to convince the parents to attend after attempts to arrange a mutually agreed upon time and place for the meeting.
  4. If neither parent is present at an IEP meeting, the school district will maintain a record of attempts to secure parental participation such as:
    - a) Detailed records of telephone calls made or attempted and the results;

- b) Copies of correspondence and any responses received; and
  - c) Record of home visits and visits to place of employment and the results of those visits.
5. If neither parent can attend an IEP meeting in person, the school district will use other methods to ensure parental participation, including individual or conference telephone calls.
6. The school district will take whatever action is necessary to ensure that the parents understand the proceedings of the IEP meeting, including the use of an interpreter for parents who are deaf or limited or non-English speaking.
- D. (300.347)(226.230) The IEP shall include the following components:
- 1. (226.230a1)) A statement of the student's present levels of educational performance, written in a manner that is meaningful and useful to the persons responsible for directly providing the student with special education and/or related services, in all areas of educational performance adversely affected by the student's disability. This must include a statement of how the student's disability affects his/her involvement and progress in the general curriculum. For preschool children, as appropriate, the statement must describe how the disability affects the child's participation in appropriate activities. The statement of present levels of education performance may include:
    - a) The results of any tests administered by the school district to the child during the individual evaluation or as part of the regular school program;
    - b) The results of any non-tested based evaluation conducted by the school district which assesses the child's social and emotional status, general intelligence, academic performance, communicative status, vocational aptitude, or motor abilities.
    - c) A description of the effects of the child's disability on the child's educational performance, to the greatest extent possible, in objective and measurable terms;
    - d) Information which fully and effectively communicates to parents the nature and significance of test results and the results of other evaluations including test scores which are self-explanatory or which are accompanied by a clear and comprehensive explanation;
    - e) Information which is clearly linked to the statement of annual goals, benchmarks or short-term objectives and specific special education and related services to be provided to the child as outlines in the IEP;
    - f) A description of the child's strengths.
    - g) A description of physical abilities and disabilities, which affect participation in instructional situations including physical education;

- h) A description of abilities related to the participation and integration with non-disabled students;
  - i) A description of behaviors which affect educational placements, instruction, discipline or health and safety; and
  - j) Competencies, which may be requisite to participation in vocational education.
2. (226.230a)2)) A statement of measurable annual goals, including benchmarks or short-term objectives, related to the following:
- a) Meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum; and
  - b) Meeting each of the child's other educational needs that result from the child's disability.
  - c) The measurable annual goals shall reflect consideration of the State goals for Learning and the Illinois Learning Standards. The benchmarks or short-term objectives must include, at a minimum, the following elements:
    - 1) Anticipated acquisition and/or skill mastery outcomes for each measurable annual goal (including physical education) in which special education and related services are being provided;
    - 2) Frequency and duration of services, anticipated outcomes for participation by the child in non-academic and extracurricular services;
    - 3) A description of what the child can reasonably be expected to accomplish within the timeframe covered by the IEP, not to exceed a twelve-month period; and
    - 4) For students of secondary school age, identify the anticipated outcome of elementary and secondary education in terms of:
      - (a) Academic completion of secondary school, including the type of diploma to be issued;
      - (b) Competitive employment or admission to post-secondary vocational education programs; or
      - (c) Entry into supported employment programs.
      - (d) Beginning at age 14, a statement of any transition services needed, including a statement of the school district's or agency's individual and cooperative responsibilities before the student leaves the school setting and the student's course of study (such as participation on advanced-placement courses or a vocational education program). If the IEP Team determines that transition services are not needed, the IEP must include a statement to that effect and the basis upon which the determination was made.

- (e) (226.130 d)) When the child reaches 14 \_ the IEP must include goals for employment, post-secondary education, or community living alternatives and a description of transition supports or services.
3. (226.230a)7)) A description of the specific special education and related services and supplementary aids and services and program modifications or supports that will be provided in order for the child to:
- a) Advance appropriately toward attaining the annual goals,
  - b) Be involved and progress in the general curriculum and participate in
  - c) Extracurricular and other nonacademic activities, and
  - d) Be educated and participate with disabled and non-disabled children, including but not limited to:
    - (1) Determining appropriate positive behavioral interventions and strategies for the student.
    - (2) Determining supplementary aids and services and program modifications for the student.
    - (3) Determining support that school personnel need in order to help the child progress in the general curriculum.
4. (226.230a)8)) The projected beginning date for the services and modifications, the amount, frequency (time per session and number of sessions per week), location (refers to the least restrictive environment/placement not a specific building or facility), anticipated duration of specific special education and related services to be provided, the date for initiation of each service, the identification of the position and/or agencies responsible for providing each service, and the relationship of each service to the statement of annual goals and benchmarks or short-term objectives.
5. An explanation of the extent, if any, to which the child will not participate with non-disabled children in the regular class and in extracurricular and non-academic activities.
6. A statement indicating whether the student will receive regular physical education or adaptive physical education.
7. A statement of any vocational educational services to be provided.
8. (300.309) A statement of any extended school year services to be provided to the student, whenever the provision of such services is necessary to provide FAPE. (Extended School Year (ESY) is defined in 23 IAC 226.75 as “special education and related services that are provided to a child with a disability beyond the normal school year of the public agency in accordance with the child’s IEP and at no cost to the parents of the child and meets the requirements of 226.750.” The school district shall not limit its provision of services during an extended school year to particular categories of disability, nor shall a district unilaterally limit the type, amount or duration of such services.

9. A statement of any individual modifications in the administration of State or district-wide assessments of student achievement that are needed in order for the child to participate in such assessments. This statement must include any individual accommodations that are needed in order for the child to participate in the assessment. The assessment accommodations shall be consistent with those accommodations the student typically receives in order to benefit from instruction. If the IEP team determines that the child will not participate in a particular assessment of student achievement (part of an assessment), a statement documenting why the assessment is not appropriate for the child and how the child will be assessed, including a description of alternative assessments must be included in the IEP.
10. A statement of special factors considered, such as:
  - a) Any special methods, materials, equipment, or procedures;
  - b) Positive behavior strategies and interventions (this may involve the inclusion in the IEP of a behavioral intervention plan developed in accordance with 14-805(2) of the School Code) for students with behavior that impedes their learning or that of others;
  - c) Administration medications;
  - d) (300.303) Ongoing procedure to check to ensure that a child's hearing aid is functioning properly;
  - e) Provision of services by any other public agency, which will be necessary to provide the student an appropriate education;
  - f) Language needs, for students with limited English proficiency;
  - g) Instruction in Braille and the use of Braille, unless the IEP team determines it is not needed, for students who are blind or visually impaired;
  - h) Communication needs;
  - i) Assistive technology devices and services; and
  - j) For a student who is deaf or hard of hearing, the IEP Team must consider the student's language and communication needs, opportunities for direct communication with peers and professionals in the student'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.
11. For any student transferring from an elementary school district to a high school district, the IEP must contain appropriate transitional goals/objectives.
12. Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term objectives or benchmarks and annual

measurable goals are being achieved and if not, why not, and a schedule for systematically monitoring the student's progress and the name of the person responsible for monitoring and reporting to the IEP Team.

13. A statement describing how the child's parents will be regularly informed (by such means as report cards) of:
    - a) The student's progress toward annual goals and
    - b) The extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year.
  14. The IEP for a student who has reached the age of 17 shall include documentation that the student has been informed of the rights under IDEA that will transfer to the student when he or she reaches the age of 18.
  15. Signatures and positions of IEP members (including the parent(s) in attendance) and the date of the meeting. Parents should be advised that their signature on the IEP is not required in order for the IEP to be implemented. If the parents disagree with the IEP or any part of the IEP, the procedure available to challenge the content of the IEP is to request a due process hearing.
- E. (300.349) Before the district places a child or refers a child to a private school or facility:
1. The district will either convene an IEP meeting with a representative of the private school in attendance or will ensure that the representative participates through other methods (including individual or conference telephone calls) in its development.
  2. With respect to the annual review and revision of the IEP of a child with a disability placed or referred to a private school by a school district, the school district may permit the private school to initiate IEP meetings which will be conducted as described above, provided that the parents of the child and a representative of the school district are involved in any decision about the child's IEP and agree to any proposed changes in the IEP.
- F. (300.343(b)2) (226.110) The IEP Team must complete each initial IEP no later than 30 days after the determination of eligibility and in no case later than 60 school days from the date of referral.
- G. (300.342) No school district shall provide special education or related services to a student with a disability unless and until an IEP has been completed and a placement has been made pursuant to the requirements set forth by federal and Illinois law.
- H. (300.345(f)) The school district shall provide the parent, upon request, with a copy of the IEP at no cost to the parent. The IEP shall be provided to the parents at the conclusion of the IEP meeting. (226.160d))
- I. (300.347(c)) (300.517(a)(1)(i)) Once the student reaches the age of majority, the district shall continue to provide written notices to the student's parent(s)

## Section II. Determination of Related Services

- A. (300.347)(a)3) Participants in the IEP Team meetings held to develop, review, or revise the IEP shall determine what related services (including transportation) are needed by a particular student in order for that student to achieve the annual goals.
- B. If a related services is determined by the IEP Team to be a needed service, the IEP team shall include the service in the IEP at no cost to the student or to the student's parents.
- C. (226.130) The need for transportation as a special education related service shall be determined by the IEP Team and will be arranged to ensure that:
  - 1. The student receives full instructional day and is transported each day school is in session;
  - 2. The student's school day is not abbreviated for reasons other than the nature and severity of the disability;
  - 3. Transportation will be available to allow a student full opportunity to participate in non-academic and extracurricular services; and
  - 4. Every effort should be made to limit transportation time to not more than one (1) hour one way.

## Section II. Implementation of the IEP

- A. (300.350) (105 ILCS 5/14-8.02 (b)) (226.200c) Implementation of the IEP will occur within 10 days after the parents have been provided notice of the placement. The school district shall ensure that all special education and related services identified on the student's IEP are provided to the child and the amount of services provided are sufficient to allow the child to meet his or her objectives/benchmarks.
- B. (226.200g) The Case Manager shall provide a copy of the child's IEP or at least those portions of the IEP directly or indirectly related to the child's participation in the classroom to all staff members responsible for implementing the IEP. The Case Manager shall inform all staff involved in the implementation of the IEP of their responsibility to implement the IEP as written.
- C. (226.00c) (300.342) At the beginning of each school year, the school district shall have in effect for each child with a disability within its jurisdiction, an individualized education program. In the case of a child with a disability age 3 through 5, an IFSP that contains all IEP requirements. To use the IFSP for the child instead of an IEP requires written informed consent by the parents that is based on an explanation of the differences between an IFSP and an IEP.
- D. (300.311) The school district is not required by the IDEA to make FAPE available to a student with a disability that has been convicted as an adult under State Law and incarcerated in an adult prison. The IEP team may make modifications to the IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

#### Section IV. Manifestation Determination Review

- A. (300.524) (226.410) If disciplinary action is contemplated or if it involves a change of placement, an IEP Team meeting must be convened to determine the relationship between the student's disability and behavior. The appropriate personnel shall notify the parents in writing of the district's decision to conduct a manifestation determination review and of the procedural safeguards that apply. The manifestation determination review shall take place as soon as possible, but in no event more than ten school days after the date on which the district determines that disciplinary action will be taken. The IEP Team and other qualified personnel must conduct a manifestation determination review when:
1. A disciplinary action involves a change of placement or for removals of more than 10 school days;
  2. Placement is made in an interim alternative educational setting for not more than 45 days by school personnel for behavior involving a weapon, illegal drug or controlled substance; or
  3. Placement is made in an interim alternative educational setting for not more than 45 days by a hearing officer for behavior substantially likely to result in injury to the child or to others.
- B. (226.410) (300.523) When making a manifestation determination, the IEP Team must:
1. First consider all information that may be relevant to the behavior that resulted in the disciplinary action, such as:
    - a) Evaluation and diagnostic results, including relevant information supplied by the student's parents;
    - b) Observations of the student by a person knowledgeable about the child and the child's disability, including to the extent possible an observation in the environment in which the behavior occurred;
    - c) The student's IEP and placement;
    - d) The context in which the behavior at issue arose; and
    - e) The extent to which the student's disability impaired the student's ability to control the behavior at issue.
  2. (300.523(c)(2)i) The IEP Team must determine if the student's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided in a manner consistent with the student's IEP and placement.
  3. (226.410) the IEP Team must determine if the student's disability impaired his/her ability to control and to understand the impact and consequences of the behavior that resulted in the disciplinary action.

- C. (300.524) (226.410) If the IEP Team determines that the student's behavior was not a manifestation of the student's disability, the district's standard disciplinary procedures may be applied keeping in mind that the students with disabilities must continue to receive services as determined by the IEP Team. The services to be provided must be sufficient enough to enable the student to progress in the general curriculum and advance appropriately toward achieving the goals set forth in his or her IEP. If the student's parents disagree with the manifestation determination, they may request an expedited due process hearing.
- D. (300.523) (226.410f) If the IEP Team determines that the student's disability was related to the misconduct which resulted in the disciplinary action, the student cannot be suspended beyond 10 days during the school year or expelled, unless the incident involved a weapons or drug violation or an impartial due process hearing officer found the student to be dangerous to himself/herself or others in which case the student would be moved to an interim alternative educational setting for not more than 45 calendar days. If the student's behavior is determined to have been a manifestation of his or her disability, the district must immediately initiate steps to remedy any deficiencies identified in the IEP or its implementation so that such deficiencies may be removed as soon as possible.
- E. The parent and the student at the age of majority must be notified in writing of all suspensions, expulsions and placements in Interim Alternative Education Settings.
- F. (300.146) the school district must include in the End of the Year Report to the Illinois state Board of Education the following information regarding students with disabilities suspended or expelled from school:

Report on children with disabilities subject to unilateral removal for drug or weapon offenses, removal based on a hearing officer determination regarding likely injury, or long-term suspensions/expulsion (by disability, age of the student, number of acts, and by race/ethnicity).

#### Section V. Consent for Initial Placement Based upon the IEP

- A. (300.505) After the IEP process has been completed, the IEP Team must determine the student's special education placement.
- B. (300.348) The district must reconvene an IEP meeting immediately upon notice that transition services described in the IEP are not being implemented as proposed. The IEP Team shall identify alternative strategies to meet the transition objectives set forth in the IEP.
- C. (226.200.e) The IEP of a student with a disability currently receiving special education and related services shall be reviewed and as appropriate, revised whenever a review is requested by a parent, teacher, and educational designee. If a parent requests a review, the IEP Team shall be convened and shall hold whatever meetings are necessary within 10 days from the date the request is received by the school district.

#### Section VII. Appropriately Trained Personnel

- A. (226.800) In carrying out the responsibilities of this Section, the school district will utilize only those professionals who meet the certification and licensing standards of the Illinois State Board of Education or other agencies governing the licensing of professional personnel. In fulfilling these requirements, the superintendent or designee will:

1. Review each professional's qualifications and certification, upon application for employment and every three years, to ensure current certification or licensure;
2. Comply with all procedures and standards set forth by the Illinois State Board of Education;
3. Provide professional development training to staff and externally contracted individuals to ensure the use of promising and innovative practices; and
4. Provide training in the implementation and interpretation of all state and federal requirements.

### Section VIII. Transfer Students

- A. (Notice of Interpretation to Part 300, Question 17) (226.50h)) If the district has a student with an IEP enrolled for the first time, the district must immediately ensure FAPE by providing special education and related services in conformity with an IEP.
1. The district shall immediately enroll and initiate educational services.
  2. The district may adopt the sending district's IEP. Such adoption does not require an IEP meeting if a copy of the current IEP is available, the parents indicate satisfaction with the current IEP, and the district determines that the current IEP is appropriate and can be implemented as written.
  3. If the district cannot fully implement an IEP from the Student's former district, the receiving district shall note in the IEP the services to be provided and shall explain what is being done to secure the remaining services, resources, or other unfulfilled portions of the IEP and how long those actions are expected to take.
  4. The district may develop a new IEP for the child if the school district or the parents do not believe the current IEP is appropriate. In such a case, the district shall, within 10 days after the date of the child's enrollment, initiate an IEP meeting for the purpose of developing the new IEP. While the new IEP is under development, the district shall implement the IEP from the former district to the extent appropriate.
- B. If the student's educational record is not complete or if the district disagrees with the information or findings of the former district, the student must be reevaluated in accordance with the district's evaluation and determination of eligibility procedures. The district shall develop a new IEP based on the evaluation and determination of eligibility procedures.

### Section IX. Placements in Non-public Special Education Programs by the District

- A. (300.349) (226.330) Before the school district places a student with a disability in, or refers a child to, a non-public special education program or facility, the school district shall initiate and conduct a meeting to develop an IEP in accordance with the district's IEP procedures.
- B. (300.348) (226.330) The school district shall ensure that a representative of the non-public special education program or facility attends the meeting. If the representative cannot attend, the

district shall use other methods to ensure participation by the non-public special education program or facility, including individual or conference telephone calls.

- C. (226.330) After a child with a disability enters a non-public special education program or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the non-public special education program or facility at the discretion of the school district.
1. If the non-public special education program or facility initiates and conducts these meetings, the district shall ensure that the parents and district representative:
    - a) Are involved in any decision about the child's IEP; and
    - b) Agree to any proposed changes in the IEP before those changes are implemented.
  2. (225.330f) Even if a non-public special education program or facility implements a child's IEP, responsibility for compliance remains with the school district of residence.

Section X. Special Education and Related Services to Unilaterally placed students in Private and Religiously Affiliated Schools.

- A. (300.451) The local district is responsible for the identification, location, and evaluation of all children with disabilities residing within the jurisdiction of the district including those attending private and religiously affiliated schools.
- B. (300.351(a)) (300.350) All children suspected of having a disability must be evaluated by the school district. Once an initial eligibility determination is made, children with disabilities must be reevaluated at least once every three years. If the district cannot complete an evaluation or reevaluation because the parents of a parentally placed private school child refuse to cooperate or provide written consent, the district is not required to take further action.
- C. (300.403(a)) (226.350) After initially evaluating the child and determining that the child is eligible for special education and related services, the district must inform the parents that the district will provide the child free and appropriate public education (FAPE) if the child is enrolled in the public school. The school district should explain to the parents what services are available to the child if the child remains in the private school. If the child remains in the private school and will receive services from the school district, the district must develop a "services plan" for the child.
- D. (226.50) (300.454(b)) (300.453) The determination of what services will be provided, to whom, and at which location is entirely within the discretion of the district. The district must consult annually with appropriate representatives of private school(s) located within the district's boundaries and outside the district's boundaries that are attended by the district's resident children. An "appropriate representative" of a private school would be an administrator, teacher or parent appointed by the specific private school to represent the needs of the children enrolled in that particular private school. The district must give the representatives of the private schools a genuine opportunity to express their views about which children will receive services; what services will be provided; how and where the services will be provided; and how the services provided will be evaluated. Consultation with the private school representatives must occur before the district makes any decision that affects the opportunity of private school children with

disabilities to participate in services. The school district shall maintain a written record of its attempts to “consult” with representatives of the private schools.

- E. (226.350b)) The school district shall ensure that the services provided to private school children with disabilities are comparable in quality to services provided to children with disabilities enrolled in public schools. Comparable in quality means provided by similarly qualified personnel.
- F. (300.403) 300.450) (226.350) Students with disabilities unilaterally placed by their parents in private and religiously-affiliated schools who have been determined eligible for services under the Individuals with Disabilities Education Act Amendments of 1997 and for whom an IEP or service plan has been developed are entitled to receive services in an amount which need not exceed the proportional per-child amount of IDEA federal flow-through funds the district will receive under section 619(g) of the IDEA.
- G. (226.350a)4)) The school district shall make the final decisions with respect to the services to be provided to eligible children who are enrolled in private schools.
- H. (227.350d)) The transportation to and from a site other than the private school shall be provided if necessary for a child to benefit from or participate in the services offered by the district. This includes transportation from the service site to the private school or to the child’s home, depending upon the timing of services.
- I. (226.350e)) (34 CFR300.457(b)) The parents of a private school child may request mediation, initiate a due process hearing or file a written complain with the Illinois State Board of Education about matters relating to child find, evaluation and eligibility determinations including the right to an independent educational evaluation. All procedural safeguards are available to students who are enrolled in the school district.

**VII. LEAST RESTRICTIVE ENVIRONMENT**  
**34 CFR 300.130**  
**IAC 226.240**

Section I. Overview of Placement

- A. (300.347) (300.550) (226.240c)) The district strongly supports the right of students with disabilities to be educated in regular classes with appropriate supplementary aids and services. Each IEP Team clearly understand its responsibility to include in the IEP of each student placed in a regular education class the appropriate supports to help ensure successful progress in the general curriculum, participation in state and district-wide assessment programs, achievement of the measurable goals in their IEP's, and to be educated together with their non-disabled peers.
- B. (300.552(c)) (226.240) The educational placement of a student with a disability must be in the regular classroom of the public school the student would normally attend if not identified as having a disability, unless the nature or severity of the student's disability makes it impossible for the student to accomplish his/her IEP goals and objectives in regular classroom environment, even with the use of supplementary aids and services.
- C. (300.552) If the IEP team determines that the student's educational goals and objectives as specified in the IEP, cannot be achieved satisfactorily in the regular education environment, even with the use of supplementary aids and services, the IEP team must recommend a special education placement in the least restrictive environment wherein the goals and objectives can be satisfactorily achieved. In the determining placement, the IEP team shall place the student, if possible, in the setting the student would attend if not disabled. If not, placement of a student with a disability shall be in a school, which is as close as possible to the student's residence.
- D. (300.553) (226.240d)) Regardless of the IEP team's placement determination, the student must be allowed to participate with non-disabled students in non-academic and extracurricular activities (including meals, recess periods, athletics, clubs and recreational activities) to the maximum extent appropriate to the needs of the student.
- E. (300.345) (226.540) Parents are to play a direct and active role in formulating placement decisions. As members of the IEP Team, parents are to be actively involved in providing information about the student and in evaluating placement alternatives. Signed parental consent using the state-mandated consent form must be obtained by the school district before the initial placement of a student into a special education program. In cases in which consent cannot be obtained, the school district may request a due process hearing to compel placement in special education if indicated.

Section II. Participation in Regular Education Programs

- A. (300.305) The school district shall take steps to ensure that students with disabilities have equal access to the variety of educational programs and services available to non-disabled students in the geographic area served by the school district.
- B. At a minimum, steps taken by the school district to ensure the availability of regular educational programs and services to students with disabilities shall include:

1. (226.300) Modification of instructional methodologies, staffing, materials and equipment to permit the effective participation of students; and
  2. Individualized of the instructional program including staffing, curriculum modifications, classroom accommodations, modified grading, assistive technology and instructional materials to permit the effective participation of students with disabilities.
- C. (300.347) The IEP must include a statement describing how the student's disability adversely affects the student's participation in, and progress toward general education curriculum objectives, including;
1. (300.553) Student participation in extracurricular and other non-academic activities;
  2. The extent to which the student will be educated and participate with non-disabled students'
  3. An explanation of the extent, if any, to which the student will not participate with non-disabled students in a regular class and also in nonacademic and extracurricular activities; and
  4. A statement of any individual modifications in the administration o state or district-wide assessments of student achievement that are determined necessary in order for the student to participate in the assessments. If the IEP Team determines that the student cannot participate in the state or district-wide assessments, the IEP Team must explain why and describe how the student will be alternately assessed.

## Section II. Continuum of Alternative Placements

- A. (300.551) (226.300) Regular Program with Modification – The student receives his/her education in a regular education program. However, in accordance with the student's IEP, the regular education instruction may be modified through:
1. Supportive services or specialized instruction,
  2. consultation to and with special education personnel,
  3. Provision of special equipment and materials,
  4. Modification in the instructional program, and
  5. Modification of curriculum content of methodology.
- B. (226.300) (225.73b)) Regular Classes with Resource Services or related Services – the student receives his or her education in a regular classroom augmented by one or more resources or related services for less than 50% of the school day.
- C. (226.300) Special Program/Classes and Schools p the student receives most of his/her basic educational experience through an instructional program in a special class, that is predominantly self-contained, or in a special school. Featured in this program are:

1. Inclusion in those areas of the standard program deemed appropriate; and
  2. Provision of related services as needed.
- D. (226.300) Cooperative Program – the student receives most of his/her educational experiences through either the standard or the special program of the public school. However, this is supplemented through work-experience programs or shared agency involvement.
- E. (226.300) Home and Hospital Program – The student is eligible for either the standard or special program, but is unable to attend said programs due to a medical condition, and therefore receives instructional or resource programs or related services in his/her home or in the hospital.
- F. (226.300) State-Operated or Non-public Programs – The student’s exceptional characteristics are so profound or complex that no special education program services offered by the public schools can adequately or appropriately meet his/her needs and he/she is referred to either a state-operated or a private facility.
- G. (226.300) Home instruction – Home instruction is meant for only a limited number of students, such as those who are medically fragile or otherwise unable to participate in a traditional school setting.
- H. (300.551) (300.26) The school district shall also develop placement alternatives tailored to the needs of individuals, or groups of students with disabilities, within the overall public school program. These additional placement alternatives may be developed by adapting or modifying the existing placements or by designing and developing new placement alternatives to best meet the needs of individual students or groups of students.

Section IV. Determining Educational Placement

- A. (300.552) In determining any educational placement of a student, the IEP Team shall:
1. Carefully review the completed IEP of the student:
  2. Identify and document pertinent information from a variety of sources including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
  3. Ensure that the student is educated in the school he/she would attend if non-disabled unless the IEP specifies otherwise; and
  4. Consider any potentially harmful effects of a suggested alternative placement on the student, as well as any variance in the quality of educational services that the student needs.
- B. (226.240) The IEP Team shall recommend placement of the student in a regular public school that the student would attend if not identified as having a disability, unless the IEP Team determines that:

1. The curricula, instructional methodologies, staffing patterns or classroom organization approaches recommended in support of the instructional objectives contained in the IEP:
    - a) Are inappropriate in terms of the educational and learning needs of the student; and
    - b) Cannot be utilized in a setting where non-disabled students are present for the entire instructional day (exclusive of the provision-related services).
  2. Alternative curricula, instructional methodologies, staffing patterns and classroom organization approaches which do not preclude the presence of non-disabled students for the entire instructional day, but which are at least likely to support the achievement of the instructional objectives specified in the IEP, cannot be identified.
- C. (300.551) (226.240) If the IEP team determines that placement of the student should be made outside of the regular education environment, the IEP Team shall review the alternative placements set forth in Section III, Continuum of Alternative Placement in descending order and recommend the first alternative setting wherein the goals, objectives, benchmarks, accommodations, supportive services, aids and related services can be implemented
- D. (300.552(e)) (226.240) In recommending a placement outside of the regular education environment, the IEP Team shall recommend placement in both chronologically age-appropriate classroom settings and chronologically age-appropriate schools. The age range of the students within a special education program or in any individual instructional group setting shall not exceed four years at the primary and intermediate level or six years at the secondary level.
- E. (300.552(3)) (226.240) If possible, the special education placement shall be made in the school the student would attend if not disabled, otherwise in a setting as close as possible to the student's residence.
- F. (Notice of Interpretation to Part 300, Question #) In no event may an IEP Team recommend a placement of a student based solely upon the category of the student's disability or on the current configuration of the school district's service delivery system.
- G. The IEP Team may recommend the placement of a student in a program of homebound or hospital instruction only if there is medical certification from a physician licensed to practice medicine in all of its branches.
- H. (300.520) In the even that the district must remove a special education student from his/her current program because of behavior believed to be dangerous to the student or to others or due to a weapons or drug violation, the IEP Team shall identify an interim alternative educational settings (IAES) that will afford the student an opportunity to participate in the general education curriculum and where the student's IEP can continue to be implemented. The move to the interim alternative placement shall not exceed 45 days unless extended by an impartial due process hearing officer. At the conclusion of the 45 days, the student shall be returned to his/her current placement (placement prior to the removal to the IAES) or a new placement as determined by the IEP team.
- I. The IEP Team when making a placement determination on behalf of a child between the ages of 3-5 must consider the least restrictive environment needs of the child. The district must provide

FAPE in the least restrictive environment to all eligible preschool aged children with disabilities, even if the local education agency does not provide free preschool programs or regular education to non-disabled preschool children. The least restrictive environment alternatives may include:

1. Providing opportunities for the participation (even part-time) of preschool children with disabilities in other preschool programs operated by the district, such as Head Start and At-risk Programs;
2. Placing children with disabilities in private school programs for non-disabled preschool children or private preschool programs that integrate children with disabilities and non-disabled children; and
3. Locating classes for preschool children with disabilities in regular elementary schools.

#### Section V. Placements Outside the Regular Education Environment

- A. (Notice Interpretation to Part 300, Question 1) All service and educational placements must be individually determined based upon the unique abilities and needs of each student, to promote student educational success. Before a student can be placed outside of the regular educational environment, the full range of supplementary aids and services that would facilitate the student's placement in a regular classroom setting must be considered. Following that consideration, if a determination is made that the student's disability cannot be accommodated satisfactorily in the regular education environment, even with the provision of appropriate supplementary aids and services, the student may then be considered for placement in other than a regular classroom.
- B. (Notice of Interpretation to Part 300, Question 1) In all cases, placement decisions must be individually determined on the basis of each student's abilities and needs, and not based solely upon the category of the disability, significance of disability, availability of special education and related services, configuration of the service delivery system, availability of space, or administrative convenience. Rather, each student's IEP forms the basis for each placement decision.
- C. If the IEP Team determines that a student should be placed in a self-contained classroom the IEP Team shall then recommend said placement in a facility wherein there are a sufficient number of students within an age span of four years at primary and intermediate levels and six years at the secondary level who have similar instructional needs to form viable classroom instructional unit:
  1. At the public school the student would normally attend; or
  2. In a public school operated by the school district; or
  3. In a public school operated by a cooperative school districts.
- D. (226.240) If the IEP Team determines that said placement should be made in a separate public school, then the IEP Team shall recommend placement:
  1. In a separate public school operated by the school district if there are a sufficient number of students with disabilities residing within the school district who are within an age span of four years at the primary and intermediate levels and six years the secondary level and

who have instructional needs sufficiently similar to form a viable classroom instructional unit or:

2. In a public school operated by a cooperative of school districts if there are sufficient number of students with disabilities residing within such school districts who are within an age span of four years at the primary and intermediate levels and six years at the secondary level and who have instructional needs sufficiently similar to form a viable classroom instructional unit.

#### Section VI. Placements in Non-public Programs

- A. An IEP Team recommending placement of a student in a nonpublic special education program or public day educational program located within the school district or else within reasonable transportation distance of the student's residence (not to exceed, if at all possible, one hour one way) as a means of providing the student with an appropriate education consistent with the requirements of Sections IV and V above shall not make said recommendation unless the IEP Team can document that appropriate educational services are not available and cannot be developed for the student, within the school district.
- B. An IEP Team recommending placement of a student in a non-public special education program or public residential education program located within or outside of the state as a means of providing the student with an appropriate education consistent with the requirements of Sections IV and V above shall not recommend said placement unless the IEP Team can document that appropriate educational services are not available and cannot be developed for the student, within the school district.

#### Section VII. Non-academic and Extracurricular Services

- A. (226.240) The placement decision made by the IEP Team shall permit the child to participate as appropriate in non-academic and extracurricular services and activities.
- B. (300.552) School districts may provide a non-academic or extracurricular service to a student with disabilities in a different manner than it is provided to a non-disabled student, if such different or separate provision is necessary to provide the student with a service or activity equally effective to those provided to non-disabled students.
- C. (300.553) Participation of a student with a disability in a separate non-academic or extracurricular service or activity (i.e., one in which non-disabled students do not participate) is permitted only where the nature or severity of the student's disability renders it impossible for the student to participate or otherwise benefit from participation in a service or activity in which non-disabled students participate.
- D. A student with a disability may be excluded from participation in extracurricular activities for misconduct provided the exclusion is consistent with the district's disciplinary code and is consistently applied with students without disabilities.

#### Section IX. Responsibilities of IEP Team

- A. (300.347) the IEP team shall, at a minimum, include in each IEP initially prepared, reviewed or revised for a student with a disability:

1. A statement of the annual educational goals, objectives or benchmarks for the student in the educational performance areas which are adversely affected by the disability, expressed in terms of specific skills to be mastered and information to be acquired and/or retained;
  2. A description of the specific instructional and related services to be provided in support of each identified instructional objective including an identification of the curriculum, instructional methodologies, staffing patterns and the classroom organization approach to be used; and
  3. A description of the procedures and criteria that will be used to measure and report student progress toward the identified instructional objectives as well as analysis of failures. Student progress toward attaining the annual goals, objectives and benchmarks shall be communicated to the parents as frequently as parents of regular education students receive progress reports.
- B. The prescribed IEP goals and objectives will determine whether satisfactory educational progress has been achieved by the student during the period addressed by the IEP, (generally one school year), based upon the application of the criteria contained in the current IEP.
- C. for a student with a disability who is determined to have not satisfactorily achieved one or more instructional objectives specified in the IEP, the IEP Team will identify the factors, which most likely contributed to this outcome, after a careful consideration of:
1. The appropriateness of the instructional objective not achieved, as well as the level of success that was achieved;
  2. The appropriateness of the evaluation criteria and procedures used to measure the attainment of each objective;
  3. The compatibility of the teaching style, instructional methodologies and curricula used with respect to the unattained objective(s) and the student's learning incentive-motivational and communication styles;
  4. The effects, if any, of peer interaction within the learning environment;
  5. Potential effect of outside factors related to the home and community environment, as well as any psychological or physiological health issues.

**VIII. TRANSITION OF CHILDREN FROM PART C TO PRESCHOOL PROGRAMS**  
**CFR 300.132**  
**IAC 226.260**

Section I. Identification Prior to Age 3

- A. (300.125 (c)) (226.100) As provided for in Chapter IV, Child Identification the district shall identify, locate and evaluate all children birth through 21 years of age who are suspected of having a disability which adversely affects educational performance.

- B. (300.132 and 300.342 (c)) (226.260) The district shall have in effect at age 3 an IEP or IFSP for all eligible students.

Section II. Coordination between Part C and Part B Services

- A. The Director of Special Education shall be responsible for maintaining ongoing dialogue with the Early Intervention Program(s) serving infants and toddlers with disabilities for the purpose of:
1. Facilitating and coordinating child-find activities; and
  2. Establishing a crosswalk between services for infants and toddlers and services for students with disabilities beginning at age 3.
- B. (300.132) (226.260) Each member district will participate in transition planning conferences arranged by the Early Intervention Program. During each transition planning conference the district will:
1. Review with the early intervention service providers and the family the procedural safeguards available to families and children with disabilities at age 3.
  2. (303.148 (a)(2)(i)) At least 60 days prior to the child's third birthday arrange for a meeting with the family and those agencies providing IFSP services for the purpose of discussing the rights of parents and the services provided by the district. This meeting shall be arranged for any child who may be eligible for such preschool services;
  3. (226.260 b)1 and 2)) Initiate a referral for a full and individual evaluation to determine eligibility for services under the Individuals with Disabilities Education Act Amendments of 1997 and in accordance with the procedures found in Chapter V, Evaluation and Determination of Eligibility. (This must be done at least 60 days prior to the child's third birthday.); and
  4. (300.342 (c)(i)) Review with the family the difference between an IFSP and an IEP. If the IFSP meets all the requirements of the IEP, and if the IEP Team determines to continue the IFSP at age 3, the district must receive informed consent from the parents that documents that the differences between and IFSP and an IEP were explained to the family.

**VIII. NONPUBLIC SPECIAL EDUCATION PROGRAMS/FACILITIES  
AND STUDENTS PLACED UNILATERALLY BY THEIR  
PARENTS IN PRIVATE SCHOOLS**

**34 cfr 300.133  
IAC 226.330,226.340,226.350**

Section I. Children Placed by the School District in Nonpublic Special Education Programs or Facility

- A. (226.330) The IEP Team will only consider placement in a nonpublic special educational program or facility when the nature and severity of the child's disability clearly demonstrates that the IEP cannot be implemented in a less restrictive environment. The school district shall conduct an IEP meeting(s) and complete an IEP before placing a child in a nonpublic special education program or facility. (226.330) (300.349 (a))
- B. (300.401) The director of special education will be responsible for insuring for those students placed in a nonpublic special education program or facility that:
  - 1. The nonpublic special education program or facility has the capacity to deliver the services identified on the IEP.
  - 2. (300.402) A procedure for insuring that the services identified on the IEP are delivered, such as:
    - a) on-site visits;
    - b) parent questionnaires/interviews; and/or
    - c) written status reports from the nonpublic special education program or facility.
  - 3. (300.401) (226.330) The services provided to the student in the nonpublic special education program or facility is at no cost to the parent.
  - 4. (226.330) The nonpublic special education program or facility meets the educational standards that apply to programs operated by and in a public school setting and that the Governor's Purchase Care Review Board approves the school.
  - 5. (226.330) The rights of the student are not in any way altered because of his/her placement in the nonpublic special education program or facility.

Section II. Unilateral Placement of Children in Nonpublic Special Education Program or Facility by Their Parents

- A. (300.403) (226.340) Each member district is not responsible for educational costs, including special education and related services, of children placed in nonpublic special education program or facilities by their parents if the district made FAPE available to the child and the parents elected to place the child in a nonpublic special education program or facility, unless ordered to do so by a hearing officer or a court.
- B. (300.403(c)(d)) (226.340)) Each member district must notify the parents of the conditions under which reimbursement for the cost of a unilateral placement in a nonpublic special education program or facility may be reduced or denied. Those conditions include:
  - 1. Failure of the parents to inform the IEP Team of their dissatisfaction with the placement proposed by the district and a statement of their concerns and their intent to enroll their child in a nonpublic special education program or facility at public expense at least 10 business days prior to the removal of the child from the public school; or

2. If, prior to the parents' removal of the child from the public school, the district informed the parents, through the notice requirements of its intent to evaluate the child, but the parent did not make the child available for the evaluation; or
3. Upon a judicial finding of unreasonableness with respect to the actions taken by the parents.

Section III. Child Find for Children with Disabilities or Suspected Disabilities Placed by their Parents in Private Schools

- A. (300.451) (226.350) In accordance with the procedures found in Chapter IV, Child Identification, the school district will locate, identify and evaluate all private school children, including children attending religiously affiliated schools, who have or are suspected after having a disability and with reside in the district.
- B. (300.451 a) The child find activities for private school children with disabilities must be comparable to those for children with disabilities in public schools, such as widely distributing informational brochures, providing regular public service announcements, staffing exhibits at health fairs and other community activities, and creating direct liaisons with private schools.
- C. (226.350) (300.451 b) The local director of special education or designee will consult with appropriate representatives of private schools on how to carry out private school child find activities.

Section IV. Special Education and Related Services to Children with Disabilities Unilaterally Placed in Private Schools

- A. (300.403(a) (300.455 (b)) (226.350) After initially evaluating a child and determining that the child is eligible for special education and related services, the local school district will inform the parents that the district will provide the child a free and appropriate public education (FAPE) if the child is enrolled in the public school. The school district also should explain to the parents what services are available to the child if the child remains in the private school. If the child remains in the private school and will receive services from the school district, the district must develop an IEP or "services plan" for the child. The IEPs or services plans for students placed in private and religiously affiliated schools shall be developed and implemented in accordance with the procedures found in Chapter VI, Individualized Education Programs, Section XI. The school district is not obligated to provide all the special education and related services the child would receive if enrolled in a public school.
- B. (300.500 – 300.589) (105 ILCS 5/14-6.01) If a parent requests part-time attendance at a public school for a private school student, the school district where the parent resides must accept and enroll the child on a part-time basis. A child receiving special education and related services in the public school would be entitled to the full array of special education services as provided by IDEA and as set forth in Article 14 of the School Code. As such, the child would receive an individualized education plan (IEP) and all procedural safeguards.

If part-time attendance is requested and the student is enrolled, presumably the student will be receiving services at the public school. If the parent requests on-site private school services, however, they may only be available at the discretion of the school district or through a services program as described in 34 CFR 300.455(b).

- C. (300.403) (226.350) The District shall consult annually with representatives from the private schools to determine:
1. Which children will receive services.
  2. The special education and related services to be provided.
  3. (300.456) Where the services will be delivered;
  4. How the services will be provided; and
  5. How the services will be evaluated.

- D. (105 ILCS 5/29-4) Each member district must allow eligible students from private schools to ride on its regularly scheduled bus routes. An eligible student resides at least one and one half miles from the school attended and resides on or along the regular public school bus route. The transportation should be easily accessible to the eligible student's home and the student's school.

If a nonpublic school student who is enrolled in the district for part-time attendance requires special transportation as a related service, the specifics of the transportation must be spelled out in the student's IEP.

If a nonpublic school student who is not enrolled in the district for part-time attendance requires special transportation as a related service in order to implement the services plan, such transportation may or may not be provided. The services to be provided to such students are those services that the district has determined, through the consultation process, it will make available.

(Section 612 (a)(10)(A)(I) of IDEA) Transportation costs may be included when calculating whether the district has expended the "proportionate share."

- E. (300.455) The special education and related services provided by the school district to students in private schools shall be provided by similarly qualified personnel.
- F. (300.403) (300.450) Students with disabilities unilaterally placed by their parents in private and religiously affiliated schools who have been determined eligible for services under the Individuals with Disabilities Education Act Amendments of 1997 and for whom a services plan has been developed are entitled to receive services in an amount which need not exceed the proportional per-child amount of IDEA federal flow-through funds the district will receive. The cost of transportation shall be calculated into the total cost of the proportional share of services. The cost of providing FAPE to those students enrolled for part-time attendance shall be used in calculating whether the district has expended its proportional share. (Federal rules do not prohibit school districts from providing services to private school children in excess of this requirement – by local policy the district can provide services in excess of the proportional per-child allotment)
- G. (34 CFR 300.457 (b)) The parents of a private school child who is not enrolled in the school district for part-time attendance may request mediation initiate a due process hearing or file a written complaint with the Illinois State Board of Education about matters relating to child find, evaluation and eligibility determinations including the right to an independent educational

evaluation. A written complaint may be filed with the Illinois State Board of Education alleging that the district has failed to properly “consult” with representatives of the private school or has failed to expend the “proportionate share” of IDEA moneys as determined by the annual census (34 CFR 300.457 (b)). While the proportionate share is based on IDEA funds, any moneys available to the district may be used to meet the expenditure requirement. Procedural safeguards for reasons other than those specified above are not available (34 CFR 300.457 (a)). Parents of students who are enrolled for part-time attendance in the public schools may file a written complaint, may request mediation or a due process hearing about their children’s special education needs. All procedural safeguards are available to students who are enrolled in the school district.

- H. (300.403) (300.503) The school district shall notify parents, using the mandated “Procedural Safeguards Statement” of the limitations on reimbursement as provided for in the IDEA regulations at 300.403. The procedural safeguards statement is provided to parents:
- upon initial referral for a full and individual evaluation;
  - upon each notification of an IEP meeting;
  - upon reevaluation of the child; and
  - upon receipt of a request for due process
- I. (226.350) By December 1 of each year, the local school district will conduct an annual “child count” required by federal and state law, collected in Illinois on the Special Education Funding and Child Tracking System (FACTS), and the annual “census” of the number of non-public school children eligible under IDEA. The “census” of nonpublic students is a count of students with disabilities who may or may not be receiving special education and related services. The “child count” includes only those students for whom an IEP or services plan has been developed.
- J. See Chapter XIV, Use of Part B Funds, Section II, describes the limitations with respect to the use of Part B, IDEA funds as set forth in 34CFR 300.458 – 300.462.

## **XI. PUBLIC PARTICIPATION**

### **34 CFR 300.148**

#### Section I. Public Hearings

- A. (300.148 (a)) (300.280) Prior to its adoption of the policies and procedures related to the implementation of the Individuals with Disabilities Education Act Amendments of 1997, the district shall:
1. Make the policies and procedures available to the general public;
  2. Hold public hearings; and
  3. Provide an opportunity for comment by the general public on the policies and procedures
- B. (300.148 (a)2)) (300.281) Each member district shall provide notice to the general public regarding the purpose and scope of the policies and procedures and their relationship to

the Individuals with Disabilities Education Act Amendments of 1997. The notice must include:

1. How and where the general public can access the policies and procedures;
  2. The date, time and location of the public hearing(s); and
  3. The timetable for submitting the policies and procedures to the Illinois State Board of Education.
- C. (300.281) The notice must be published or announced:
1. In newspapers or other media, or both; and
  2. Enough in advance of the date of the hearings to afford interested parties a reasonable opportunity to participate.
- D. (300.282(b)) The district shall have the policies and procedures available for public review and comment at least 30 days prior to the public hearing.
- E. (300.283) Before adoption of the policies and procedures by the local board of education, the school district shall review and consider all public comments and make any necessary modifications in those policies and procedures.

## Section II. Publication and Availability of Approved Policies and Procedures

- A. (300.284) After the Illinois State Board of Education has approved the district's policies and procedures; the district shall give notice in newspapers or other media, or both, that the policies and procedures are approved. The notice must name the place(s) where the policies and procedures are available for access by any interested person.

## **XII. PROCEDURAL SAFEGUARDS** **34 CFR 300.129** **105 ILCS 5/14-8.02 a and b** **IAC 226.600-690**

### Section I. Notice of Proposed Action

- A. (105 ILCS 5/14-8.02) (226.520) (300.503) Using state-mandated notice forms, the school district shall provide written notice to parents of students with disabilities or suspected disabilities at least 10 calendar days prior to the following occasions:
1. When the school district proposes to initiate or change the identification evaluation or educational placement of a student or proposes to make any changes in the provision of a free appropriate public education to a student;

2. When the school district refuses to initiate or change the identification, or educational placement of the student or refuses to make any change requested by the parent in the provision of a free appropriate public education to the student; or
  3. When the school district refuses to amend the student's records or proposes to destroy unneeded records in accordance with the confidentiality requirements.
- B. The notice, includes:
1. (300.503(b)) (300.504) (300.507) (226.510) A full explanation of all the procedural safeguards available to the parents, and the student at the age of majority concerning:
    - a) Independent educational evaluation;
    - b) Prior written notice;
    - c) Parental consent;
    - d) Right to inspect and review all education records;
    - e) Opportunity to file a written complaint with the Illinois State Board of Education;
    - f) Procedures for students who are subject to placement in an interim alternative educational setting;
    - g) Requirements for unilateral placement by parents of children in private schools at public expense;
    - h) Mediation;
    - i) Due process hearings, including requirements for disclosure of evaluation results and recommendations;
    - j) Child's placement during the pendency of a due process proceeding;
    - k) Civil action;
    - l) Attorney fees; and
    - m) (226.690) Transfer of parental rights.
  2. (300.503) (226.520 b)1)2)3)) A description of the action proposed or refused by the school district, an explanation of why the district proposes or refuses to take the action, and a description of any options the district considered and the reasons those options were rejected;

3. (300.503 (b)(4)) (226.520 b)4)) A description of each assessment procedure, record, or report used as a basis for the action;
4. (300.503 (b)(5)) (226.520 b)5)) A description of any other factors relevant to the school district's action;
5. (226.520 b)6)) A statement that the parents of an eligible child are protected by the procedural safeguards, and an indication of the means by which a description of those procedural safeguards may be obtained;
6. (226.520 b)7)) Sources for parents to contact to obtain assistance in understanding the rights of students with disabilities; and
7. (300.503 (c)) (226.500) Written in language understandable to the general public and, where appropriate, in the native language or other mode of communication used by the parent and, if necessary, communicated orally in the native language or directly so that the parent understands the content of the notice.

## Section II. Opportunity to Examine Records; Parent Participation

- A. (300.501) (226.740 d)) The school district shall ensure that the parents have access to all education records (See Chapter III, Confidentiality of Personally Identifiable Information).
- B. (300.501) (226.530) The school district shall ensure parental participation in all meetings convened by the school district with respect to the identification, evaluation and educational placement of the child (See Chapter V, Evaluation and Determination of Eligibility and Chapter VI, Individual Education Programs).

## Section III. Consent

- A. (300.505) (226.540) The school district shall document that written parental consent is obtained using the state-mandated forms prior to:
  1. Conducting an initial evaluation;
  2. Initially placing a student with a disability in a special education program;
  3. Reevaluating a student with a disability;
  4. Accessing the parent's private insurance to pay for services required by the child's IEP;
  5. Using an IFSP instead of an IEP, or
  6. Disclosing personally identifiable information.

- B. (300.505) (226.540) Consent for a proposed action is written approval given by a parent/guardian who has been fully informed of all information relevant to the activity in his or her native language or mode of communication and who understands that the approval is voluntary and may be revoked any time prior to the completion of the activity in which consent was given. Once the activity is completed and/or the placement is in effect, consent may be revoked by requesting a due process hearing. If consent is revoked after the assessments have been completed, the district may convene an Evaluation/IEP meeting to consider the results.
- C. (226.540) (300.505) Except for those actions described in Subsection A, written consent shall not be required.
- D. (300.505) Parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation or administering a test or evaluation that is administered to all children unless parental consent is required of all children taking the test.

Section IV. Request for Hearing

- A. (300.507) (a) (226.605) (226.615) Hearings conducted pursuant to these procedures may be initiated by:
  - 1. The parent of a student with a disability, the student at the age of majority or the parent of a student who is suspected of having a disability if the parent disagrees with any action taken by the school district for which notice to the parent is required under Section I; or
  - 2. The school district in any instance where a parent either fails to provide written parental consent for a proposed action requested pursuant to Section II. No other party shall have standing to request a due process hearing.
- B. (300.507) (b) (226.610) (226.615) The school district shall provide the parent or the student at the age of majority with a model due process request form designated by the Illinois State Board of Education in accordance with 34 CFR 300.507 (c) (1) (v) (3) or inform the parent that the request for a hearing must be submitted in writing and must include the following information:
  - 1. The name, address, and telephone number of the student and the parent, and of the person making the request for the hearing if other than the student or the parent;
  - 2. A description of the nature of the problem, including facts relating to such problem;
  - 3. The remedy being sought;
  - 4. If known, whether the parent will be represented by legal counsel or an advocate.
- C. (226.610) The director of special education or member district's designee shall assist parents in taking whatever action is necessary to use the hearing process.

- D. (300.509) The school district insures that parents know their pre-hearing rights, which include the right to:
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 either party at least five days before the hearing;
  4. Obtain a written or electronic transcript of the hearing; and
  5. Obtain written findings of fact and decisions;
- E. (300.509) Each member district insures that parents involved in a hearing know that they have the right to:
1. Have the child who is the subject of the hearing present;
  2. Have the hearing opened or closed to the public;
  3. Have the hearing held at a time and place reasonably convenient to the parents and child involved; and
  4. Request extensions to due process hearings.
- F. If the member district initiates a hearing, the district superintendent shall file a request with the Illinois State Board of Education. The Superintendent shall provide the parent with a copy of the request (see item “G” below).
- G. (300.507 (c)(4)) (226.620) Under no circumstance can the school district deny a request for a hearing.
- H. (300.507 (a)(3)) (226.610) Upon receipt of a written request for a hearing, the director of special education shall inform the parent in writing of any free or low-cost legal services, as well as other services relevant to mediation or a due process hearing, and the right to waive the mediation conference.
- I. (105 ILCS 5/14-8.02 (f)) (226.615) The member district superintendent shall within 5 days of receipt of a request for a due process hearing forward the request by certified mail to the Illinois State Board of Education, Center for Special Education. The request should be submitted on ISBE Form 19-86 (4/97) and must include information on the racial, linguistic or cultural background of the child. A copy of the parent’s request for due process must also be submitted. The district shall send to the parent by certified mail or another means providing written evidence of delivery, a copy of the request and all attachments sent to the Illinois State Board of Education.

- J. (105 ILCS 5/14-8.02 (J)) (300.514) (226.650) During the pendency of any administrative or judicial proceeding initiated pursuant to this Section, except as provided in (I) below, unless the school district and the parents of the student agree otherwise, the school district may not change the student's current placement. If the hearing involves the initial admission of the student to public school, the student must be placed in the public school program pending a final determination of the matters in dispute. Any disagreement regarding the specific location of the stay of placement during a pending due process hearing shall be placed before the hearing officer for resolution.
- K. (300.520) School personnel have the authority to change the current educational placement of a child with a disability:
1. (300.520 (a)(1)) For not more than 10 consecutive school days for any violation of school rules and 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 as defined in IDEA); and
  2. (300.520 (a)(2)) To an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 days if:
    - a) The child carries a weapon to school or to a school function,
    - b) The child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or at a school function, or
    - c) Ordered by a hearing officer in accordance with the expedited hearing procedures found in Section VI.
- L. (300.511) Each member district will fully cooperate with the timelines set forth by the hearing officer to ensure that the hearing process is completed within 45 days from the date the request was received.
- M. (105 ILCS 5/14-8.02 (i)) The parent or the school district can appeal the decision of the hearing officer within 120 days from the date the decision was issued to a court of competent jurisdiction.
- N. If either party involved appeals the decision of the hearing officer, the district will within 10 days of the date of the appeal forward the transcript of the hearing to the Illinois State Board of Education, Special Education Unit.
- O. (226.655) (300.509) Each member district will arrange for a record of the hearing to be created and upon request, the school district will make available to the parents, at no cost, a copy of the record of the hearing. The Illinois State Board of Education shall reimburse the district for \_ the transcription costs.

Section V. Protections for Children Not Yet Eligible for Special Education and Related Services.

- A. (300.527) A student who has not been determined to be eligible for special education and related services who engages in behavior that violated any rule or code of conduct of the school district may assert any of the protections provided to students with disabilities if the school district had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred. The school district shall be deemed to have knowledge that the student is a student with a disability if:
1. The parent has expressed concern in writing (unless the parent is illiterate or has a disability that would prevent his/her ability to provide such written notice) to school district personnel that the child is in need of special education and related services;
  2. The behavior or performance of the student demonstrated the need for such services;
  3. The parent has requested a full and individual evaluation of the child; and
  4. The teacher of the child or other personnel of the school district has expressed concern about the behavior or performance of the child to the director of special education or building administrator.
- B. (20 U.S.C. Section 1415 (k)(8)) If there was no basis for such “knowledge” by the school district, the student may be subjected to the same disciplinary measures as applied to students without disabilities engaged in comparable behavior.
- C. (20 U.S.C. Section 1415 (K)(8)) If a request is made for an evaluation of a regular education student during the time period in which he or she is subjected to disciplinary measures, the evaluation must be conducted on an expedited basis. The child must remain in the educational placement determined by school authorities, pending the results of the evaluation.

## Section VI. Expedited Hearings

- A. (300.528) (14-8.02 (b)) (226.655) The school district may request an expedited hearing:
1. If it believes that it is dangerous for the child to be in his/her current placement (placement prior to removal to the interim alternative education setting) during the pendency of the due process proceedings.
  2. For the purpose of moving a student from his of her current placement to an Interim Alternative Educational Setting for behavior other than weapons or drugs.
- B. (105 ILCS 5/14-8.02 (b)) (226.655) The parent or student at the age of majority may request an expedited hearing if he/she disagrees with the manifestation determination or the decision of the district to move the student to an Interim Alternative Educational Setting or if they disagree with the location of the IAES as determined by the IEP Team.

- C. (105 ILCS 5/14-8.02 (b)) When requesting an expedited hearing the requesting party must provide the following documentation:
  - 1. Name of legal counsel (if known),
  - 2. Matters in dispute and specific relief sought,
  - 3. Name of all witnesses, and
  - 4. Relevant documents.
- D. (105 ILCS 5/14-8.02 (b)) Two days prior to the hearing, both parties involved in the expedited hearing must disclose to the hearing officer and to each other any evidence to be introduced at the hearing.
- E. (105 ILCS 5/14-8.02 (b)) The hearing officer presiding over the expedited hearing shall hear only that issue or issues identified, leaving all other issues to be heard according to the hearing procedures provided in 14-8.02a. of the School Code.

## Section VII. Mediation

- A. (300.506) (226.560) Within 5 days upon receipt of a written request for a hearing pursuant to Section III, the school district's director of special education or school district's designee shall request the Illinois State Board of Education to initiate steps to conduct a mediation conference, unless the parent or the district waives the opportunity for a mediation conference.
- B. A copy of written request for mediation submitted to the Illinois State Board of Education must be sent to the parent concurrently and must be accompanied by an explanation that the parent may if they wish refuse mediation. Participation in mediation must be voluntary.
- C. A written record of the parental agreement to proceed with mediation must be maintained by the school district.
- D. The purpose of the mediation conference is to attempt to resolve the differences and, if possible, avoid a hearing.
- E. (226.560 f)) The Illinois State Board of Education's Special Education Unit shall appoint a trained impartial mediator.
- F. (226.560 a)) Mediation is voluntary and both parties must agree to participate. In no way shall mediation be used as a means to deny or delay an aggrieved party's rights to a hearing.
- G. (226.560 c)) The mediation conference is an informal process conducted in a timely manner and in a location that is convenient to the parties involved. If possible, the mediation should be conducted within 15 workdays of receipt by the Illinois State Board of Education of the request for mediation.

- H. Any resolution reached as part of the mediation process shall not conflict with state or federal law and shall be to the satisfaction of both parties, as indicated by the signatures of both parties on the written agreement. The district shall in good faith implement any agreement reached during mediation.
- I. (14-8.02 (b)) If an agreement is reached and as a result a pending due process is withdrawn, the district shall contact the hearing officer in writing that the case has been settled. The hearing officer assigned to the matter shall retain jurisdiction for one year from the date of the withdrawal (14-8.02 (f)).

### Section VIII. Complaints

- A. (300.660) (226.570) Each member district will be responsible for informing parents of students with disabilities of their right to file a written complaint with the Illinois State Board of Education, Special Education Unit, should the parent or student believe that the district has violated a state or federal rule or regulation. The written complaint shall include:
  - 1. The name of the child, the address of the residence of the child, and the name of the school the child is attending;
  - 2. A description of the nature of the problem of the child relating to such proposed initiation or change, including fact relating to such problem; and
  - 3. A proposed resolution of the problem to the extent known and available to the parents at the time.

(300.661) (226.570) When a complaint has been filed, the district will provide the documentation requested within the time frames identified by the State Board of Education. The complaint must be investigated within 60 calendar days from the date the complaint was filed with the Illinois State Board of Education.

### Section IX. Surrogate Parent Responsibility

- A. (300.515) (226.550) The school district has the responsibility to take steps necessary to protect the rights of each student with a disability through the appointment of a qualified surrogate parent when:
  - 1. The parent cannot be identified or located; or
  - 2. The student is a ward of the state living in a residential facility.
- B. (226.75) The term **“parent”** means a natural or adoptive parent of the child, a guardian but not the State if the child is a ward of the State, a person acting in the place of a parent of the child (such as a grandparent or stepparent with whom a child lives); a person who is legally responsible for a child’s welfare, or a surrogate parent who has been appointed in accordance with 23 IAC 226.550. A foster parent is a “parent” when the natural parent’s authority to make educational decisions on the child’s behalf has been extinguished under State law and the foster parent has an ongoing, long-term parental

relationship with the child, is willing to make the educational decisions required of parents under IDEA, and has no interest that would conflict with the interests of the child.

1. A **“guardian”** is a private individual who has been given the legal custody of a student by a court of this state or by the operation of the laws of this state.
  2. A **“person acting as a parent”** means a person who with the consent of the parent is acting in the place of the parent during the parent’s absence. If a person asserting that he or she is acting as a parent is not a member of the student’s extended family, then written consent of the parent to such an arrangement must be provided to the school district.
  3. A student is a **“ward of the state”** when legal responsibility to make decisions regarding a student’s education has been assigned to a state agency or the representative of a state agency.
- C. Within 5 days of the decision to take any action requiring parent participation, notice, or consent, the Director of Special Education or an individual designated by the school district shall undertake reasonable efforts to identify and discover the whereabouts of the parents of the student about whom such action is to be taken. At a minimum such reasonable efforts will include documented phone calls, letters, certified letters with return receipts, visits to the home, and interviews with relatives and other individuals who may have knowledge of the whereabouts of the student’s parents.
- D. If after reasonable efforts have been made, the parent cannot be located, the director or designee shall take similar steps (telephone and letter) to establish contact with a relative, or an individual with whom the student resides, and/or the individual or agency which is legally responsible for the student’s care and education.
- E. If after reasonable efforts have also been made to identify a guardian of the student or a person acting as the parent of the student and no such person has been either identified or located, the Director of Special Education shall make a written request to the Illinois State Board of Education to appoint a surrogate parent for the student.
- F. The written request to the Illinois State Board of Education must provide information on the racial, linguistic or cultural background of the child whose parents are unavailable or inaccessible.

Section X. Private Evaluations and Independent Evaluation at Public Expense

- A. (300.502) (226.180) (105 ILCS 5/14-8.02) Each member district must inform parents of their right to obtain a private evaluation at any time and their right to an independent evaluation at public expense. This right must be discussed and documented at the conclusion of all IEP conferences, and if requested, a listing of independent evaluators must be given to the parents. A listing of independent evaluators can be found on the ISBE homepage.
- B. Each member district must consider the results of any private evaluation provided by the parent at an IEP conference.

- C. (300.502(e)) After the review conducted under B above, the IEP Team must make the following determinations:
1. Does the private evaluation meet the standards for an appropriate evaluation established by the school district and the Illinois State Board of Education and state and federal regulations?
  2. Does the private evaluation contribute necessary additional information that should be used in making the determinations required for the student to receive an appropriate educational program?
- D. (105 ILCS 5/14-8.02(b)) (226.180) (300.502) If the district finds the private evaluation to be adequate and necessary in order to provide the student with an appropriate education, or the district chooses to use the private evaluation in lieu of conducting its own evaluation, the district must then pay for the parent's private evaluation.
- E. (300.502)b(2)) (105 ILCS 5/14-8.02(b)) (226.180) If a parent requests an independent educational evaluation at public expense, the director of special education or an individual designated by the school district must advise the parent of the procedures used by the school district to determine the adequacy and necessity of such evaluations. Parents have the right to request an independent educational evaluation at public expense if they disagree with any aspect of the evaluation or re-evaluation conducted by the school district. Within 5 days of the date the request was received, the district must either honor the parent's request for an independent educational evaluation at public expense or request an impartial due process hearing. Procedures for obtaining an independent educational evaluation at public expense are located in Chapter V, Evaluation and Determination of Eligibility, Section XII.D. If agreement cannot be reached between the parents and the district as to whom should perform the evaluation or the specific evaluations to be performed, the district shall within 5 days request a due process hearing to resolve the dispute. (A distinction is drawn here between the parents' right to a private evaluation and the parents' right to an independent evaluation at public expense). An independent educational evaluation at public expense must be completed within 30 days after receipt of the parent's written request, unless the district initiates a due process hearing or the parties agree that the 30-day period should be extended.
- F. The director of special education or individual designated by the school district will, upon request by the parent of a student with a disability or a student with a suspected disability, inform the parent of professionals who can provide an independent educational evaluation at public expense and the procedures to follow (see Chapter V, Evaluation and Determination of Eligibility, Section XII.D.)

### **XIII. COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT (CSPD)** **34 CFR 300.135**

#### Section I. Establishment of the District's Comprehensive System for Personnel Development (CSPD) Plan

- A. (300.380) (300.382) Each member district has established a Comprehensive System for Personnel Development (CSPD) Plan which is based on an annual needs assessment and addresses the need for recruiting new personnel in shortage areas, retraining personnel necessary to eliminate identified personnel shortages, and providing ongoing personnel and professional development opportunities to all personnel working with students with disabilities. Personnel receiving training opportunities include certified and non certified/support personnel, administrators, parents, related service personnel, special education teachers, regular education teachers, early intervention personnel, parents and the educational community. The annual needs assessment shall include at a minimum the following:
1. (300.381) The number of personnel providing special education and related services; and
  2. (300.381) Relevant information on current and anticipated personnel vacancies and shortages.
- B. Each member district in compliance with Part B application requirements set forth by the Illinois State Board of Education shall expend 5% of its IDEA flow-through budget for which it annually applies on personnel development activities. The implementation of the personnel development activities set forth in the district's CSPD Plan/Application shall result in all personnel working with students with disabilities meeting State standards and having the knowledge and skills for certification. The district's CSPD Plan must address each of the following components:
1. (300.382 ( c)) Collaboration with Institutions of Higher Education and other entities to prepare personnel not fully certified to work with students with disabilities.
  2. (300.382 (a)) Strategies for preparing general and special education personnel with content knowledge and collaborative skills needed to meet the needs of children with disabilities;
  3. (300.282 (f)) A description of how to enhance the ability of personnel who work with children with disabilities (including both professional and paraprofessional personnel who provide special education, general education, related services, or early intervention services), to use strategies, such as, behavioral interventions to address the conduct of children with disabilities that impedes the learning of children with disabilities and others;
  4. A plan for insuring the participation and coordination of professional development activities for all personnel working with students with disabilities including certified and non-certified personnel, paraprofessional personnel, administrators, related service personnel, special and regular education teachers, early intervention personnel, the educational community, other agencies and, parents;
  5. The method for conducting an annual needs assessment;
  6. 6. (300.382 (g)) Strategies for disseminating and adopting, where appropriate, promising practices, materials, and technology;
  7. (300.382 (b)) Strategies for insuring that all professionals and paraprofessionals in the area of early intervention have the knowledge and collaborative skills needed to meet the needs of infants and toddlers with disabilities; and

8. Strategies for evaluating the effectiveness of the district's CSPD Plan;
- C. Each member district shall implement its CSPD Plan as approved by the Illinois State Board of Education under the submission requirements described in the application instructions for Part B funds. The Illinois State Board of Education shall monitor the implementation of the CSPD Plan.
- D. (300.282(I)) (300.282 (j)) Each member district shall ensure that the CSPD Plan is integrated to the maximum extent possible with other professional development plans and activities, including plans and activities developed and carried out under other Federal and State Laws that address personnel recruitment and training. To the maximum extent appropriate joint training of parents and special education, related services, and general education personnel will occur.

#### Section II. Personnel Standards

- A. All personnel employed by the district shall meet the personnel standards established by the Illinois State Board of Education for special education personnel, including certified staff and non-certified staff, administrators and support personnel.
- B. Personnel not fully certified at the time of employment shall apply for temporary authorization.
- C. (300.382 (h)) The district's CSPD Plan shall include strategies to recruit, prepare, and retain qualified personnel with disabilities and personnel from groups that are under-represented in the fields of regular education, special education, and related services.

#### Section III. Data Collection and Reporting Procedures

- A. (300.381) Each member district shall collect, analyze and annually report to the Illinois State Board of education statistical data on the number of certified and non-certified staff employed. The Illinois State Board Of Education will determine the specific information to be collected and the format for reporting the information on an annual basis.
- B. (300.381) Each member district shall collect, analyze and annually report to the Illinois State Board of education statistical data on the number of unfilled positions and positions filled with staff not fully certified. The Illinois State Board of Education will determine the specific information to be collected and the format for reporting the information on an annual basis.
- C. (300.382) Each member district shall annually collect and report to the Illinois state Board of education information regarding the number of individuals who participate in district personnel development activities. The data will include the number of special and regular education teachers, non-certified/support personnel, paraprofessional, administrators, related services personnel, early intervention providers, personnel from the educational community and parents who attended trainings offered by the district.

**XIV. USE OF PART B FUNDS; EXCESS COSTS;  
NON-SUPPLANTING; PERMISSIVE USE OF FUNDS;  
TREATMENT OF CHARTER SCHOOLS  
34 CFR 200.184-185, 300.153, 300.230, 300.234-235, 300.241**

## Section I. Application and Use of part B Flow-Through Funds

Each member district in its application for Part B Flow-Through Funds submits documentation insuring compliance with the following requirements. Prescribed formulas and financial records specified in these regulations are compiled and maintained by the school district annually and are available for audit.

### A. 34 CFR300.184 and 300.185 – Excess Cost Requirement

Each member district assures the Illinois State Board of Education that it uses funds provided under Part B of the Individuals with Disabilities Education Act (IDEA) only for costs which exceed the amount computed under CFR 300.184 and 300.185 and which are directly attributable to the education of children with disabilities.

### B. 34 CFR 300.153 and 300.230 – Non-Supplanting

Each member district assures the Illinois State Board of Education that it uses funds provided under Part B of IDEA to supplement and in no case to supplant those state and local funds. The school district complies with the following non-supplanting requirements:

(300.154) The total amount or average per capita amount of state and local school funds budgeted by the school district for expenditures in the current fiscal year for the education of children with disabilities must be at least equal to the total amount or average per capita amount of State and local school funds actually expended for the education of children with disabilities in the most recent preceding fiscal year for which the information is available. Allowance may be made for:

- a) Decreases in enrollment of children with disabilities;
- b) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of school facilities; and
- c) The termination of the obligation of the agency, consistent with the 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 Illinois State Board of Education, because the child:

(1) has left the jurisdiction of the district;

(2) has reached the age at which the obligation of the district to provide FAPE to the child has terminated; or

(3) no longer needs the program of special education; or

(4) the termination of costly expenditures for long-term purchase such as the acquisition of equipment or the construction of school facilities.

1. Each member district shall not use Part B funds to displace state and local funds for any particular cost.

### C. 34 FCR 300.230 – Use of Amounts

Each member district shall have on file with the Illinois State Board of Education an application for Part B funds that demonstrates that the amounts provided to the district under Part B of the Act will be expended in accordance with the applicable provisions of this Part; will be used only to pay the excess cost of providing special education and related services to children with disabilities, consistent with 300.184 and 300.185; and will be used to supplement state, local, and other federal funds and not to supplant those funds.

- D. 34 CFR 300.234 – School wide programs under Title I of the Elementary and Secondary Education Act of 1965 (ESEA).

Each member may use funds under Part B of the Act for any fiscal year to carry out a school wide program under Section 1114 of the Elementary and Secondary Education Act of 1965 in accordance with the requirements set forth at 34 CFR 300.234.

- E. 34 CFR 300.235 – Permissive Use of Funds

Each member district may use funds provided under Part B of the Act for services and aids that also benefit non-disabled children.

- F. 34 CFR 300.241 – Treatment of Charter Schools and Their Students

Each member district ensures that the charter schools are public schools of LEA that serve children with disabilities attending those schools in the same manner as it serves children with disabilities in other schools; and provides funds under Part B of IDEA to those schools in the same manner as it provides those funds to its other schools.

## Section II. The Use of Part B Funds for the Benefit of Students with Disabilities Placed in Private Schools

- A. (300.458) Each member district may not use funds available under section 611 or 619 of IDEA 97 for classes that are organized separately on the basis of school enrollment or religion of the students.
- B. (300.459) Each member district may not use funds provided under section 611 or 619 of IDEA 97 to finance the existing level of instruction in a private school or to otherwise benefit the private schools.
- C. (300.460) Each member district may use funds available under section 611 and 619 of IDEA 97 to make public school personnel available in other than public facilities to the extent necessary to provide services for private school children with disabilities; if those services are not normally provided by the private school.
- D. (300.461) Each member district may use funds available under section 611 or 619 of the IDEA 97 to pay for the services of an employee of a private school to provide services under IDEA 97 if the employee performs the services outside of his or her regular hours of duty; and the employee performs the services under public supervision and control.

- E. (300.462) Each member district must keep title to and exercise continuing administrative control of all property, equipment, and supplies the public agency acquires with funds under IDEA 97 for the benefit of private school children with disabilities.
1. Each member district shall ensure that the equipment and supplies placed in a private school are used only for Part B purposes; and can be removed from the private school without remodeling the private school facility.
  2. Each member district shall remove equipment and supplies from a private school if the equipment and supplies are no longer needed for Part B purposes; or removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.
  3. No funds under Part B may be used for repairs, minor remodeling, or construction of private school facilities.

Section III. Hearings Related to district Eligibility for Part B Funds

(300.144) Each member district, upon receipt of notice that Part B funds are being reduced or denied, may request a hearing from the State Board of Education regarding the State's decision to reduce or deny the district's application for Part B Funds.

**XV. DISCIPLINE OF STUDENTS WITH DISABILITIES**  
**34 CFR 300.519-529**  
**IAC 226.400**

Section I. Free Appropriate Public Education for Students with Disabilities Serving Suspensions and Expulsions

- A. (300.121) Each member district will provide a free, appropriate public education to all children with disabilities between the ages of 3 and 21, including children with disabilities who have been suspended or expelled from school for more than 10 consecutive school days during the school year or when the child is subjected to a series of removals that constitute a pattern. The determination of whether a series of suspensions creates a pattern of exclusions that constitutes a significant change in placement must be made on a case-by-case basis. Among the factors considered in making this determination is the length of each suspension, the proximity of the suspensions to one another, and the total amount of time the student is excluded from school. (300.519)
- B. (300.121 (d)) Each member district will convene an IEP meeting for the purpose of making a manifestation determination in accordance with the procedures identified in Chapter VI, Individualized Education Programs prior to removing a student with a disability for more than 10 consecutive school days or its cumulative equivalent if the removals constitute a change in placement and any removal for up to 45 days to an alternative educational setting:
1. (300.121 (d)(2)(ii)) If the IEP Team determines that the misconduct is related to the student's disability, the district shall not exclude the student (other than weapons and drug violations).

2. (300.121(d)(2)(i)) If the IEP team determines that the misconduct is not a manifestation of the child's disability, the district may suspend the student for an additional period of time not to exceed 10 consecutive days provided that the incident or misconduct is unrelated to previous suspensions/removals and that a pattern of exclusions does not exist.
3. (300.519(b)) (300.520 (a)(1)) (300.524) (300.121 (d)(2)(ii)) For removals in the school year beyond the 10 consecutive school days or for a series of removals that constitute a change in placement because the aggregate short-term removals cumulate to more than 10 school days in a school year and constitutes a pattern, the district must provide services to the extent necessary to enable the child to:
  - a. appropriately progress in the general curriculum; and
  - b. appropriately advance toward achieving the goals set out in the child's IEP.

## Section II. Suspension and Expulsion Procedures for Students with Disabilities

- A. All suspension notices and suspension review procedures established by the Section 10-22.6 of the Illinois School Code shall be followed when suspending a student with a disability. All suspension notices shall include the right of the parent to appeal the decision, the right of the parent to request an IEP meeting, and the right of the parent to request a due process hearing.
- B. Any suspension must be reported immediately to the parent along with a full statement of the reasons for the suspension, a copy of which is given to the school board. The district shall also provide the parents written notice of their right to request that the district review the suspension decision. (Section 5/10-22.6 of the Illinois School Code)
- C. When notifying the parent of the suspension, the district shall inform the parent of his/her right to request that the district convene an IEP meeting for the purpose of conducting a manifestation determination if he/she believes that the suspension constitutes a series of removals that constitute a pattern. (IDEA '97 Rules Analysis – p. 12618)
- D. If the school district suspends a student with disabilities in excess of 10 school days during the school year for separate acts of misconduct, it shall maintain in the student's education record clear and convincing documentation that the exclusions were not related to one another and the misconduct was not related to the child's disability. Misconduct is directly related to the disability if the behavior is noted in the child's full and individual education and IEP.
- E. Multiple suspensions of less than 10 school days, but totaling more than 10 days during the school year, will be reviewed to ensure that a pattern of removals does not exist and to document for the record the relationship between the student's disability and behavior/misconduct. While the federal regulations do not require any action prior to the 11<sup>th</sup> day of exclusion, the school district will examine all exclusions, particularly those exceeding or approaching 6 days in aggregate.

An IEP meeting should be convened at which time the IEP team should consider:

1. Conducting a functional behavioral assessment;
2. Reviewing the appropriateness of the student's IEP, including the behavior intervention plan, making adjustments to the IEP as the team deems appropriate to ensure success; and

3. Examining all exclusions to ensure that a pattern of exclusions does not exist.
- F. Beginning on the 11<sup>th</sup> cumulative day in a school year that a child with a disability is removed from his or her current placement, the school district must provide those services that school personnel (for example, the school administrator or other appropriate school personnel) in consultation with the child's special education teacher determine to be necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP.
- G. Prior to excluding a student for acts of misconduct which total more than 10 school days or a "change in placement" as defined in Section III, the school district shall convene the student's IEP Team for the purposes of
1. Conducting a functional behavioral assessment;
  2. Reviewing the appropriateness of the student's IEP, including the behavior intervention plan, making adjustments to the IEP as the team deems appropriate to ensure success; and
  3. Examining all exclusions to ensure that a pattern of exclusions does not exist.
- H. In-school removals shall not be considered as a day of suspension as long as the child is afforded the opportunity to continue to appropriately progress in the general curriculum, continues to receive services specified on the child's IEP. Appropriately qualified personnel shall provide the services provided during in-school suspensions as stated on the child's IEP. The child shall receive credit for the coursework completed during the in-school suspension that is not counted as a day of suspension.

Repeated in-school suspension should be examined to ensure that a pattern of removals does not exist.

- I. Any suspension or removal for disciplinary reasons for any portions of a school day shall count as a full day of suspension. If a child is sent home early from school because of misconduct, the early dismissal must be counted as a day of suspension.
- J. (p. 12619 of IDEA 97 Regulations) A bus suspension shall be counted as a day of suspension if the following conditions exist.
1. The student's IEP calls for transportation as a related service; and
  2. The district does not provide another means of transportation

If the student's IEP does not include transportation as a related service then the suspension from the bus would not count as a day of suspension. The parents would have the same obligation to get the child to school as any non-disabled child who had been suspended from bus transportation.

- K. If the IEP Team concludes that the child's behavior was not a manifestation of the child's disability, the child can be disciplined in the same manner as non-disabled children, except that the appropriate educational services must be provided during any disciplinary removals that

constitute a change in placement as defined in Section III. (300.524(a)). This means that if non-disabled children are long-term suspended or expelled for a particular violation of school rules, the child with disabilities may also be long-term suspended or expelled. Educational services must be provided to the extent the child's IEP Team determines necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward the goals set out in the child's IEP (300.121(d)(2)).

### Section III. Change of Placement

- A. (300.519) A change of placement occurs if a disciplinary removal is for more than 10 consecutive school days or the child is subjected to a series of removals that constitute a pattern.
- B. The school district shall consider the following when evaluating whether a series of removals constitute a pattern.
  - 1. Length of each removal;
  - 2. The total amount of time the child is removed; and
  - 3. The proximity of the removals to one another.

### Section IV. Amount of Services to be provided during Disciplinary Removals

- A. The amount of services to be provided to a student with a disability removed from school for disciplinary reasons beyond 10 consecutive school days or for a series of removals that constitute a pattern shall be determined on a case-by-case basis by the IEP Team. The IEP Team shall ensure that the amount of services provided is sufficient to allow the student to appropriately progress in the general curriculum, appropriately advance toward achieving the goals on his/her IEP, and progress from grade-to-grade.

The school district shall allow the student to accumulate course credit during the suspension/expulsion provided the student meets the other criteria established by the IEP team.

A student with a disability removed from school for not more than 10 school days at a time (300.520 (a)(1)) shall receive educational services to the extent to which services are provided to non-disabled students. School personnel, typically the building principal and the child's special education teacher, shall determine the amount of services to be provided and the location where the services will be delivered during such short-term removals. However, if the removal constitutes a change in placement, the child's IEP Team must be involved in making this determination.

- B. The IEP Team shall identify the location of the service with home-based programming being considered only when all other placement options are ruled out. In determining the amount of services needed, the IEP Team should not be guided by the home/hospital minimal requirement of one (1) hour per day since this is not a home/hospital placement, but rather be guided by what as a group they believe the child needs to meet the goals and objectives of his/her IEP including the regular education classes and progress in the general curriculum.

### Section V. Functional Behavioral Assessment (FBA)/Behavioral Intervention Plan (BIP)

- A. Best practice suggests that functional behavioral assessment and behavior management plan be developed after 6 aggregate days of suspension. A functional behavioral assessment must be done when a student with a disability has been:
1. Suspended for more than 10 consecutive school days;
  2. Received a pattern of short-term suspensions totally more than 10 school days in a school year; or
  3. Placed in an interim alternative educational setting for not more than 45 days.
- B. The functional behavioral assessment does not require parental consent unless the IEP Team decides to conduct individualized assessments that go beyond the review of existing data and the administration of tests or other evaluations that are administered to all children. A functional behavioral assessment not requiring parental consent would contain the following components:
1. Collection of information
    - a) Identify and define the target behavior
    - b) Identify events/circumstances associated with the problem behavior
    - c) Determine potential function(s) of the problem behavior
  2. Develop Hypothesis Statements about the Behavior
    - a) Events/circumstances associated with the problem behavior
    - b) Function/purpose of the behavior

Section VI. Authority of School Personnel to Move a Child to an Interim Alternative Educational Setting

- A. (300.520 (a)(2)) School personnel have the authority to change the placement of a child with a disability to an appropriate interim alternative educational setting, if the child carries a weapon to school or to a school function, or the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of a state or local education agency. This removal may occur even if the IEP Team determines that there is relatedness between the misconduct and the student's disability as determined by a manifestation determination.
1. A "weapon" (defined in 18 USC. Sec. 921) means firearms, including a starter gun; the frame or receiver of such a weapon; a muffler or silencer; any destructive device including any explosive incendiary or poison gas bombs, grenades, rockets, missiles, and mines; does not include antique firearms. The term "dangerous weapon" in 18 USC Section 930(2)(g) has been expanded to include a weapon, device, instrument, material or substance, animate or inanimate, that is used for or is readily capable of causing death or serious bodily injury, except that such item does not include a pocket knife with a blade of less than 2 \_ inches in length (18 USC Section 930(2)(g)).
  2. A "controlled substance" is a drug or other substance identified in 21 USC at Section 812 (c) schedules T-V. An "illegal drug" is a controlled substance, but does not include a

substance legally used and possessed under the supervision of a licensed health-care professional.

3. In order to remove a student to an interim alternative educational setting for up to 45 days for a drug violation, the student must knowingly possess or use illegal drugs or sell or solicit the sale of a controlled substance while at school or at a school function. Drug paraphernalia does not fall under the category. While the district cannot exercise its authority to move the student to an interim alternative educational setting under Section 300.520, it can enforce its own disciplinary code with respect to the possession of such material.
- B. The removal to an interim alternative educational setting shall not exceed 45 calendar days, unless extended by a hearing officer (300.526). The fact that the school is in recess during a portion of the 45 days does not “stop the clock” on the 45 days during the school recess (analysis p. 12620).
- C. The services to be provided to the child and the location of the IAES shall be determined by the IEP team and must be selected so as to enable the child to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child’s current IEP, that will enable the child to meet the goals set out in the IEP and include services and modifications to address the behavior (300.121(d)(2)(ii) and 300.522).
- D. The 45-day interim alternative educational settings are not mandatory. If the parents agree with school officials to a change in the child’s placement, there is no need to use the 45-day interim alternative educational setting. In some instances school officials or hearing officers may determine that a shorter period of removal is appropriate and that a child can be returned to his or her current educational placement at an earlier time (analysis p. 12620).
- E. Either before or not later than 10 business days after the incident which resulted in the need to remove the child to an interim alternative educational setting for drugs or weapons, the district shall conduct a functional behavioral assessment and a behavioral intervention plan if such an assessment and plan were not previously in place, or if the IEP Team determines that the current functional assessment and plan is in need of review and modification, such a review shall occur.

Section VII. Removal of a Child with a Disability from His/Her Current Placement for Behavior Substantially Likely to Result in Injury to the Child or Others

- A. When considering an interim alternate educational setting for up to 45 days, the school district shall convene an IEP meeting to review the child’s behavior problems that interfere with his or her learning or the learning of others. The IEP Team shall review the student’s functional behavioral assessment and the implementation of the child’s behavioral intervention plan. If a functional behavioral assessment and behavioral intervention plan were not previously in place, the IEP Team shall conduct the functional assessment and develop the behavioral intervention plan. If there is agreement between the child’s parents and the school personnel regarding the changes made to the IEP including a change in placement, there will be no need to bring into play the discipline provisions of IDEA 97. The parents may consent to waive the 10-day notice period, allowing the district to immediately implement the changes made to the IEP. If such a waiver is not provided by the child’s parents, the district can remove the child from his/her current placement for up to 10 school days at a time, even over the parents’ objection, as long as

the discipline is appropriate and is administered consistent with the treatment of non-disabled children (300.520(a)(1)).

- B. If the child's parents do not agree to a change of placement and school authorities believe that the child is substantially likely to injure self or others in the child's regular placement, they can ask an impartial hearing officer to order that the child be removed to an interim alternative educational setting for a period of up to 45 days (300.521 and ISC 14-8.02 (b)). In determining whether or not the child is "substantially likely to injure self or others" the hearing officer will:
1. Consider the appropriateness of the child's placement; and
  2. The efforts made by school personnel to minimize the risk of harm to the child in his or her current placement, including the use of supplementary aids and services.

If the school district failed to provide the child with an appropriate placement or to make reasonable efforts to minimize the risk of harm, the hearing officer may deny the district's request to move the child to an alternative setting and will require the district to provide an appropriate placement and make reasonable efforts to minimize the risk of harm.

- C. If, at the end of the interim alternative educational placement of up to 45 days, school officials believe that it would be dangerous to return the child to the regular placement because the child would be substantially likely to injure self or others in that placement, they can ask the hearing officer to order that the child remain in an interim alternative educational setting for an additional 45 days (300.536 (c)). If necessary, school officials can also request subsequent extensions of the interim alternative educational settings for up to 45 calendar days at a time if school officials continue to believe that the child would be substantially likely to injure self or others if returned to his or her regular placement (300.526 (c)(4)).
- D. At any time, school officials may seek a court order to remove a child with a disability from school or to change a child's current educational placement if they believe that maintaining the child in the current educational placement is substantially likely to result in injury to the child or others.
- E. If the child is placed in an interim alternative educational setting for up to 45 days, the services to be provided to the child shall be determined by the IEP Team and must enable the child to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in the IEP. The IEP's must also include services and modifications to the address the child's behavior and be designed to prevent the behavior from recurring (300.522).
- F. Each member district shall conduct a manifestation determination prior to removing the child for more than 10 consecutive schools days, or any removal that would constitute a change in placement because of behavior that violated any rule or code of conduct of the district that applied to all children (300.523). The child's IEP Team and other qualified personnel must complete the results of the manifestation determination.

#### Section VIII. Disciplining Children Not Yet Eligible Under Part B of IDEA

- A. Any student who has not been determined to be eligible for special education and related services and who engages in behavior that violates the school district's code of conduct shall be disciplined in accordance with the district's discipline policy, unless the district had knowledge that the child was a child with a disability (30.527)
  
- B. The district will be deemed as having knowledge that a student may have a disability that interferes with educational performance if any one of the following conditions exists:
  - 1. The parent of the child expressed concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) to school that the child is in need of special education and related services.
  - 2. The behavior or performance of the child demonstrates the need for special education and related services.
  - 3. The parent of the child has requested an evaluation of the child prior to the incident that resulted in disciplinary action.
  - 4. The child's teacher or other school personnel expressed concern about the behavior or performance of the child to the director of special education, building personnel or any other school official that is responsible for child find activities or involved in the district's referral system.
  
- C. The district would not be deemed to have knowledge if documentation was maintained in the student's education record that affirmed that an evaluation to determine the presence of a disability was either conducted and the child was found not eligible or the parent was provided with written notice that the district had considered the need to conduct an evaluation and had determined that an evaluation was not warranted.
  
- D. If following the district's decision to discipline a regular education student the child's parents request a full and individual evaluation, the evaluation shall be conducted in an expedited matter. Until the evaluation is completed, the child shall remain in the educational placement determined by the school, which can include suspension or expulsion without educational services (300.527).

Section IX. Referral to Action by Law Enforcement and Judicial Authorities

- A. Each member district shall not be prohibited from reporting a crime committed by a child with a disability to appropriate authorities or to prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by the child with a disability. The school district must ensure that copies of special education and disciplinary records are also transmitted to the authorities.
  
- B. Pursuant to the Illinois School Student Records Act (105 ILCS 10/6), schools have certain obligations prior to releasing records. ISBE recommends that school districts orally inform law enforcement and judicial authorities about the student's disability status. In such instances, the notification requirements of the state status should be met and law enforcement officials should be asked to obtain or issue a court order, if possible, authorizing the release of such records. The school district shall ensure that prior to the release of any record that could be construed as

mental health record the provisions of the Mental Health and Developmental Disabilities Act (740 ILCS 110/3) are observed.