



# SOUTHGATE ACADEMY

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## Child Find

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Child Find, Evaluation, Intake, Placement and the  
Placement Continuum

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# Southgate Academy

## Child Find Policy & Procedures

### Policy

Each public agency will ensure that all children with disabilities within the boundaries of the public agency, including children with disabilities who are homeless or wards of the State, and children with disabilities attending private schools or home schools, regardless of the severity of their disability, and who are in need of special education and related services are identified, located, and evaluated.

### Lack of Appropriate Instruction

As required in §300.306(b)(1)(i) and (ii), consistent with section 614(b)(5)(A) and (B) of the Act, a child cannot be identified as a child with a disability if the determinant factor for that determination is lack of appropriate instruction in reading or math. {34 C.F.R. Part 300, Analysis of Comments and Changes, Subpart A-General, *Federal Register*, Vol. 71, No. 156, p. 46658 (August 2006)}

### 34 C.F.R. § 300.111- Child Find

The IDEA and its implementing regulations require that all children with disabilities who need Special Education and related services, regardless of the severity of their disability, are identified, located, and evaluated. {20 U.S.C. §1412(a)(3); 34 C.F.R. §300.111(a)} The federal regulations require that in discharging these "Child Find" obligations, a school must include children who are suspected of having a disability, even if they are advancing from grade to grade. {34 C.F.R. §300.111 (c)(1)} The threshold for suspecting a disability "is relatively low; inquiry is not whether the student actually qualifies, but whether the student should be referred for (an) evaluation."

{Scottsdale Unified School District, Arizona State Educational Agency. 03F-1103036-ADE (SEA February 12, 2003), citing *Department of Education State of Hawaii v. Carl Rae S.*, 158 F. Supp. 2d 1190, 1195 (D. Haw. 2001)}

### Individuals with Disabilities Education Act (IDEA '04) 34 CFR §300.111 Child Find

1) Unified School Districts, Elementary School Districts, and Union High School Districts will identify, locate, and evaluate all children with disabilities within their geographic boundaries who are in need of special education and related services.

This must include:

- a) Children who are homeless;
- b) Children who are highly mobile, including migrant children;
- c) Children who are wards of the state; and,
- d) Children who are attending private schools or home schools.

**Charter Schools** will identify, locate, and evaluate all children with disabilities within their population served who are in need of special education and related services.

2) Child find must also include children who are suspected of being children with a disability and are in need of special education, even though:

a) They are advancing from grade to grade or

b) They are highly mobile children, including those who are migrant children.

3) Each public agency will maintain a record of children who are receiving special education and related services.

### **AAC R7-2-401.C Public Awareness**

1. Each public education agency shall inform the general public and all parents, within the public education agency's boundaries of responsibility, of the availability of special education services for students aged three through 21 years and how to access those services. This includes information regarding early intervention services for children aged birth through 2 years.

2. School districts are responsible for public awareness in private schools located within their geographical boundaries. (including the families of enrolled students).

### **AAC R7-2-401.D Child Identification and Referral**

#### **AAC R7-2-401.D (1)**

Each public education agency shall establish, implement, and disseminate to its school-based personnel and all parents, within the public education agency boundaries of responsibility, written procedures for the identification and referral of all children with disabilities, aged birth through 21, including children with disabilities attending private schools and home schools, regardless of the severity of their disability.

#### **AAC R7-2-401.D (2)**

Each public education agency will require all school-based staff to review the written procedures related to child identification and referral on an annual basis. The public education agency shall maintain documentation of staff review.

#### **AAC R7-2-401.D (3)**

Procedures for child identification and referral shall meet the requirements of the IDEA and regulations, Title 15, Chapter 7, Article 4 and these rules.

#### **AAC R7-2-401.D (4)**

The public education agency responsible for child identification activities is the school district in which the parents reside unless:

- a. The student is enrolled in a charter school or public education agency that is not a school district. In that event, the charter school or public education agency is responsible for child identification activities;
- b. The student is enrolled in a private school. In that event, the school district within whose boundaries the private school is located is responsible for child identification activities.

#### **AAC R7-2-401.D (5)**

Identification (screening for possible disabilities) shall be completed within 45 calendar days after:

- a. Entry of each preschool or kindergarten student and any student enrolling without appropriate records of screening, evaluation, and progress in school; or
- b. Notification to the public education agency by parents of concerns regarding developmental or educational progress by their child aged 3 years through 21 years.

#### **AAC R7-2-401.D (6)**

Screening procedures shall include vision and hearing status and consideration of the following areas: cognitive or academic, communication, motor, social or behavioral, and adaptive development.

Screening does not include detailed individualized comprehensive evaluation procedures.

#### **AAC R7-2-401.D (7)**

For a student transferring into a school; the public education agency shall review enrollment data and educational performance in the prior school. If there is a history of special education for a student not currently eligible for special education, or poor progress, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services.

#### **AAC R7-2-401.D (8)**

If a concern about a student is identified through screening procedures or through review of records, the public education agency shall notify the parents of the student of the concern within 10 school days and inform them of the public education agency procedures to follow-up on the student's needs.

#### **AAC R7-2-401.D (9)**

Each public education agency shall maintain documentation of the identification procedures utilized, the dates of entry into school or notification by parents made pursuant to subsection (D)(5), and the dates of screening. The results shall be maintained in the student's permanent records in a location designated by the administrator. In the case of a student not enrolled, the results shall be maintained in a location designated by the administrator.

#### **AAC R7-2-401.D (10)**

If the identification process indicates a possible disability, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services. A parent or a student who has reached the age of majority may request an evaluation of

the student. For parentally placed private school students, the school district within whose boundaries the nonprofit private school is located is responsible for such evaluation.

### **AAC R7-2-401.D (11)**

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.

### **Child Study Teams (CST)**

"Use of a Child Study Team as part of a regular referral process before a student would be evaluated for a special education service is not inconsistent with the IDEA, for it is a sensible policy for a school to explore options in the regular education environment before designating a child as a child with a disability. (Quoted from Art Cernosia, special education attorney, citing *A.P. Woodstock Board of Education*, 572 F. Supp. 2d 221, SO IDELR 275 (US District Court, Connecticut (2008))

### **Delaying Evaluation for RTI (Response to Intervention)**

"It generally would not be acceptable for an LEA to wait several months to conduct an evaluation or to seek parental consent for an initial evaluation if the public agency suspects the child to be a child with a disability." [34 C.F.R. Part 300, Analysis of Comments and Changes, Sub part A-General, *Federal Register*, Vol. 71, No. 156, p.46637 (August 2006)]

### **RTI in Arizona**

The idea behind RTI is that students, when they are in the general education environment (and prior to their being identified as having a disability that requires special education), will have access to an array of research-based interventions. In Arizona RTI utilizes a three-tiered model. In tier one, all students receive scientifically based instruction in the general education classroom. In tier two, progress monitoring is added to provide the school with data to consider. In tier three, students can receive intensive one-on-one or small group instruction with scientifically based interventions and more frequent progress monitoring. There is no specific time frame. However, the regulations require schools either- before the referral process (to determine eligibility based on an SLD) or as part of the referral process to ensure that students have received appropriate instruction in the general education setting. [34 C.F.R. §300.309(b)]

### **Time Frame for RTI**

In the Comments section of the Federal Register are a number of suggestions for the regulations to be more specific in terms of defining particular time frames for decision-making. In reference to suggestions to specify the length of time required for specific interventions, the United States Department of Education, Office of Special Education Programs (OSEP) declines, as "these decisions are best left to professionals who *have* knowledge about the instructional models and strategies used in the States and districts." [34 C.F.R. Part 300, Analysis of Comments and Changes. Subpart A-General, *Federal Register*, Vol. 71, No. 1 56, p. 46676 (August 2006)]



**SGA Forms for Child Find**  
***Screening Process and Results***  
**Child Study Team Survey Form**

**SGA Procedures for Child Find**

1. SGA will include a section about Child Find in the Student Handbook and on its website.
2. SGA will conduct a review of Child Find procedures with its entire staff in the fall of each school year. As part of this review, SGA will require all teachers to read and sign an annual form (*Annual Staff Review of Definitions and Expectations for Special Education*) that summarizes expectations and the duties of teachers, including information on a child find, timelines, IEP meetings, alternate assessment, ESY, compensatory services, Special Education instruction, related services, accommodations and notice requirements.
3. SGA will screen all incoming kindergarten students and all students new to the school within 45 days of their enrollment in the school.
4. If a student has more than one classroom teacher, the 45-day screening will be completed collaboratively by all the student's teachers.
5. The Special Education Director or designee will distribute screen forms and registration forms to the teachers of all students in #3 above within five school days of the student's enrollment. (Teachers will be trained in the completion of this document and completion deadlines.)
6. Upon enrollment, the Special Education Director or designee will enter the due dates for all 45-day screenings on a master calendar posted in his/ her office.
7. The Special Education Director will maintain the SGA form: *Screening Process and Results*. This form summarizes the screening information on all entering kindergarten students and all new students. It includes their enrollment dates and the results of all screenings, including dates and proof of notification to parents of the results of the screenings.
8. At the end of every school year the Special Education Director will review the *screening Process and Results* form to determine which students will be re-screened in the fall, and then set the re-screening process in place.
9. Parent letters informing them of the screening results will be prepared by the Special Education Director and mailed to parents not later than 10 school days after the 45-day screening deadline. (Sample letters are available on the AZFIND website <http://www.azed.gov/special-education.az-find/>)

## **SGA Procedures for Following-up on Concerns Identified in the 45-day Screening and Procedures for Child Study Teams (CST)**

The following procedures will be in force when the school proposes to refer a student for a full and individual evaluation (that might include additional assessments upon parental consent). If parents request an initial evaluation to determine eligibility for Special Education, then the school will provide a PWN that either proposes or refuses to conduct the initial evaluation.

1. Upon receipt of a 45-day screening form with identified concerns, the Special Education Director will ensure that some form of follow-up occurs (in addition to ensuring that parents are notified in writing of any concerns within the 10-day timeframe discussed above). If the Special Education Director determines that it is necessary, a CST will be convened. These meetings will take place within 10 school days after the 45-day deadline. The CST will be composed of the child's classroom teacher, the Special Education Director, The Special Education teacher, and others at the invitation of the Special Education Director. The CST will meet; establish additional interventions, schedule observations and mentoring, and reconvene to make a final recommendation within 20 school days of the initial CST meeting. (If no CST is determined necessary and another form of follow-up is determined appropriate, the Special Education Director will document the follow-up steps to be conducted and communicate the steps to be taken with all appropriate staff so that they are aware of their responsibilities and the time frame. In this instance, the Special Education Director and appropriate staff he/she determines necessary will review the follow-up within 20 school days and then inform parents in writing of the results of any follow-up steps that were taken.)
2. Teachers will bring to the initial CST meeting all pertinent data that has been collected on interventions already tried and their effectiveness. Teachers will bring all progress monitoring and all formative assessment data to assist the CST in its task.
3. The CST will discuss the student's areas of concern and recommend an initial evaluation if there is reason to believe that the student may be a student with a disability.
4. For students not immediately referred for an evaluation, the CST will identify additional specific interventions that will be tried with the student within the next 20 school days, and it will devise data sheets as necessary to assist the classroom teacher in recording data on each of the interventions.
5. If needed, the CST will schedule a date/time for the Special Education Director or designee to observe the student in classroom to give feedback to the teacher about his/her techniques implementing the interventions. Any observations will take place within 20 school days after the initial CST meeting.
6. If requested by the teacher, the Special Education Director or designee will demonstrate techniques, including data collection, to the teacher. Any modeling sessions or demonstrations will take place within 20 school days after the initial CST meeting.
7. The CST will meet on or before the 20th day after the initial CST meeting to go over the data and decide about the student's needs to be referred for a full and individual Special Education evaluation (that may include additional assessments). The Special Education Director will complete the CST Summary Form; notify the parents of the results of any follow-up in writing (which may include a meeting notice and a PWN if the school feels that the child should be referred for a full and individual evaluation) and ensure that all documents are appropriately filed.
8. If the determination of the school is that, a child needs to be referred for a full and individual special education evaluation, the Special Education Director will provide the parents with a meeting notice inviting them to a MET 1 meeting to review existing data

on the child. (If parents indicate that they cannot attend and no mutually agreed on date and time can be arrived at, parental input for the review of existing data can occur without a meeting, for example, by phone.) With the meeting notice the school will also provide a PWN indicating that the school proposes to begin the evaluation process by reviewing the existing data on the child and to refer the child for a full and individual evaluation [that might include additional assessments]. [This is the one time when a school can provide a PWN before a meeting.]

9. After the review of existing data at the MET 1 meeting, if the decision is that additional data are needed, the Special Education Director will complete the MET 1 paperwork for the Review of Existing Data (RED), provide parents with a PWN (proposing the evaluation(s) and the reasons for conducting the evaluation(s) and provide parents with a consent form to allow the school to conduct the evaluation. (When consent forms are returned, the Special Education Director will record the 60-day deadline on the master calendar and inform the Special Education teacher that an evaluation is pending and the date of the 60-day deadline.)
10. The CST will not determine that a particular student needs and will have ongoing monitoring without specifically defining and describing what that monitoring will entail, how long it will continue, and what will be milestones of success or determinations for escalating the intervention process to a higher level of intervention or an evaluation.
11. All students whose initial screenings indicated any concerns will be re-screened the following fall. If any of these re-screenings indicate a continuing concern, then the student will be referred for an initial evaluation or the Special Education Director will provide the parents with a prior written notice (PWN) that indicates that the school refuses to conduct an evaluation and the reasons for the refusal, and a copy of the procedural safeguards notice (PSN).
12. All CST meeting discussions and decisions will be summarized by the Special Education Director or designee on the Child Study Team Summary Form and all CST documents will be retained in the Special Education Director's office.

# Southgate Academy

## Child Study Team (CST) Summary Form

Student Name: \_\_\_\_\_ D.O.B. \_\_\_\_\_ Grade: \_\_\_\_\_

Members of Student's CST: \_\_\_\_\_  
\_\_\_\_\_

Dates of CST Meetings: \_\_\_\_\_

Number of Student Absences: \_\_\_\_\_ Number of Student Tardies: \_\_\_\_\_

A. Name and describe additional specific interventions to be attempted:

Specific Intervention	Dates of Review	Describe Effectiveness	Continued or Discontinued

- A. Describe and attach any data collection forms devised by the CST.
  
  
  
  
  
  
  
  
  
  
- B. Identify observers, observation dates, and any specific task the observer will have when he/ she visits the classroom.
  
  
  
  
  
  
  
  
  
  
- C. Describe in detail any monitoring of the student that will take place, including what the monitoring will entail, how long it will continue, who will be responsible, what data will be collected and in what format, and what the determinations of success or failure will be.
  
  
  
  
  
  
  
  
  
  
- D. Final recommendation(s) of the CST, including whether an evaluation was recommended. State whether the recommendation was unanimous; if not, then indicate the parties that disagreed and the reasons for the disagreement. Attach a copy of the PWN proposing or refusing an evaluation.
  
  
  
  
  
  
  
  
  
  
- E. Summarize the important points regarding the student's progress, performance or behavior that were discussed at the CST meeting

# **Southgate Academy**

## **Intake/Enrollment Procedure**

### **Pertinent Regulations**

#### **34 C.F.R. §300.323(e)**

#### **IEPs for children who transfer public agencies in the same State**

If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either-

- (1) Adopts the child's IEP from the previous public agency; or
- (2) Develops, adopts, and implements a new IEP that meets the applicable requirements in §300.320 through §300.324.

#### **34 C.F.R. §300.323(f)**

#### **IEPs for children who transfer from another State**

If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those describe in the child's IEP from the previous public agency), until the new public agency-

- (1) Conducts an evaluation pursuant to 300.304 through 300.306 (if determined to be necessary by the new public agency); and
- (2) Develops, adopts, and implement a new IEP, if appropriate, that meets the applicable requirements in §§ 300.320 through 300.324.

**34C.F.R. § 300.323(g)**

**Transmittal of Records**

The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of Special Education or related services to the child, from the previous public agency in which the child was enrolled.

Arizona Revised Statutes {ARS} § 15.828(F)

Within five school days after enrolling a transfer pupil from a private school or another school district, a school shall request directly from the pupil's previous school a certified copy of the pupil's record. The requesting school shall exercise due diligence in obtaining the copy of the record requested.

{Notwithstanding any financial debt owed by the pupil, any school requested to forward a copy of the transferring pupil's record to the new school shall comply and forward the record within 10 school days after receipt of the request unless the record has been flagged pursuant to section 15-829).

## **SGA Procedures**

- 1) If parents indicate on the enrollment form that their child has a current IEP, and has a copy, review the service page with the parents and determine the comparable services that will be provided immediately. Inform the parent that the school will implement the current IEP but may reconvene the IEP team to review and possibly revise it when the staff has become more familiar with the student. Provide PWN
- 2) If parents indicate on the enrollment form that their child has a current IEP, but does not have a copy:
  - Immediately send the previous school a request for records, including SPED records {and document that records were requested, the date of the request, the method used to request records {fax, email, US mail}, the address, and the person to whom it was sent).
  - Ask the parent what SPED instruction and what related services the child had at the previous school and ask the amount of time devoted to SPED instruction and any related services. Explain that all SGA will provide comparable services until a copy of the current IEP arrives. Explain to parents that SGA may reconvene the IEP team to review and possibly revise the IEP when the staff members have become more familiar with the student.
  - Do not tell parents that SGA does not provide services for students whose placement is a self-contained SPED classroom. (If the previous placement was a self-contained classroom, explain that because SGA does not have this option, the student will receive all his/her Sped instruction in a SPED resource room, at least temporarily.)
  - Do not tell parents that SGA does not enroll students with certain disabilities.
  - Do not tell parents that SGA will process the enrollment application and notify them when the records arrive from the previous school, at which point the student can then begin school.
  - Do not tell parents that SGA must convene an IEP team for the student before he/ she can begin taking classes at SGA.
  - Explain to parents the placement arrangement. Explain that upon receipt of records from the previous school and after staff members at SGA become familiar with the student, SGA may convene the IEP team to review and possibly revise the IEP, including placement.
- 3) Immediately inform the SPED teacher and all relevant related service members that a new student has enrolled. If parents provide copies of the IEP or evaluation reports, provide copies to the SPED teacher, and copy relevant pages/documents for the related service providers.
- 4) Provide registration form and 45-day screening form to the classroom teacher.
- 5) If the student is already in special education, notify special education teacher and any pertinent related service provider immediately.
- 6) Special Education Director will enter on a master calendar the IEP expiration dates, the 3 -year MET due date, and the 45-day screening deadline.
- 7) If a student is already in special education or if he/she is determined eligible, the special education teacher will keep a separate master calendar with IEP expiration dates, 45-day screening deadlines, and 3-year re-evaluation ME T dates. (The Special Education Team will meet the last week of each month to compare notes and calendars, to identify and brainstorm issues, to update each other about progress and instruction, and to keep ahead of all



deadlines.

- 8) The Special Education Director will give an annual in-service to all office staff so that they are providing correct information to parents. This training will include coaching about how to communicate, what to say, what not to say, how to steer through conflict and when to refer a parent, staff member or an issue to administration.

# **Southgate Academy**

## **Policy and Procedures for Evaluation and Re-evaluation**

### **Policy**

A full and individual initial evaluation will be conducted by the public education agency before the initial provision of special education and related services to a child with a disability in accordance with 34 CFR §300.300–§300.311 of the IDEA regulations. A reevaluation of each child with a disability will be conducted by the public education agency in accordance with §300.300–§300.311 of the IDEA regulations.

### **Evaluation Defined**

"Evaluation" is defined as procedures that are used to determine whether a student has a disability and, if so, the nature and extent of his/her need for Special Education and related services. {34 C.F.R. §300.15}

### **Re-evaluation Defined**

The term "re-evaluation" generally means a comprehensive evaluation which is analogous to initial evaluation under 34 C.F.R. §300.532. {See Letter to Tinsley, 26 IDELR 1076 (OSEP 1990)}

### **Failure to Evaluate**

A school's "failure to consider an evaluation is tantamount to a denial of evaluation." {Scottsdale Unified School District, Arizona State Educational Agency. 03 F-1102025-ADE (SEA February 12, 2003)} check citation under suspected disability/child find.

### **Decision not to Evaluate**

Even when individualized testing is contemplated, educators enjoy the discretion to evaluate, or refuse to evaluate children. The regulations that implement the IDEA do not require a school to provide an initial evaluation upon parental request. If a school has no basis for suspecting that a student might have a qualifying disability under the IDEA, it need not conduct an initial evaluation. {Pasatiempo v. Aizawa. 103 F. 3d 796 {9th Cir. 1996}}

### **Request for Evaluation**

It is not incumbent on those outside the school to be so versed in the regulations that implement the IDEA to use the exact vocabulary or to provide legal citations to justify their request. "A request for assessment is implied when a parent informs a school that a child may have special needs." {Robertson County School System v. King. 99 F3d 1139 (6th Cir. 1996)}

## **Evaluation Requirements**

Implicit in the regulations that implement the IDEA is a requirement that evaluation or re-evaluation results must be accurate. Assessment tools must provide "relevant information that directly assists persons in determining the educational needs of a (a) child." {34 C.F.R. §300.304(c)(7)}

Assessments are required to be "in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally." {Id. At Subsection (c)(1)(iii)}

An evaluation must be "sufficiently comprehensive to identify all of the child's Special Education and related service needs." {Id. At Subsection (c)(6)}

A further requirement is that students must be evaluated in all areas of suspected disability, "including health, vision, hearing, social and emotional status, general intelligence, academic preference, communicative status, and motor abilities." {34 C.F.R. §300.304(c)(4)}

When a parent suspects a disability and requests an evaluation, the school must notify the parents of its response and the means by which the parents can challenge it (PWN and PSN). [Pasatiempo v. Aizawa. 103 F. 3d 796 (9<sup>th</sup> Cir. 1996)]

## **Parent Copy of Evaluation Report**

"Upon completion of the administration of assessments and other evaluation measures the public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent." [34 C.F.R. §300.306(a)(2)] No timeline is specified, leaving this to State and local discretion. [34 C.F.R. Part 300, Analysis of Comments and Changes, Subpart A-General, Federal Register, Vol. 71, No. 156, p. 46645 (August 2006)]

## **Timing of Initial Evaluations**

The court found that a district's obligations under child find regulations required it to conduct an initial evaluation as soon as it had reason to suspect that a child had a disability. [Scott v. District of Columbia, 03-1672 DAR (D.D.C. 2006)]

## **Timing of Re-evaluations**

Because a student's educational needs can change over time, the regulations that implement the IDEA require that a student be reevaluated every three years unless the parent and the school agree that such a reevaluation is unnecessary. [34 C.F.R. §300.303(b)(2)] A reevaluation can occur more frequently, but not more than once a year, unless the parent and the school agree otherwise. [34 C.F.R. §300.303(6)(1)]

"A reevaluation must be done when a student improves significantly and may no longer need special education, when little or no progress is being made, or when a parent or teacher requests a reevaluation." [AZ-TAS Evaluation and Eligibility: Processes and Procedures from Referral to Determination of Eligibility, ADE/ESS Publication, Revised July 2009, pg. 13]

### **If Re-evaluation is not Necessary**

If a reevaluation is unnecessary, even the first step of reviewing existing data is not required. However, the PEA should ensure that any decision not to reevaluate is mutual. The PEA should give the parent a prior written notice of the agreement and/or obtain a signed, dated agreement not to reevaluate the child. Evidence of this agreement should be retained in the child's special education file. [AZ-TAS Evaluation and Eligibility: Processes and Procedures from Referral to Determination of Eligibility, ADE/ESS Publication, Revised July 2009, pg. 13]

### **Parent Request for Evaluation - Trigger of 60-day Timeline**

The regulations are clear that when a school proposes to conduct an initial evaluation to determine eligibility for special education instruction and services, it must secure informed parental consent before conducting the evaluation. [34 C.F.R. §300.300 (a)(1)] However, Arizona law states that when a parent requests an evaluation and the MET concurs, the 60- day timeframe for conducting an initial evaluation to determine special education eligibility "shall commence with the date that the written parental request was received by the [school] and shall conclude with the date of the MET determination of eligibility." (A.A.C. R7- 2-401(E)(3)) (Emphasis added) Put another way, when the parent initiates a referral for an initial evaluation to determine special education eligibility, the 60-day evaluation timeline begins, not with the date of informed consent, but with the date on which the referral was received by the school.

### **60-day Timeline for Conducting an Evaluation**

The regulations that implement the IDEA grant schools a maximum of 60 days to complete an evaluation or reevaluation, with a few specific exceptions (unless a parent fails or refuses to produce the child for the evaluation, or if the child enrolls in another district after the 60- day evaluation period has begun). [34 C.F.R. §300.301(d)(1)-(2)] However, federal regulations grant to states the right to develop their own time frames.

### **When the 60-day Timeline Begins and Ends**

Arizona law provides that the 60-day evaluation 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." [A.A.C. R7-2-401(E)(3)]

### **Extending the 60-day Timeline**

Arizona law permits the 60-day evaluation period to be extended for an additional 30 days if the parents and the district agree to the extension in writing. [A.A.C. R7-401 (E) (4)]

### **Evaluations during the Summer**

The 60-day timeframe refers to 60 calendar days and would include school breaks. [34 C.F.R. Part 300, Analysis of Comments and Changes, Subpart A-General, Federal Register, Vol. 71, No. 156, p. 46659 (August 2006)]

## **Review of Existing Data**

The first step of the MET process obligates a school to "review existing evaluation data on the child, including information provided by the parents, current classroom-based or local assessments ... and observations by teachers and related service providers." [34 C.F.R. §300.305(a)(1)(i)-(iii)] When a school convenes a MET and is looking at the existing data, the evaluation process has already actually begun, and the completion of the evaluation process requires an eligibility determination. The regulations that implement the IDEA state that "[a]s part of an initial evaluation . . . the IEP Team, and other qualified professionals, as appropriate, must review existing evaluation data on the child ... [and] identify what additional data, if any, are needed to determine whether the child is a child with a disability." [Id. at (a)(1) - (2)]

## **Review existing Data without a Meeting**

The regulations that implement the IDEA specifically state that the IEP team may review existing data without a meeting. [34 C.F.R. §300.305(b)]

## **Consent for Evaluation**

The regulations that implement the IDEA require schools to "obtain informed consent ... from the parent of the child before conducting the evaluation." [34 C.F.R.

§300.300(a)(1)(i)] Consent means that the parent has been fully informed of all information relevant to the evaluation, that the parent understands, and that the parent agrees in writing to the evaluation. [34 C.F.R. §300.9(a)-(b)]

No consent is required for a review of existing data. (34 C.F.R. §300.300(d) (1))

## **Parent Refuses to Grant Consent for a Re-evaluation**

The federal regulations speak to this issue 34 C.F. R. §300.300(c) - if the parent refuses to consent to a reevaluation, the school may but is not required to pursue the reevaluation by requesting mediation or a due process hearing. The school can only move forward absent consent if the parent fails to respond to a request for consent to reevaluate, but this requires adhering to the provisions of §300.300(a)(3) - mediation or due process.

## **See IDEA regulations for Parental Consent §300.300**

- (a) Parental Consent for Initial Evaluations
- (b) Parental Consent for Services
- (c) Parental Consent for Re-evaluations
- (d) Other Consent Requirements

## **§300.300 - Parental Consent**

- 1) The public education agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability, after reviewing existing data with the parents and providing prior written notice, will obtain informed consent from the parent of the child before collecting any additional data.

- a) Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services.
  - b) The public education agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation.
- 2) For initial evaluations only, if the child is a ward of the state and is not residing with the child's parent, the public education agency is not required to obtain consent from the parent if:
  - a) Despite reasonable efforts to do so, the public education agency cannot discover the whereabouts of the parents of the child;
  - b) The rights of the parents of the child have been terminated by the court;
  - c) The rights of the parent to make educational decisions have been subrogated by a judge and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.
- 3) The public education agency may, but is not required to, seek informed consent through due process procedures if the parent of a child who is enrolled or seeking to enroll in the public education agency refuses consent for an initial evaluation.
- 4) The public education agency must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child and must make reasonable efforts to obtain that consent.
- 5) If a parent refuses consent for the initial provision of special education and related services, the public education agency may not seek consent through due process hearing procedures. The public education agency:
  - a) Will not be considered in violation for not providing FAPE;
  - b) Is not required to convene an IEP team meeting or develop an IEP for the child.
- 6) The public education agency must obtain informed consent prior to conducting any reevaluation of a child with a disability.
  - a) If the parent refuses consent, the public education agency may use due process hearing procedures to seek consent but does not violate its obligation if it declines to pursue the evaluation or the reevaluation.
  - b) The informed parental consent for reevaluation need not be obtained if the public education agency can demonstrate that:
    - i) it made reasonable efforts to obtain such consent and has documented those attempts;
    - ii) the child's parent has failed to respond.
- 7) Parental consent is not required before:
  - a) Reviewing existing data as part of an evaluation or reevaluation; or
  - b) Administering a test or other evaluation that is administered to all children unless consent is required of parents of all children prior to administration.
- 8) A public education agency may not use a parent's refusal to consent to one service or activity under this section to deny the parent or child any other service, benefit, or activity of the public education agency, except as required by this part.
- 9) If a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the public education agency may not utilize due process hearing procedures to seek consent.

**See IDEA regulations for Initial Evaluations §300.301**

- (a) General Requirements
- (b) Request for Initial Evaluations
- (c) Procedures for Initial Evaluations

### **§300.301 Initial Evaluations**

- 1) Consistent with consent requirements of §300.300, either a parent of a child or the public education agency may initiate a request for an initial evaluation to determine if a child is a child with a disability.
- 2) The initial evaluation must:
  - a) Be completed within 60 days of receiving parental consent for the evaluation, unless:
    - i) The parents and the public education agency agree that it is in the best interest of the child to extend the timeline to complete the evaluation for an additional 30 days;
    - ii) The child enrolls in the public education agency from another public education agency after the parent has provided consent and before the determination of eligibility by the other agency (In that event, the agency will ensure prompt completion of the evaluation); or
    - iii) The parent of a child with a disability repeatedly fails or refuses to produce the child for the evaluation.
  - b) Consist of procedures to determine if the child is a child with a disability and to determine the educational needs of the child.

### **See IDEA regulations for Screening Requirements §300.302**

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

### **§300.303 Reevaluations**

- 1) The public education agency will conduct a reevaluation of a child with a disability if:
  - a) The agency determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation, or
  - b) If the child's parents or teacher requests a reevaluation, except that
  - c) The public education agency will not conduct a reevaluation more than once a year unless the parent and agency agree otherwise.
- 2) The public education agency will conduct a reevaluation at least once every 3 years, unless the parent and the agency agree that a reevaluation is unnecessary.

### **See IDEA regulations for Evaluation Procedures §300.304**

- (a) Notice
- (b) Conduct of Evaluations
- (c) Other Evaluation Procedures

### **§300.304 Evaluation Procedures**

- 1) The public education agency will provide prior written notice to the parents of a child who has or who is suspected of having a disability that describes the evaluation procedures that the agency proposes to conduct.
- 2) In conducting an evaluation or reevaluation, the public education agency will:
  - a) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent in order to determine:
    - i) Whether the child is a child with a disability; and
    - ii) If the child is a child with a disability, information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities).
  - b) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and
  - c) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- 3) The public education agency will ensure that evaluation materials and strategies:
  - a) Are selected and administered so as not to be discriminatory on a racial or cultural basis;
  - b) Are administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so;
  - c) Are used for the purposes for which the assessment(s) or measure(s) are valid and reliable;
  - d) Are administered by trained and knowledgeable personnel;



- e) Are administered in accordance with the instructions provided by the assessment publisher;
  - f) Are selected and administered so as to ensure that if administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure rather than reflecting the child's impairments (unless those skills are the factors being measured).
  - g) Assess the child in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, adaptive behavior, communicative status, and motor abilities; and
  - h) Are sufficiently comprehensive to identify all of the child's special education and related service(s) needs, whether or not those needs are commonly associated with the child's disability.
  - i) Provide relevant information that directly assists in determining the educational needs of the child.
- 4) Evaluations of children who transfer to or from another public education agency in the same school year are coordinated with the prior and subsequent schools, in order to expedite the completion of a full evaluation.

**See IDEA regulations for Additional Requirements for Evaluations and Re-evaluations §300.305**

- (a) Review of Existing Data
- (b) Conduct of the Review
- (c) Source of Data
- (d) Requirements if Additional Data are not Needed
- (e) Evaluations before a change in eligibility (including exiting from SPED)

### **§300.305 Additional Evaluation Requirements**

1) As part of an initial evaluation (if appropriate), and as part of any reevaluation, the IEP team and other qualified professionals, as appropriate, will:

a) Review existing evaluation data on the child including:

- i) Evaluations and information provided by the parents;
- ii) Current classroom-based, local, and statewide assessments, and classroom-based observations; and
- iii) Observations by teachers and related services providers.

b) On the basis of that review and input from the child's parents, identify what additional data, if any, are needed to determine:

- i) Whether the child is or continues to be a child with a disability and if so, the educational needs of the child;
- ii) The present levels of academic achievement and related developmental needs of the child; and
- iii) Whether the child needs special education and related services to enable the child to meet measurable annual IEP goals and to participate, as appropriate, in the general education curriculum.

c) The IEP team may conduct the review without a meeting.

2) If additional data are needed, the public education agency will administer the assessments required to obtain the additional data.

3) If additional data are not needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the public education agency will notify the parents of:

- a) The determination and the reasons for the determination; and
- b) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs.

4) The public education agency will evaluate a child before determining that the child is no longer a child with a disability except when the termination is due to graduation with a regular high school diploma or the child's reaching age 22.

5) When the child's eligibility terminates because of graduation or reaching age 22, the agency will provide a summary of the child's academic achievement and functional performance that includes recommendations on how to assist the child in meeting the child's postsecondary goals.

**See IDEA regulation for Determination of Eligibility §300.306**

- (a) General Requirements
- (b) Special Rule for Eligibility Determination
- (c) Procedures for Determining Eligibility and Educational Need

**§300.306 Determination of Eligibility**

1) Upon completion of the evaluation process, the public education agency will ensure that:

a) A group of qualified professionals and the parent of the child determine:

i) If the child is a child with a disability under the Individuals with Disabilities Education Act and the Arizona State Statutes; and

ii) If so, the educational needs of the child.

b) The parents are provided, at no cost, a copy of the evaluation report and eligibility determination.

2) A child will not be determined to be a child with a disability if the primary factor for the determination is:

a) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA as such section was in effect on the day before the date of enactment of Every Student Succeeds Act (December 9, 2015));

b) Lack of appropriate instruction in math; or

c) Limited English proficiency.

3) The eligibility determination, including education needs, will be based on all of the information sources used in the evaluation process, and if the child is deemed eligible and in need of

special education and related services, an IEP will be developed in accordance with §300.320 through §300.324.

### **See IDEA regulations for Procedures for Identifying Children with SLD §300.307**

§300.308 - Additional Group Members

§300.309 - Determining the Existence of a SLD

§300.310 - Observation Requirements to Determine SLD

§300.311 - Documentation Requirements for SLD Eligibility Determination

### **§300.307 Additional Procedures for Identifying Children with Specific Learning Disabilities**

#### **Option 1:**

- 1) The public education agency will use the state-adopted criteria for determining whether a child has a specific learning disability through a process based on the child's response to scientific, research-based intervention in conformity with IDEA Regulations §§300.307–300.311.

#### **Option 2:**

- 2) The public education agency will establish a criteria for determining whether a child has a specific learning disability through the identification of a severe discrepancy between intellectual ability and achievement in conformity with IDEA Regulations §§300.307–300.311.

#### **Option 3:**

- 3) The public education agency will determine, on an individual child basis, the criteria for determining whether a child has a specific learning disability using one of the following criteria in conformity with IDEA Regulations §§300.307–300.311:
  - a) The state-adopted criteria based on a child's response to scientific, research-based intervention;
  - b) The identification of a severe discrepancy between intellectual ability and achievement.

### **§300.308 Additional Group Members**

1) The determination of whether a child suspected of having a specific learning disability is a child with a disability must be made by the child's parents and a team of qualified professionals that must include:

- a) The child's regular teacher; or
- b) If the child does not have a regular teacher, then a regular teacher qualified to teach children of that age;
- c) For a child of less than school age, an individual qualified by the State to teach children of his/her age;

- d) At least one person qualified to conduct individual diagnostic evaluations of children, such as a school psychologist, speech- language pathologist, or remedial reading teacher.

### **§300.309 Determining the Existence of a Specific Learning Disability**

1) A child may be determined to have a specific learning disability if:

- a) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or meet State– approved grade-level standards:
  - i) Oral expression
  - ii) Listening comprehension
  - iii) Written expression
  - iv) Basic reading skill
  - v) Reading fluency skills
  - vi) Reading comprehension
  - vii) Mathematics calculation
  - viii) Mathematics problem solving
- b) The approved grade-level standards in one or more of the areas in (1)(a) when using a process based on the child's response to scientific, research-based intervention; or
- c) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State– approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments.

2) The findings of this section are not primarily the result of:

- a) A visual, hearing, or motor disability;
- b) Intellectual disability;
- c) Emotional disturbance;
- d) Cultural factors;

- e) Environmental or economic disadvantage; or
  - f) Limited English proficiency.
- 3) The group must ensure that the underachievement is not due to a lack of appropriate instruction in reading or math and must consider:
- a) Data that demonstrate that prior to, or as part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
  - b) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents
- 4) The public education agency must promptly request parent consent to evaluate if, prior to referral, the child has not made adequate progress after an appropriate period of time when provided instruction described in (3)(a) and (b).

#### **§300.310 Observation**

- 1) The public education agency must ensure that the child is observed in his/her learning environment, including the regular classroom setting, to document the child's academic performance and behavior in the areas of difficulty.
- 2) In the case of a child of less than school age or who is out of school, a group member must observe the child in an environment appropriate for a child of that age.

#### **§300.311 Specific Documentation for the Eligibility Determination**

- 1) For a child suspected of having a specific learning disability, the eligibility determination must contain a statement of:
- a) Whether the child has a specific learning disability;
  - b) The basis for making the determination, including an assurance the determination was made in accordance with the Individuals with Disabilities Education Act;
  - c) The relevant behavior, if any, noted during the observation and the relationship of that behavior to the child's academic functioning;
  - d) The educationally relevant medical findings, if any;
  - e) Whether the child does not achieve adequately for his/her age or to meet State-approved grade-level standards consistent with (1)(a); and does not make sufficient progress to meet age or State-approved grade-level standards consistent with (1)(b); or

- f) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State- approved grade-level standards. or intellectual development consistent with (1)(c).
  - g) The determination of the group concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency of the child's achievement level.
- 2) If the child participated in a process that assessed the child's response to scientific, research-based intervention, the determination must include:
- a) The instructional strategies used and the student-centered data collected;
  - b) Documentation that the child's parents were notified about the State's policies regarding the amount and nature of student performance that would be collected and the general education services that would be provided;
  - c) Strategies for increasing the rate of learning; and
  - d) The parent's right to request an evaluation.
- 3) Each group member must certify in writing whether the report reflects the member's conclusion. If it does not, the group member must submit a separate statement presenting the member's conclusions.

#### **AAC R7-2-401.E Evaluation/Reevaluation**

- 1) Each public education agency shall establish, implement, and make available to school-based personnel and 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 reevaluation 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 reevaluation of students with disabilities shall meet the requirements of IDEA and its regulations, state statutes, and State Board of Education rules.
- 3) The initial evaluation of a child being considered for special education, or the reevaluation per a parental request of a student already receiving special education services, shall be conducted within 60 calendar days from the public education agency's receipt of the parent's 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, 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.

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 parent and PEA agree in writing to such an extension. Neither the 60-day evaluation period nor any extension shall cause a reevaluation to exceed the timelines for a reevaluation within three years of the previous evaluation.

6) The public education agency may accept current information about the student from another state, public agency, public education agency, or through an independent 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).

7) For the following disabilities, the full and individual initial evaluation shall include:

- a) Emotional disability: verification of a disorder by a qualified professional.
- b) Hearing impairment:
  - i) An audiological evaluation by a qualified professional, and
  - ii) An evaluation of communication/language proficiency.
- c) Other health impairment: verification of a health impairment by a qualified professional.
- d) Specific learning disability: a determination of whether the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development that meets the public education agency criteria through one of the following methods:
  - i) A discrepancy between achievement and ability;
  - ii) The child's response to scientific, research-based interventions; or
  - iii) Other alternative research-based procedures.
- e) Orthopedic impairment: verification of the physical disability by a qualified professional.
- f) Speech/language impairment: an evaluation by a qualified professional.
- g) For students whose speech impairments appear to be limited to articulation, voice, or fluency problems, the written evaluation may be limited to:
  - i) An audiometric screening within the past calendar year,
  - ii) A review of academic history and classroom functioning,
  - iii) An assessment of the speech problem by a speech therapist,  
or
  - iv) An assessment of the student's functional communication skills.
- h) Traumatic brain injury: verification of the injury by a qualified professional.



- i) Visual impairment: verification of a visual impairment by a qualified professional.
- 8) The Department shall develop a list, subject to review and approval of the State Board of Education, of qualified professionals eligible to conduct the appropriate evaluations prescribed in subsection (E)(7).
- 9) The multidisciplinary evaluation team shall determine, in accordance with the IDEA and regulations, whether the requirements of subsections (E)(7)(a) through (i) are required for a student's reevaluation.

### **Free Appropriate Public Education (FAPE)**

#### **Policy**

A free appropriate public education (FAPE) will be available to all children within the boundaries of responsibility of the public education agency, including children with disabilities who have been suspended or expelled from school as provided for in §300.530(d) of the IDEA regulations.

#### **PROCEDURES**

##### **§300.306 Determination of Eligibility, §300.308 Additional Group Member**

All public education agencies will make the determination that a child is eligible for special education and related services on an individual basis by a properly constituted team.

##### **§300.101 Free Appropriate Public Education**

- 1) For Preschool Children (3 to 5) Unified districts and elementary districts will:
  - a) Make FAPE available no later than the child's third birthday;
  - b) Ensure that an IEP or an IFSP is in effect for each child by that date;
  - c) Ensure that a child's IEP team determines the date when services under the IEP or IFSP will begin if a child's third birthday occurs during the summer.

##### **Union high school districts and charter schools will:**

Refer any children who are suspected of having a disability to the appropriate unified district or elementary district for evaluation and, if appropriate, for services.

- 2) For School - Aged Children (5 to 21) All Public Education Agencies will make FAPE available to any child who needs special education and related services, even though the child has not failed or been retained in a course or grade and is advancing from grade to grade.

**ARS 15 - 764.A(5) Powers of the School District Governing Board or County School Superintendent**

The governing board of each school district or the county school superintendent shall establish policy with regard to allowable pupil - teacher ratios and pupil - staff ratios within the school district or county for provision of special education services.

**ARS 15 - 764.B Powers of the School District Governing Board or County School Superintendent**

The special education programs and services established pursuant to this section and section 15 - 765 shall be conducted only in a school facility which houses regular education classes or in other facilities approved by the division of special education.

**§300.105 Assistive Technology**

1) The public education agency will ensure that assistive technology devices or services or both will be available to a child with a disability, if required, as a part of:

- a) Special education,
- b) Related services, and
- c) Supplementary aids and services.

2) On a case-by-case basis, the public education agency will ensure the use of school purchased assistive technology devices in a child's home or other setting if the child's IEP team determines that the child needs access to those devices in order to receive FAPE.

**§300.106 Extended School Year Services (ESY)**

1) The public education agency will make extended school year services available as necessary to provide FAPE to children with disabilities.

a) ESY services will be provided only if a child's IEP team determines, in accordance with §300.320 – §300.324, that the services are necessary for the provision of FAPE.

b) Services will not be:

- i) Limited to a particular category of disability; or
- ii) Unilaterally limited to the type, amount, or duration of services.

2) The ESY services that are provided to a child with a disability will:

- a) Be provided beyond the normal school year of the agency;
- b) Be provided in accordance with the child's IEP;
- c) Be provided at no cost to the parents of the child; and

d) Meet the standards of the State.

### **§300.107 Nonacademic Services**

1) The public education agency will afford children with disabilities an equal opportunity for participation in nonacademic and extracurricular services and activities including, as determined appropriate and necessary by the child's IEP team, the provision of supplementary aids and services.

2) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public education agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public education agency and assistance in making outside employment available.

### **§300.108 Physical Education**

1) The public education agency will make regular physical education services available to children with disabilities to the same extent that the agency provides those services to children without disabilities, unless:

a) The child is enrolled full time in a separate facility; or

b) The child needs specially designed physical education as prescribed in the child's IEP.

2) If a child is enrolled in a separate facility, the public education agency will ensure that the child receives appropriate physical education services.

3) If special physical education is prescribed in a child's IEP, the public education agency will provide for those services, either directly or through other public or private programs.

### **§300.110 Program Options**

1) The public education agency will ensure that children with disabilities have available to them the variety of educational programs and services that are available to non-disabled children, including art, music, industrial arts, consumer and homemaking education, and vocational education.

### **§300.113 Routine Checking of Hearing Aids and External Components of Surgically Implanted Medical Devices**

1) The public education agency will ensure that the hearing aids worn in school by children with hearing impairments are functioning properly; and

2) The external components of surgically implanted medical devices (e.g., cochlear implants) are functioning properly, except that the agency will not be responsible for any post - surgical

maintenance, programming, or replacement of any component, external or internal, of the medical device.

### **§300.154 Methods of Ensuring Services**

1) The public education agency may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under IDEA, as permitted under the public benefits or insurance program, except that the public education agency:

- a) May not require parents to sign up for or enroll in public benefits or insurance programs to receive FAPE;
- b) May not require parents to incur out-of-pocket expenses such as payment of a deductible or co-pay for services required by IDEA, but may pay the cost that parents otherwise would be required to pay;
- c) May not use a child's public benefit if that use would:
  - i) Decrease lifetime benefits;
  - ii) Result in the family paying for non-school services that would otherwise be paid for by public benefits;
  - iii) Increase premiums or lead to discontinuation of benefits; or
  - iv) Risk loss of eligibility.

2) The public education agency must notify parents that their refusal to allow access to their public benefits does not relieve the agency of its responsibility to provide all required IDEA services.

3) The public education agency must obtain a one-time written consent from the parent, after providing written notification and before accessing the child's or the parent's public benefits for the first time. The consent must specify:

- a) The personally identifiable information that may be disclosed;
- b) The purpose of the disclosure; and
- c) The agency to which the disclosure may be made.

4) The public education agency must provide a written notification to the child's parents before accessing the child's or parent's public benefits or insurance for the first time and prior to obtaining the one-time parental consent and annually thereafter.

## **AAC R7 - 2 - 401.F Parental Consent**

1) A public education agency shall obtain informed written consent from the parent of the child with a disability before the initial provision of special education and related services to the child.

2) If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the public education agency may not use mediation or due process procedures in order to obtain agreement or a ruling that the services may be provided to the child.

3) If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the public education agency:

- a) Will not be considered to be in violation of the requirement to make available FAPE to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent, and
- b) Is not required to convene an IEP team meeting or develop an IEP in accordance with these rules.

4) If, at any time after the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the public education agency:

- a) May not continue to provide special education and related services to the child, but shall provide prior written notice before ceasing the provision of special education and related services;
- b) May not use the mediation procedures or the due process procedures in order to obtain agreement or a ruling that the services may be provided to the child;
- c) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and
- d) Is not required to convene an IEP team meeting or develop an IEP for the child for further provision of special education and related services.

5) If a parent revokes consent in writing for the child's receipt of special education services after the child is initially provided special education and related services, the public education agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.

### **AAC R7 - 2 - 401.K Preschool Programs**

Each public education agency responsible for serving preschool children with disabilities shall establish, implement, and make available to its personnel and parents, written procedures for:

- 1) The operation of the preschool program, in accordance with federal statute and regulations and the state statutes, that provides a continuum of placements for students;
- 2) The smooth and effective transition from the Arizona Early Intervention Program to a public-school preschool program in accordance with the agreement between the Department of Economic Security and the Department; and
- 3) The provision of a minimum of 360 minutes per week of instruction in a program that meets at least 216 hours over the minimum number of days.

### **AAC R7 - 2 - 401.L Children in Private Schools**

Each public education agency shall establish, implement, and make available to its personnel and parents written procedures regarding the access to special education services to students enrolled in private schools by their parents as identified by the IDEA and its regulations, state statutes, and State Board of Education rule.

## **Least Restrictive Environment (LRE) Policy & Procedures**

### **POLICY**

Children with disabilities, including children in public or private institutions or other care facilities, will be educated to the maximum extent appropriate with children who are not disabled in accordance with §§300.114 – 300.117 of the IDEA regulations.

### **PROCEDURES**

#### **§300.114 LRE Requirements**

The public education agency will ensure that special classes, separate schooling, or other removals of children with disabilities from the regular educational environment occur only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

#### **§300.115 Continuum of Alternative Placements**

- 1) The public education agency will make available a continuum of alternative placements to meet the needs of children with disabilities for special education and related services.

2) The continuum of alternative placements will

include:

- a) Instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions;
- b) Supplementary services, such as a resource room or itinerant instruction, to be provided in conjunction with regular class placement.

### **§300.116 Placements**

1) The placement decision for each child will be:

- a) Made by a group that includes the parents and other persons knowledgeable about the child, about the meaning of the evaluation data, and about the placement options;
- b) In conformity with the LRE provisions of the IDEA regulations;
- c) Determined at least annually;
- d) Based on the child's IEP; and
- e) As close as possible to the child's home.

2) Unless the IEP of a child requires some other arrangement, the child will be educated in the school that he or she would attend if not disabled.

3) In selecting the LRE, consideration will be given to any potential harmful effect on the child or on the quality of services that she or he needs.

4) A child with a disability will not be removed from age - appropriate regular classrooms solely because of needed modifications in the general education curriculum.

### **§300.117 Nonacademic Settings**

1) In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and other nonacademic activities, the public education agency must ensure that each child with a disability participates with non-disabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child.

2) The public education agency will ensure that the supplementary aids and services determined by the IEP team to be appropriate and necessary are provided to allow the child to participate in nonacademic settings.

### **AAC R7 - 2 - 401.H Least Restrictive Environment**

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

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