



Arizona State Board of Education

**NOTICE OF PUBLIC HEARING ON
STATE BOARD OF EDUCATION PROPOSED RULES**

Pursuant to the State Board of Education's established rulemaking procedures, notice is hereby given to the general public that a hearing will be held, open to the public as specified below.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the State Board Office, (602) 542-5057. Requests should be made as early as possible to allow time to arrange the accommodation.

DATED AND POSTED this 12th day of October, 2017.

By: _____

Dr. Karol Schmidt
Executive Director
(602) 542-5057

**AGENDA
STATE BOARD OF EDUCATION PUBLIC HEARING ON RULES
Wednesday, October 18, 2017
11:00 AM
Arizona Department of Education
1535 W. Jefferson, Conf. Room 122
Phoenix, AZ 85007**

A. CALL TO THE PUBLIC

1. Opportunity to provide comments and recommendations on proposed amendments to Board rule R7-2-401 regarding Special Education Standards for Public Agencies Providing Educational Services.

Copies of the proposed rules are attached and available on the State Board of Education's website at: <https://azsbe.az.gov/rules>

How to Read Me: Proposed Board Rules

Attached are proposed rules to R7-2-401 regarding special education. This page is designed to help individuals read the proposed rules and track changes.

Stricken Language

- Red-colored language that is stricken indicates that it is proposed to be taken out of the rule.

Ex: Proposed Rule with Stricken Language: "1. The Committee shall ~~confirm receipt of the application and~~ make a recommendation within 60 days of receipt of application."

Ex: Effect of Proposed Rule with Stricken Language: "1. The Committee shall make a recommendation within 60 days of receipt of application."

Underlined Language

- Language that is underlined indicates that it is proposed to be added to the rule.

Ex: Proposed Rule with Underlined Language: "1. The Committee shall confirm receipt of the application and make a recommendation with 60 days of receipt of application via certified mail."

Ex: Effect of Proposed Rule with Underlined Language: "1. The Committee shall confirm receipt of the application and make a recommendation with 60 days of receipt of application via certified mail."

Highlighted Language

- Language that is highlighted indicates a change has been made since a previous draft. This may include language that is now proposed to be stricken or added.

Ex: Proposed Rule with Highlighted Language: "1. The Committee shall confirm receipt of the application and make a recommendation within ~~60~~ **40** days of receipt of application."

Ex: Effect of Proposed Rule with Highlighted Language: "1. The Committee shall confirm receipt of the application and make a recommendation within 40 days of receipt of application."

How to Read Me: Proposed Board Rules

Stricken, Underlined and Highlighted Language

- Language that is stricken, underlined and highlighted indicates that it was proposed to be added in a previous draft but is no longer proposed.

Ex: Language that is stricken, underlined and highlighted: "1. The Committee shall confirm receipt of the application and make a recommendation within 60 days of receipt of application ~~via certified mail.~~"

Ex: Effect of language that is stricken, underlined and highlighted: "1. The Committee shall confirm receipt of the application and make a recommendation within 60 days of receipt of application."

Highlighted Only

- Language that is highlighted but neither underlined nor stricken, indicates that the current language was proposed to be stricken in a previous draft but is now proposed to remain the same.

Ex: Language that is highlighted but neither underlined nor stricken: "1. The Committee shall ~~confirm receipt of the application and~~ confirm receipt of the application and make a recommendation within 60 days of receipt of application."

Ex: Effect of language that is highlighted but neither underlined nor stricken: "1. The Committee shall confirm receipt of the application and make a recommendation within 60 days of receipt of application."

1 Article 4. SPECIAL EDUCATION

2 **R7-2-401. Special Education Standards for Public Agencies Providing Educational Services**

3 **A.** For the purposes of this Article, the Individuals with Disabilities Education Improvement Act (IDEA),
4 20 U.S.C. 1400 et seq. and its implementing regulations, 34 CFR 300.1 et seq., are incorporated herein
5 by reference. Copies of the incorporated material can be obtained from the U.S. Government Printing
6 Office, ~~Attn: New Orders, P.O. Box 979050, St. Louis, MO 63197-~~
7 ~~9000~~ <https://bookstore.gpo.gov/catalog/laws-regulations> or the Arizona Department of Education,
8 Exceptional Student Services, 1535 West Jefferson Street, Phoenix, Arizona 85007.

9 **B.** Definitions. All terms defined in the IDEA, its implementing regulations and A.R.S. § 15-761 are
10 applicable, with the following additions:

11 1. "Accommodations" means the provisions made to allow a student to access the general education
12 curriculum and demonstrate learning. Accommodations do not substantially change the
13 instructional level, ~~the~~ content or ~~the~~ performance criteria, but are made in order to provide a
14 student equal access to learning and equal opportunity to demonstrate what is known.
15 Accommodations shall not alter the content of the curriculum or a test, or provide inappropriate
16 assistance to the student within the context of the test.

17 ~~2. "Adaptations" means changes made to the environment, curriculum, and instruction or~~
18 ~~assessment practices in order for a student to be a successful learner. Adaptations include~~
19 ~~accommodations and modifications. Adaptations are based on an individual student's strengths~~
20 ~~and needs.~~

21 ~~3.2.~~ "Administrator" means the chief administrative official or designee ~~(responsible for special~~
22 ~~education services)~~ authorized to act on behalf of a public education agency.

23 ~~4.3.~~ "Audiologist" means a person who specializes in the identification and prevention of hearing
24 ~~problems and in the non-medical rehabilitation of those who have hearing impairments, and who~~
25 ~~is licensed to practice audiology according to A.R.S. Title 36, Chapter 17, Article 4.~~

26 ~~5.4.3.~~ "Boundaries of responsibility" means for:
27 a. A school district, the geographical area within ~~the~~ its legally designated boundaries.
28 b. A charter school, the population of students enrolled in the charter school.
29 c. A public education agency other than a school district or charter school, the population of
30 students ~~enrolled in a charter school or~~ receiving educational services from a public education
31 agency.

32 ~~6. "Certificate in speech and language therapy" means a speech language pathologist or speech-~~
33 ~~language technician certificate awarded by the State Board of Education.~~

34 ~~7.5.~~ "Certified school psychologist" means a person holding a certificate from the Arizona State Board
35 of Education issued pursuant to 7 A.A.C. 2, Article 6, in the area of school psychology.

- 1 ~~8.6.~~ "Certified speech language therapist" means a person holding a speech language pathologist or
2 speech language technician certificate from the Arizona State Board of Education issued pursuant
3 to 7 A.A.C. 2, Article 6, and a license from the Arizona Department of Health Services as a speech-
4 language pathologist in accordance with A.R.S. Title 36, Chapter 17, Article 4.
- 5 ~~7.4.~~ "Child with a disability," as defined by A.R.S. § 15-761(2), is a child that has been evaluated
6 pursuant to A.R.S. § 15-766 and has been determined to have a qualifying disability and who, by
7 reason thereof, needs special education and related services. has the same meaning prescribed
8 in A.R.S. § 15-761.
- 9 ~~9.8.5.~~ "Department" means the Arizona Department of Education.
- 10 ~~10.9.~~ "Doctor of medicine" means a person holding a license to practice medicine pursuant to A.R.S.
11 Title 32, Chapter 13 state law as a (medical doctor) or Chapter 17 (doctor of osteopathy).
- 12 ~~11.10.6.~~ "Exceptional Student Services Division" or "ESS" means the Exceptional Student Services
13 Division of the Arizona Department of Education.
- 14 ~~12.11.7.~~ "Evaluator" means a qualified person trained and knowledgeable in a field relevant to the
15 child's disability who administers specific and individualized assessment for the purpose of special
16 education evaluation and placement.
- 17 ~~13.12.8.~~ "Full and individual evaluation" means procedures used in accordance with the IDEA to
18 determine whether a child has a disability and the nature and extent of the special education and
19 related services that the child needs. This evaluation includes:
20 a. A review of existing information about the child;
21 b. A decision regarding the need for additional information;
22 c. If necessary, the collection of additional information; and
23 d. A review of all information about the child and a determination of eligibility for special
24 education services and needs of the child.
- 25 ~~14.13.9.~~ "Independent educational evaluation" means an evaluation conducted by a qualified
26 an evaluator an examiner evaluator who is not employed by the public education agency
27 responsible for the education of the child in question
- 28 ~~14.10.~~ "Informed written consent" means a person has been fully informed of all information relevant
29 to the activity for which consent is sought, in the person's native language or through another
30 mode of communication; the person understands and agrees in writing to the carrying out of the
31 activity for which consent is sought; and the person understands that the granting of consent is
32 voluntary and may be revoked at any time.
- 33 ~~15.11.~~ "Interpreter" means a person trained to translate orally or in sign language in matters
34 pertaining to special education identification, evaluation, placement, the provision of free
35 appropriate public education (FAPE), or assurance of procedural safeguards for parents and
36 students who converse in a language other than spoken English. Each student's IEP team
37 determines the level of interpreter skill necessary for the provision of FAPE.

September 5, 2017

Updated October 12, 2017 with Revisions

- 1 ~~16.~~ “Language in which the student is proficient” means all languages including sign language
2 systems.
- 3 ~~17.~~ 16. “Licensed psychologist” means a person holding a psychologist license from the a state of
4 Arizona Board of Psychologist examiners in accordance with A.R.S. Title 32, Chapter 19.1, Article
5 2 licensing body.
- 6 ~~17.~~ 12. “Multidisciplinary Evaluation Team” means a team of persons including individuals described
7 as the individualized education program team and other qualified professionals who shall
8 determine whether a child is eligible for special education and related services. has the same
9 meaning prescribed in A.R.S. § 15-761.
- 10 ~~18.~~ 13. “Modifications” means substantial changes in what a student is expected to learn and to
11 demonstrate. Changes may be made in the instructional level, the content or the performance
12 criteria. Such changes are made to provide a student with meaningful and productive learning
13 experiences, environments, and assessments based on individual needs and abilities.
- 14 ~~19.~~ “Paraeducator” means a person employed to assist with the education of students but who is not
15 certified to teach by the Arizona Department of Education. Alternate terms may include
16 ~~paraprofessional, teacher aide, instructional assistant or other similar titles.~~
- 17 ~~20.~~ 19. 14. “Private school” means any nonpublic educational institution where academic instruction
18 is provided, including nonsectarian and parochial schools, that are not under the jurisdiction of
19 the state or a public education agency.
- 20 ~~21.~~ 20. 15. “Private special education school” means a ~~private school that is established to serve~~
21 ~~primarily~~ nonpublic educational institution where instruction is provided primarily to students
22 with disabilities. The school may also serve students without disabilities.
- 23 ~~22.~~ 21. “Psychiatrist” means a doctor of medicine who specializes in the study, diagnosis, treatment
24 and prevention of mental disorders licensed physician who has completed three years of graduate
25 training in psychiatry in a program approved by the American medical association or the American
26 osteopathic association.
- 27 ~~23.~~ 22. 16. “Public education agency” or “PEA” means a school district, charter school,
28 accommodation school, state supported institution, or other political subdivision of the state that
29 is responsible for providing education to children with disabilities.
- 30 ~~23.~~ 17. “Qualified professionals” means individuals who have met state approved or recognized
31 degree, certification, licensure, registration or other requirements that apply in the areas in which
32 the individuals are providing services such as screening, identification, evaluation, general
33 education, special education or related services, including supplemental aids and services.
- 34 ~~24.~~ “Screening” means an informal or formal process of determining the status of a child with respect
35 to appropriate developmental and academic norms. Screening may include observations, family
36 interviews, review of medical, developmental, or education records, or the administration of
37 specific instruments identified by the test publisher as appropriate for use as screening tools.

1 ~~25. 18.~~ “Specially designed instruction” means adapting, as appropriate to the needs of an eligible
2 child the content, methodology, or delivery of instruction to address the unique needs of the
3 child that result from the child’s disability; and to ensure access of the child to the general
4 curriculum, so that the child can meet the educational standards within the jurisdiction of the
5 PEA that apply to all children. has the same meaning prescribed in A.R.S. § 15-761.

6 ~~25.26. 19.~~ “Special education teacher” means a teacher holding a special education certificate from
7 the Arizona Department of Education.

8 ~~26.27. 20.~~ “Suspension” means a disciplinary removal from a child’s current placement that results
9 in a failure to provide services to the extent necessary to enable the child to progress
10 appropriately in the general curriculum and advance toward achieving the goals set out in the
11 child’s IEP. The term does not include disciplinary actions or changes in placement through the
12 IEP process if the child continues to receive the services described above. The term does include
13 actions such as “in-school” and “going home for the rest of the day” removals if the child does not
14 receive the services described above. the temporary withdrawal of the privilege of attending a
15 school for a specified period of time, has the same meaning prescribed in A.R.S. § 15-840.

16 C. Public Awareness.

- 17 1. Each public education agency shall inform the general public and all parents, within the public
18 education agency’s boundaries of responsibility, of the availability of special education services
19 for students aged 3 through 21 years and how to access those services. This includes information
20 regarding early intervention services for children aged birth through 2 years.
- 21 ~~2.— Each public education agency is responsible for public awareness within their enrolled population~~
22 ~~(including the families of enrolled students).~~
- 23 ~~3.2.~~ School districts are responsible for public awareness in private schools located within
24 their ~~geographical~~ boundaries of responsibility.

25 D. Child Identification and Referral.

26 ~~1.— All children with disabilities residing in the state, including children with disabilities who are~~
27 ~~homeless or are wards of the state, including children with disabilities who attend private schools,~~
28 ~~regardless of the severity of their disability, and who are in need of special education and related~~
29 ~~services must be identified, located, and evaluated. Child find must include children who are~~
30 ~~suspected of being a child with a disability in need of special education and related services,~~
31 ~~including children who are advancing from grade to grade, and children who are highly mobile,~~
32 ~~including migrant children.~~

33 ~~2.— Each public education agency must develop and implement a practical method to identify, locate,~~
34 ~~and evaluate children with disabilities who are in need of, but are not currently receiving special~~
35 ~~education and related services.~~

36 ~~1.3. 1.~~ Each public education agency shall establish, implement, and ~~disseminate~~ make available,
37 either in writing or electronically, to its school-based personnel and all parents, within the public
38 education agency ~~its~~ boundaries of responsibility, written procedures ~~for the identification and~~

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- 1 ~~referral of to identify, locate and evaluate~~ for the identification and referral of all children with
2 disabilities, aged birth through 21, including children with disabilities attending private schools
3 and home schools, regardless of the severity of their disability.
- 4 ~~2.4.2.~~ Each public education agency ~~will shall~~ require ~~all appropriate~~ school-based ~~staff~~
5 ~~personnel who are employed or contracted by the school~~ to review the written procedures
6 related to child identification and referral on an annual basis. The public education agency shall
7 maintain documentation of ~~staff school-based personnel~~ review.
- 8 ~~3. Procedures for child identification and referral shall meet the requirements of the IDEA and~~
9 ~~regulations, A.R.S. Title 15, Chapter 7, Article 4 and these rules.~~ Procedures for child identification
10 and referral shall meet the requirements of the IDEA and regulations, A.R.S. Title 15, Chapter 7,
11 Article 4 and these rules.
- 12 ~~4.5.4.~~ ~~The Each~~ The public education agency ~~is~~ responsible for child identification activities ~~is in~~ is
13 the school district in which the parents reside unless:
14 a. The student is enrolled in a charter school or public education agency that is not a school
15 district. In that event, the charter school or public education agency is responsible for child
16 identification activities;
17 b. The student is enrolled in a non-profit private school. In that event, the school district within
18 whose boundaries the private school is located is responsible for child identification activities.
- 19 ~~5.6.5.~~ Identification (screening for possible disabilities) shall be completed within 45 calendar days
20 after:
21 a. Entry of each preschool or kindergarten student and any student enrolling without
22 appropriate records of screening, evaluation, and progress in school; ~~or or~~
23 b. ~~A student transfers into a school and the student's enrollment documentation indicates a~~
24 ~~history of special education for a student not currently eligible, or sustained and unexplained~~
25 ~~poor progress in school; or~~
26 c. ~~Notification~~ ~~Written notification by parents of concerns~~ Notification to the public education
27 agency ~~by parents of concerns~~ by parents of concerns regarding developmental or
28 educational progress by their child aged 3 years through 21 years.
- 29 ~~6.7.6.~~ Screening procedures shall include vision and hearing status and consideration of the following
30 areas: cognitive or academic, communication, motor, social or behavioral, and adaptive
31 development. Screening does not include ~~detailed individualized comprehensive evaluation~~
32 ~~procedures a full and individual evaluation~~ detailed individualized comprehensive evaluation
33 procedures.
- 34 7. ~~For a student transferring into a school; the public education agency shall review enrollment data~~
35 ~~and educational performance in the prior school. If there is a history of special education for a~~
36 ~~student not currently eligible for special education, or poor progress, the name of the student~~
37 ~~shall be submitted to the administrator for consideration of the need for a referral for a full and~~
38 ~~individual evaluation or other services.~~ For a student transferring into a school; the public
39 education agency shall review enrollment data and educational performance in the prior school.
40 If there is a history of special education for a student not currently eligible for special education,
41 or poor progress, the name of the student shall be submitted to the administrator for
42 consideration of the need for a referral for a full and individual evaluation or other services.
43

- 1 ~~8. If, on the basis of the screening, the public education agency reasonably suspects that the child's~~
2 ~~performance might be the result of a disability that has not yet been identified, the public~~
3 ~~education agency must refer the child for a full and individual evaluation.~~
- 4 ~~8.9.8.~~ If a concern about a student is identified through screening procedures or through review of
5 records ~~that does not rise to the level of suspecting the child is a child with a disability in need of~~
6 ~~special education and related services~~, the public education agency shall notify the parents of the
7 student ~~in writing~~ of the concern within ~~10~~ ~~10 a reasonable amount of time but not to exceed~~
8 ~~15~~ school days and inform them of the public education agency procedures to follow-up on the
9 student's needs ~~which may include specific general education supports and/or interventions that~~
10 ~~will be put in place to address the concerns, including who will provide the supports and/or~~
11 ~~interventions, in what setting, and how the parent will be notified of the progress the child is~~
12 ~~making with those supports and/or interventions.~~
- 13 ~~10. If, after a reasonable amount of time not to exceed one school semester, the student's teacher or~~
14 ~~an administrator, in consultation with the student's parent, determines that the general~~
15 ~~education supports and/or interventions have not resolved the concerns identified in the~~
16 ~~screening and as a result, there is suspicion that the student may be a child with a disability in~~
17 ~~need of special education and related services, the public education agency shall refer the student~~
18 ~~for a full and individual evaluation.~~
19 ~~a. Implementation of general education supports and/or interventions shall not be put in place in~~
20 ~~order to delay or deny the student an evaluation.~~
21 ~~b. At any time during the implementation of general education supports and/or interventions, the~~
22 ~~parent may request an evaluation in writing to determine if the child is a child with a disability~~
23 ~~in need of special education and related services.~~
- 24 ~~9.11. 9.~~ Each public education agency shall maintain documentation of the identification procedures
25 utilized, the dates of entry into school or notification by parents made pursuant to subsection
26 (D)~~(5)~~ ~~(6)~~ (5), and the dates of screening. The results shall be maintained in the student's
27 permanent records in a location designated by the administrator. In the case of a student not
28 enrolled, the results shall be maintained in a location designated by the administrator.
- 29 ~~10. If the identification process indicates a possible disability, the name of the student shall be~~
30 ~~submitted to the administrator for consideration of the need for a referral for a full and individual~~
31 ~~evaluation or other services. A parent or a student may request an evaluation of the student. For~~
32 ~~parentally-placed private school students the school district within whose boundaries the non-~~
33 ~~profit private school is located is responsible for such evaluation.~~ If the identification process
34 indicates a possible disability, the name of the student shall be submitted to the administrator for
35 consideration of the need for a referral for a full and individual evaluation or other services. A
36 parent or a student may request an evaluation of the student. For parentally-placed private school
37 students the school district within whose boundaries the non-profit private school is located is
38 responsible for such evaluation.
39
- 40 ~~11. If, after consultation with the parent, the responsible public education agency determines that a~~
41 ~~full and individual evaluation is not warranted, the public education agency shall provide prior~~

~~written notice and procedural safeguards notice to the parent in a timely manner.~~ If, after consultation with the parent, the responsible public education agency determines that a full and individual evaluation is not warranted, the public education agency shall provide prior written notice and procedural safeguards notice to the parent in a timely manner.

E. Evaluation/re-evaluation.

1. Each public education agency shall establish, implement, ~~disseminate~~ and make available to its school-based personnel, and ~~make available to~~ parents within its boundaries of responsibility, written procedures for the initial full and individual evaluation of students suspected of having a disability, and for the re-evaluation of students previously identified as being eligible for special education.

2. Procedures for the initial full and individual evaluation of children suspected of having a disability and for the re-evaluation of students with disabilities shall meet the requirements of IDEA and its regulations, ~~and~~ state statutes and State Board of Education rules.

3. The initial evaluation of a child being considered for special education, or the re-evaluation per a parental request of a student already receiving special education services, shall be ~~completed as soon as possible, but shall not exceed~~ conducted within 60 calendar days from the public education agency's receipt of the parent's informed written consent. ~~If the public education agency initiates the evaluation, the 60-day period shall commence with the date of receipt of informed written consent~~ and shall conclude with the date of the Multidisciplinary Evaluation Team (MET) determination of eligibility.

4. If the parent requests the evaluation ~~and the MET concurs, the 60-day period shall commence with the date that the written parental request was received by the public education agency and shall conclude with the date of the MET determination of eligibility.~~ the PEA must, within a reasonable amount of time not to exceed 15 school days from the date it receives a parent's written request for an evaluation, either begin the evaluation by reviewing existing data, or provide prior written notice refusing to conduct the requested evaluation. The 60-day evaluation period shall commence upon the PEA's receipt of the parent's informed written consent.

~~4-5.~~ 5. The 60-day evaluation period may be extended for an additional 30 days, provided it is in the best interest of the child, and the ~~parents~~ parent and PEA agree in writing to such an extension. Neither the 60-day evaluation period nor any extension shall cause a re-evaluation to exceed the time-lines for a re-evaluation within three years of the previous evaluation.

~~5-6.~~ 6. The public education agency may accept current information about the student from another state, public agency, public education agency, or through an independent ~~evaluator~~ educational evaluation. In such instances, the Multidisciplinary Evaluation Team shall be responsible for reviewing and approving or supplementing an evaluation to meet the requirements identified in subsections (E)(1) through (7).

6-7. 7. For the following disabilities, the full and individual initial evaluation shall include:
a. Emotional disability: verification of a disorder by a ~~psychiatrist, licensed psychologist, or a certified school psychologist~~ qualified professional.
b. Hearing impairment:

- 1 i. An audiological evaluation by an audiologist a qualified professional, and
- 2 ii. An evaluation of communication/language proficiency.
- 3 c. Other health impairment: verification of a health impairment by a doctor of medicine,
- 4 licensed psychologist, licensed nurse practitioner or physician's assistant as appropriate
- 5 qualified professional.
- 6 d. Specific learning disability: a determination of whether the child exhibits a pattern of
- 7 strengths and weaknesses in performance, achievement, or both, relative to age, state-
- 8 approved grade-level standards, or intellectual development that meets the public education
- 9 agency criteria through one of the following methods:
 - 10 i. A discrepancy between achievement and ability;
 - 11 ii. The child's response to scientific, research-based interventions; or
 - 12 iii. Other alternative research-based procedures.
- 13 e. Orthopedic impairment: verification of the physical disability by a doctor of medicine, or
- 14 physical therapist licensed pursuant to A.R.S. Title 32, Chapter 19 qualified professional.
- 15 f. Speech/language impairment: an evaluation by a certified speech-language therapist
- 16 qualified professional.
- 17 g. For students whose speech impairments appear to be limited to articulation, voice, or fluency
- 18 problems, the written evaluation may be limited to:
 - 19 i. An audiometric screening within the past calendar year,
 - 20 ii. A review of academic history and classroom functioning,
 - 21 iii. An assessment of the speech problem by a speech therapist, or
 - 22 iv. An assessment of the student's functional communication skills.
- 23 h. Traumatic brain injury: verification of the injury by a doctor of medicine qualified professional.
- 24 i. Visual impairment: verification of a visual impairment by an ophthalmologist a licensed doctor
- 25 of medicine practicing in the specialty of ophthalmology or a licensed optometrist a
- 26 qualified professional.
- 27
- 28 8. The Department shall develop a list, subject to review and approval of the State Board of
- 29 Education, of qualified professionals eligible to conduct the appropriate evaluations prescribed in
- 30 subsection (E)(7).
- 31
- 32 7.9. The Multidisciplinary Evaluation Team shall determine, in accordance with the IDEA and
- 33 regulations, whether the requirements of subsections (E)(6)(a) through (i) are required for a
- 34 student's re-evaluation.
- 35 8. The public education agency shall conduct a full and individual evaluation of a child with a disability
- 36 before determining that the child is no longer a child with a disability, unless the child's eligibility
- 37 is being terminated due to graduation from secondary school with a regular high school diploma
- 38 or because the child is no longer eligible to receive a free and appropriate public education due
- 39 to age requirements under A.R.S. § 15-764 (a)(1).

40 F. Parental Consent.

- 41 1. A public education agency shall obtain informed written consent from the parent of the child with
- 42 a disability before the initial provision of special education and related services to the child.
- 43 2. If the parent of a child fails to respond to a request for, or refuses to consent to, the initial
- 44 provision of special education and related services, the public education agency may not use

- 1 mediation or due process procedures in order to obtain agreement or a ruling that the services
2 may be provided to the child.
- 3 3. If the parent of the child refuses to consent to the initial provision of special education and related
4 services, or the parent fails to respond to a request to provide consent for the initial provision of
5 special education and related services, the public education agency:
6 a. Will not be considered to be in violation of the requirement to make available FAPE to the
7 child because of the failure to provide the child with the special education and related services
8 for which the parent refuses to or fails to provide consent, and
9 b. Is not required to convene an IEP Team meeting or develop an IEP in accordance with these
10 rules.
- 11 4. If, at any time subsequent to the initial provision of special education and related services, the
12 parent of a child revokes consent in writing for the continued provision of special education and
13 related services, the public education agency:
14 a. May not continue to provide special education and related services to the child, but shall
15 provide prior written notice before ceasing the provision of special education and related
16 services;
17 b. May not use the mediation procedures or the due process procedures in order to obtain
18 agreement or a ruling that the services may be provided to the child;
19 c. Will not be considered to be in violation of the requirement to make FAPE available to the
20 child because of the failure to provide the child with further special education and related
21 services; and
22 d. Is not required to convene an IEP Team meeting or develop an IEP for the child for further
23 provision of special education and related services.
- 24 5. If a parent revokes consent in writing for their child's receipt of special education services after
25 the child is initially provided special education and related services, the public agency is not
26 required to amend the child's education records to remove any references to the child's receipt
27 of special education and related services because of the revocation of consent.
28
- 29 **G. Individualized Education Program (IEP).**
- 30 1. Each public education agency shall establish, implement, and ~~disseminate~~ make available to its
31 school-based personnel, and ~~make available to~~ parents, written procedures for the development,
32 implementation, review, and revision of IEPs.
- 33 2. Procedures for IEPs shall meet the requirements of the IDEA and its regulations, ~~and~~ state statutes
34 and State Board of Education rules.
- 35 3. Procedures shall include the incorporation of Arizona ~~Academic Standards~~ academic standards as
36 adopted by the State Board of Education into the development of each IEP and address grade-
37 level expectations and grade-level content instruction. ~~IEP goals aligned with the Arizona~~
38 ~~Academic Standards shall identify the specific level within the Standard that is being addressed.~~
- 39 4. Each IEP of a student with a disability, developed with the opportunity for parent participation,
40 shall ~~stipulate the provision of instructional or support services by a special education teacher,~~
41 ~~certified speech language therapist, and/or ancillary service provider(s), as appropriate.~~ include a

1 statement of the special education and related services that will be provided to enable to child to
2 advance appropriately toward attaining his or her annual goals and to be involved in and make
3 progress in the general education curriculum. Each child's IEP must include the projected date for
4 the beginning of the services and modifications; the anticipated frequency, duration, and location
5 of those services; and a description of the instructional or support services, including a designation
6 of the types of qualified professionals and other providers that will provide those instructional or
7 support services to the student. be developed in accordance with IDEA and its regulations, state
8 statutes and State Board of Education rules. If appropriate to meet the needs of a student and to
9 ensure access to the general curriculum, an IEP team may include specially designed instruction
10 in the IEP that may be delivered in a variety of educational settings by a general education teacher
11 or other certificated personnel provided that certificated special education personnel are
12 involved in the planning, progress monitoring and when appropriate, the delivery of the specially
13 designed instruction.

14 5. Each student with a disability who has an IEP shall participate in the state assessment system.
15 Students with disabilities can test with or without ~~standard~~ accommodations or modifications as
16 indicated in the student's IEP. Students who are determined to have a significant cognitive
17 disability based on the established eligibility criteria will be assessed with the state's alternate
18 assessment as determined by the IEP team.

19 6. A meeting of the whole IEP team shall be conducted to review and revise each student's IEP at
20 least annually, or more frequently if the student's progress substantially deviates from what was
21 anticipated. The public education agency shall provide written notice of the meeting to the
22 parents of the student to ensure that parents have the opportunity to participate in the meeting.
23 After the annual review, the public education agency and parent may agree not to convene an IEP
24 team meeting for the purposes of making changes, and instead may develop a written document
25 to amend or modify the student's current IEP.

26 7. A parent or public education agency may request in writing a review of the IEP, and shall identify
27 the basis for requesting review. Such review shall take place within ~~15~~ 30 ~~45~~ school days of the
28 receipt of the request ~~or~~ at a mutually agreed upon date and time ~~but not to exceed 30 school~~
29 ~~days.~~

30 **H. Least Restrictive Environment.**

31 1. Each public education agency shall establish, implement, and ~~disseminate~~ make available to its
32 school-based personnel, and ~~make available to~~ parents, written procedures to ensure the delivery
33 of special education services in the least restrictive environment as identified by IDEA and its
34 regulations, ~~and~~ state statutes and State Board of Education rules.

35 2. A continuum of services and supports for students with disabilities shall be available through each
36 public education agency.

37 **I. Procedural Safeguards.**

38 1. Each public education agency shall establish, implement, and ~~disseminate~~ make available to ~~its~~
39 school-based personnel and parents of students with disabilities written procedures to ensure
40 children with disabilities and their parents are afforded the procedural safeguards required by

1 federal statute and regulation and state statute. These procedures shall include dissemination to
2 parents information about the public education agency's and state's dispute resolution options.

3 2. In accordance with the ~~prior written notice~~ requirements of IDEA, prior written notice **must shall**
4 be ~~issued in a timely manner following a decision by a~~ provided to the parents of a child within a
5 reasonable time after the PEA ~~to propose~~ proposes to initiate or change, or ~~refuse~~ refuses to
6 initiate or change, the identification, evaluation, educational placement or the provision of FAPE
7 to the child, but before the decision is implemented.

8 J. Confidentiality.

9 1. Each public education agency shall establish, implement, and ~~disseminate~~ make available to its
10 personnel, and ~~make available to~~ parents, written policies and procedures to ensure the
11 confidentiality of records and information in accordance with the IDEA and its regulations, the
12 Family Educational Rights and Privacy Act (FERPA) and its regulations, and state statutes.

13 2. Parents shall be fully informed about the requirements of the IDEA and regulations, including an
14 annual notice of the policies and procedures that the PEA **must shall** follow regarding storage,
15 disclosure to a third party, retention, and destruction of personally identifiable information.

16 3. The rights of parents regarding education records are transferred to the student at age 18, unless
17 the student has been ~~declared legally incompetent~~ adjudicated incapacitated, or the student has
18 executed a delegation of rights to make educational decisions pursuant to A.R.S. § 15-773.

19 4. Upon receiving a written request, each public education agency shall forward special education
20 records to any other public education agency in which a student ~~is attempting~~ has enrolled or is
21 seeking to enroll. Records shall be forwarded within the time-frame specified in A.R.S. § 15-828(F).
22 The public education agency shall also forward records to any other person or agency for which
23 the parents have given signed consent.

24 K. Preschool Programs. Each public education agency responsible for serving preschool children with
25 disabilities shall establish, implement, and ~~disseminate~~ make available to its personnel, and ~~make~~
26 ~~available to~~ parents, written procedures for:

27
28 1. The operation of the preschool program, in accordance with federal statute and regulation, and
29 state statute, that provides a continuum of placements to students;

30 2. The smooth and effective transition from the Arizona Early Intervention Program (~~AzEIP~~) to a
31 public school preschool program in accordance with the agreement between the Department of
32 Economic Security and the Department; and

33 3. The provision of a minimum of 360 minutes per week of instruction in a program that ~~operates at~~
34 ~~least three days a week~~ meets at least 216 hours over the minimum number of days.

35 L. Children in Private Schools. Each ~~public~~ education agency shall establish, implement, and ~~disseminate~~
36 make available to its personnel, and ~~make available to~~ parents, written procedures regarding the
37 access to special education services to students enrolled in private schools by their parents as
38 identified by the IDEA and its regulations, ~~and~~ state statutes and State Board of Education rules.

- 1 **M. ~~State Education Agency~~ Department** Responsible for General Supervision and Obligations Related to
2 and Methods of Ensuring Services.
- 3 1. The Department is responsible for the general supervision of services to children with disabilities
4 aged 3 through 21 served through a public education agency.
- 5 2. The Department shall ensure through fund allocation, monitoring, dispute resolution, and
6 technical assistance that all eligible students receive ~~a free appropriate public education~~ FAPE in
7 conformance with the IDEA and its regulations, A.R.S. Title 15, Chapter 7, Article 4, and these
8 rules.
- 9 3. In exercising its general supervision responsibilities, the Department shall ensure that when it
10 identifies noncompliance with the requirements of the IDEA Part B, the noncompliance is
11 corrected as soon as possible, and in no case later than one year after the Department's written
12 notification to the PEA of its identification of the noncompliance.
- 13 **N. Procedural Requirements Relating to Public Education Agency Eligibility.**
- 14 1. Each public education agency shall establish eligibility for funding with the Arizona Department in
15 accordance with the IDEA and its regulations, and state statutes and with schedule schedules
16 and method methods prescribed by the Department.
- 17 2. In the event the Department determines that a public education agency does not meet eligibility
18 for funding requirements, the public education agency has a right to a hearing before such funding
19 is withheld.
- 20 3. The Department may ~~temporarily interrupt~~ suspend payments during any time period when a
21 public education agency has not corrected deficiencies in eligibility for federal funds as a result of
22 fiscal requirements of monitoring, auditing, complaint and due process findings.
- 23 4. Each public education agency shall, on an annual basis, determine the number of children within
24 each disability category who have been identified, located, evaluated, and/or receiving special
25 education services. This includes children residing within the boundaries of responsibility of the
26 public education agency who have been placed by their parents in private schools or who are
27 home schooled.
- 28 **O. Public Participation.**
- 29 1. Each public education agency shall establish, implement, and disseminate make available to its
30 personnel; and ~~make available to~~ parents; written procedures to ensure that, prior to the
31 adoption of any policies and procedures needed to comply with federal and state statutes and
32 regulations, there are:
33 a. Public hearings;
34 b. Notice of the hearings; and
35 c. An opportunity for comment available to the general public, including individuals with
36 disabilities and parents of children with disabilities.
- 37 2. This requirement does not pertain to day-to-day operating procedures.

1 P. Suspension and Expulsion.

- 2 1. Each public education agency shall establish, implement, and ~~disseminate~~ make available to ~~its~~
3 personnel, and ~~make available to~~ parents, written procedures for the suspension and expulsion
4 of students with disabilities.
- 5 2. Each public education agency shall require all school-based staff involved in the disciplinary
6 process to review the policies and procedures related to suspension and expulsion on an annual
7 basis. The public education agency shall maintain documentation of staff review.
- 8 3. Procedures for such suspensions and expulsions shall meet the requirements of the IDEA and its
9 regulations, and state statutes.

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