Policies and Procedures
for Special Education in Oklahoma

CENTENNIAL EDITION

William-Age 10
Central Intermediate School, Putnam City

SES

2007
Amended May 2010
Sandy Garrett
State Superintendent of Public Instruction
Oklahoma State Department of Education

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Students from all Oklahoma public school districts were invited to participate in the Oklahoma Heritage Art contest that was sponsored by the Oklahoma State Department of Education (OSDE), Special Education Services (SES). We appreciate each student who contributed artwork, commemorating a centennial salute to our state. These *2007 Star of the Century* recipients are celebrated below:

Austin Petree, Shattuck Public Schools
Connor Robison, Shattuck Public Schools
Courtney Bernucho, Eufaula Public Schools
Flynt C. Barber, Shattuck Public Schools
Franklin Yang, Putnam City Public Schools
Jeffery Wolfenbarger, Eufaula Public Schools
Jolene Little Thunder, Eufaula Public Schools
Lili Gilleland, Shattuck Public Schools
Samantha Ruffing, Shattuck Public Schools
Steven Hill, Eufaula Public Schools
Trinity Burnett, Shattuck Public Schools
Ty Mendez, Sayre Public Schools
William Gao, Putnam City Public Schools
Zachary Kee, Shattuck Public Schools

58974-OKEd-SpecialEd cover.indd 2 2/10/11 11:21 AM

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The Policies and Procedures for Special Education in Oklahoma, 2007, was developed utilizing a collaborative effort among many stakeholders representing special education teachers, directors, administrators, institutes of higher education, related services providers, families, other agency representatives, and other interested parties with a vested interest in Oklahoma's children with disabilities.

Stakeholders Represented:

Lynn Fitz, Lawton Public Schools ☻ Larry Hawkins, Oklahoma School for the Deaf; ☻ Deborah James, Crooked Oak Public Schools ☻ Maria Jones, University of Oklahoma, Health Sciences Center (OUHSC) ☻ Gary Duhon, Oklahoma State University (OSU) ☻ Judy Turner, Vinita Public Schools ☻ Edward Collins, University of Central Oklahoma (UCO) ☻ Barbara Looman, Ardmore Public Schools ☻ Eric Mesmer, OSU ☻ Kathryn Quick, Bartlesville Public Schools ☻ Linda Modenbach, Jenks Public Schools ☻ Judy Ortwein, Bixby Public Schools ☻ Dick Heatly, Moore Public Schools ☻ Sara Hall, Mid Continent Comprehensive Center (MC3) ☻ Sandra Johnson, Moore Public Schools ☻ Julie Collins, Putnam City Public Schools ☻ Teri Bell, Oklahoma City Public Schools ☻ Jana Collins, Morrison Public Schools ☻ Pam Leone, Meeker Public Schools ☻ Kaylin Coody, Bixby Public Schools ☻ Pam Miller, El Reno Public Schools ☻ Becky Barr, Mid-Del Public Schools ☻ Polly Oliver, Moore Public Schools ☻ Claudia Beckner, Lawton Public Schools ☻ Pamm Lambert, Oologah-Talala Public Schools ☻ Tracy Stork, Broken Arrow Public Schools ☻ Sharon Holcomb, Lane Public Schools ☻ Diane Bertone, Eufaula Public Schools ☻ Jill Burroughs, Computer Automation Software/SEAS ☻ Gigi Barnett, Bixby Public Schools ☻ Joyce Lowrey, Oklahoma City Public Schools ☻ Sherry Morris, Wapanucka Public Schools ☻ Debbie Beel, Mustang Public Schools ☻ Max Miller, Oklahoma City Public Schools ☻ Gail Kaufman, Vian Public Schools ☻ Scott Singleton, Putnam City Public Schools ☻ Jamie Cook, Duncan Public Schools ☻ Renee Foster, Bixby Public Schools ☻ Vicki Busby, Lawton Public Schools ☻ Karen Howe, Bixby Public Schools ☻ Andrea Berry, Picher-Cardin Public Schools ☻ Manny Rios, Bixby Public Schools ☻ Jennifer Sneed, Moore Public Schools ☻ Carol Gruben, Broken Arrow Public Schools ☻ Jennifer Hodge, Caddo Public Schools ☻ Debbie Winburn, Muskogee Public Schools ☻ Shirley Auffet, Stilwell Public Schools ☻ Donna Cooper, Choctaw-Nicoma Park Public Schools ☻ Dianne Mathis, OUHSC, Child Study Center ☻ Deb Delhotel, Oklahoma School for the Blind ☻ Melody Garneau, Parent ☻ Pam Jones, Alva Public Schools ☻ Jeff DeWitt, Tuttle Public Schools ☻ Jan Walker, Bixby Public Schools ☻ Jodie Williams, Elk City Public Schools ☻ Terry Stinnett, OSU ☻ Dana Hilbert, Lawton Public Schools ☻ Sue Keller, Parent ☻ Stephanie Sylvester, Edmond Public Schools ☻ Mary Stevens, Bethany Public Schools ☻ Eric Dickson, Southeast Regional Resource Center ☻ Kim Marlow, Silo Public Schools ☻ Cathy Ross, Bixby Public Schools ☻ Kerri White, Edmond Public Schools ☻ Jim Lamer, Garber Public Schools ☻ Susan West, Oklahoma City Public Schools ☻ Carolyn Thomas, Dickson Public Schools ☻ Jim Martin, University of Oklahoma (OU), Zarrow Center for Learning Enrichment ☻ Elaine McGoffin, Skiatook Public Schools ☻ Cathy Peters, Bixby Public Schools ☻ Barbara Dismukes, Jenks Public Schools ☻ Marty Caudle, Tulsa Public Schools ☻ Denise North, Oklahoma State Department of Career and Technology ☻

58974-OKEd-SpecialEd text.indd 1 2/10/11 11:26 AM

Stakeholders Represented (continued):
Karen Patterson, Northeastern State University (NSU) ☻ C.C. Canfield, Tulsa Public Schools ☻ Andrea Sealock, Prague Public Schools ☻ Joe'L Farrar, Okemah Public Schools ☻ Sheila Glover, Atoka-Bryan-Coal (ABC) Interlocal Cooperative ☻ Todd Garrison, Cashion Public Schools ☻ Mona Ryan, OUHSC ☻ Jo Anne Pool, Special Education Resolution Center (SERC)

State Department of Education, Special Education Services Staff:
Misty Kimbrough, Assistant State Superintendent ☻ Cynthia Bernardi-Valenzuela, Associate State Director, SoonerStart, Early Intervention/Preschool ☻ Gail Priddy, Associate State Director, Dispute Resolution/Finance ☻ Kim Nickerson, Associate State Director, Data/Personnel Development, State Personnel Development Grant (SPDG) ☻ Malissa Cook, Associate State Director, Compliance Activities/Alternate Assessments ☻ Mark Sharp, Associate State Director, SoonerStart, Early Intervention ☻ Amy Daugherty, Assessment Coordinator ☻ Anita Eccard, Monitoring Coordinator ☻ Angela Anglen Kelley, Preschool Coordinator ☻ Candi Robinson, Technical Assistance Coordinator, SPDG ☻ Christa Knight, Monitoring Coordinator ☻ Cindy Robins, Monitoring Coordinator ☻ Quinton Dixon, Administrative Assistant ☻ Janet Felton, Monitoring Coordinator ☻ Tommie Jones, Administrative Assistant ☻ Larry Hartzell, Complaint Coordinator ☻ Mark Everhart, Complaint Coordinator ☻ Pam Kimery, Data/Finance Coordinator ☻ Susan Benton, Data/Finance Coordinator ☻ Suzanne Taylor, Assessment Coordinator ☻ Tina Tippin, Complaint Coordinator ☻ Carrie Howell, Division Support Coordinator ☻ Danita Hollins, Assessment Coordinator ☻ Belinda Shobert, Administrative Assistant II ☻ John Smith, Data Coordinator ☻ JoAnn Porter, Administrative Assistant III ☻ Marilyn Nicely, Administrative Assistant II ☻ Princess Loftis, Administrative Assistant ☻ Alicia Limke, Associate Director, Data/Finance ☻ Cris McCarty, Associate Director, Personnel Development ☻ Cindy Ray, Data Coordinator ☻ Kathie Powell, Complaint Coordinator ☻ Julie Wolffrum, Monitoring Coordinator ☻ Alan Logan, Personnel Development Coordinator ☻ Letha Bauter, SPDG Coordinator

Paperwork Taskforce Committee Members:
Dianna Allee, Bristow Public Schools ☻ Suzanne Brown, Shawnee Public Schools ☻ Cindy Buckmaster, Elk City Public Schools ☻ Jill Burroughs, Computer Automation Systems/SEAS ☻ Deana Carey, Hilldale Public Schools ☻ Sharon Holcomb, Lane Public Schools ☻ Suzy Chandler, Choctaw-Nicoma Park Public Schools ☻ Jennifer Dew-Cochran, Mooreland Public Schools ☻ Lynn Fitz, Lawton Public Schools ☻ Janet Gardner, Ponca City Public Schools ☻ Carla Garrett, Howe Public Schools ☻ Dick Heatly, Moore Public Schools ☻ Liz Justice, Clinton Public Schools ☻ Penny Kay, Union Public Schools ☻ Ann Maddox, Yukon Public Schools ☻ Ann Williams, Spiro Public Schools ☻ Lisa McKinney, Calera Public Schools ☻ Jeff Moore, Midwest City Public Schools ☻ Jean Pace, Enid Public Schools ☻ Tammie Parker, Hammon Public Schools ☻ Abby Phillips, Ada Public Schools ☻ Brooke Reed, Ardmore Public Schools ☻ Lisa Smith, Weleetka Public Schools ☻ Lynette Thompson, Putnam City Public Schools ☻ Colleen Young, Hobart Public Schools

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"changing times in special education"

We would like to give special thanks to Mr. Phil Pickens, Southeast Regional Resource Center (SERRC) mentor and friend, to whom this manual is dedicated in memoriam.

58974-OKEd-SpecialEd text.indd 2 2/10/11 11:26 AM

TABLE OF CONTENTS

Key to Abbreviations and References 4
Introduction 6
Right to Education: Free Appropriate Public Education (FAPE) 10
Child Identification, Location, and Evaluation 33
Confidentiality 40
Parental Involvement and Participation 53
Evaluation and Eligibility Procedures 68
Individualized Education Program (IEP) 110
Special Education 133
Related Services 134
Least Restrictive Environment 140
Continuum of Alternative Placements 142
Children in Public or Private Institutions 149
Participation in Assessments 150
Transition Planning and Services 153
Discipline Procedures 162
Guidelines for Minimizing the Use of Physical Restraint 174
Guidelines for Minimizing the Use of Seclusion 176
Highly Qualified (HQ) 179
Personnel Qualifications 184
Personnel Development (PD) 191
Mediation and Informal Dispute Resolution 192
Due Process Complaints and Appeals 195
Complaint Procedures 209
Compliance Process 215
Monitoring, Technical Assistance, and Enforcement 217
Data 225
Funding 229
Children in Private Schools 243
Appendices 255
Index ....Appendix *i*

58974-OKEd-SpecialEd text.indd 3 2/10/11 11:26 AM

KEY TO ABBREVIATIONS AND REFERENCES

AAIDD	American Association of Intellectual and Developmental Disabilities
ADA	Americans with Disabilities Act
ADD	Attention Deficit Disorder
ADHD	Attention Deficit Hyperactivity Disorder
ADM	Average Daily Membership
AIDS	Acquired Immune Deficiency Syndrome
AIM	Accessible Instructional Materials Center
APR	Annual Performance Report
ARNP	Advanced Registered Nurse Practitioner
ASD	Autism Spectrum Disorders
ASHA	American Speech Language Hearing Association
AT	Assistive Technology
BIP	Behavior Intervention Plan
CARG-A	Curriculum Access Resource Guide—Alternate
CARG-M	Curriculum Access Resource Guide—Modified
CEC	Council for Exceptional Children
CHADD	Children and Adults with Attention Deficit Hyperactivity Disorder
CPR	Cardiopulmonary Resuscitation
CRT	Criterion-Referenced Test
DDSD	Developmental Disabilities Service Division
DHS	Department of Human Services
DOC	Department of Corrections
DRS	Department of Rehabilitation Services
DSM	Diagnostic and Statistical Manual
ECCO	Enriching Children's Communication Opportunities
EHA	Education for all Handicapped Children Act (preceded P.L. 94-142)
EI	Early Intervention
EIU	Early Intervention Unit
EIS	Early Intervening Services
EPSDT	Early Periodic Screening, Diagnosis, and Treatment
ESA	Educational Service Agency
ESEA	Elementary and Secondary Education Act
ESY	Extended School Year
FAPE	Free Appropriate Public Education
FBA	Functional Behavioral Assessment
FEOG	Full Educational Opportunity Goal
FERPA	Family Educational Rights and Privacy Act
FM	Focused Monitoring
GED	General Educational Development
GEPA	General Education Provisions Act
HIPAA	Health Insurance Portability and Accountability Act
HMO	Health Maintenance Organization
HOUSSE	High Objective Uniform State Standard of Evaluation
HQ	Highly Qualified
ICC	Interagency Coordinating Council
IEE	Independent Educational Evaluation
IEP	Individualized Education Program
IFSP	Individualized Family Service Plan
IDEA	Individuals with Disabilities Education Act
IHE	Institution of Higher Education

58974-OKEd-SpecialEd text.indd 4 2/10/11 11:26 AM

IQ	Intelligence Quotient
LEA	Local Educational Agency
LEP	Limited English Proficient
LRE	Least Restrictive Environment
MEEGS	Multidisciplinary Evaluation and Eligibility Group Summary
MOE	Maintenance of Effort
NAEP	National Assessment of Educational Progress
NASDSE	National Association of State Directors of Special Education
NCLB	No Child Left Behind Act
NIMAS	National Instructional Materials Accessibility Standard
OAAP	Oklahoma Alternate Assessment Program
OBESPA	Oklahoma Board of Examiners for Speech Language Pathology and Audiology
O & M	Orientation and Mobility
OCR	Office of Civil Rights
OCAS	Oklahoma Cost Accounting System
ODMHSAS	Oklahoma Department of Mental Health and Substance Abuse Services
OESC	Oklahoma Employment Security Commission
OGET	Oklahoma General Education Test
OHCA	Oklahoma Health Care Authority
OHI	Other Health Impairment
OJA	Office of Juvenile Affairs
OMAAP	Oklahoma Modified Alternate Assessment Program
OSB	Oklahoma School for the Blind (also known as Parkview School)
OSD	Oklahoma School for the Deaf
OSDE	Oklahoma State Department of Education
OSDH	Oklahoma State Department of Health
OSEP	Office of Special Education Programs
OSTP	Oklahoma School Testing Program
OT	Occupational Therapy
OYC	Oklahoma Youth Center
PASS	Priority Academic Student Skills
PBIS	Positive Behavioral Interventions and Supports
PD	Personnel Development
PE	Physical Education
PGARD	Professional Group on Attention Deficits and Related Disorders
PSA	Public Service Announcement
PT	Physical Therapy
PTI	Parent Training and Information Center
RED	Review of Existing Data
RtI	Response to Intervention
SBE	State Board of Education
SEA	State Educational Agency
SES	Special Education Services
SLP	Speech Language Pathologist
SOP	Summary of Performance
SSA	Social Security Administration
SPP	State Performance Plan
TBI	Traumatic Brain Injury
TPC	Transition Planning Conference
USDE	United States Department of Education
WIA	Workforce Investment Act

58974-OKEd-SpecialEd text.indd 5 2/10/11 11:26 AM

INTRODUCTION

34 CFR § 300.1 Purposes.
The purposes of this part are—
(a) To ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;
(b) To ensure that the rights of children with disabilities and their parents are protected;
(c) To assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities; and
(d) To assess and ensure the effectiveness of efforts to educate children with disabilities.

(Authority: 20 U.S.C. 1400(d))

The policies and procedures contained in this manual are to ensure that all eligible children with disabilities, aged three through 21, who are residents of Oklahoma have available to them a free appropriate public education (FAPE), except as provided at 34 CFR §§ 300.102, and 300.324(d)(1) and as mandated by the Individuals with Disabilities Education Act (IDEA), Amendments of 2004, formerly known as the Education of the Handicapped Act (EHA), P.L. 94-142. This document is to support implementation of Part B of the Individuals with Disabilities Act (IDEA). The purposes are to: ensure a FAPE for all children with disabilities that emphasizes special education and related services designed to meet their unique needs and prepares them for further education, employment, and independent living; ensure the rights and protections of children with disabilities and their parent(s); to assist public agencies (as defined at 34 CFR § 300.33) in the provision of special education and related services; and to assess and ensure effectiveness of these efforts. Minimum standards are provided for public educational agencies responsible for special education and related services.

The federal regulations for the IDEA Part B must be recognized for purposes of Oklahoma's policies, procedures, and standards where not otherwise specified in this manual or Oklahoma State law. In accordance with the IDEA, Oklahoma has an ongoing goal of providing a full educational opportunity for children with disabilities through Part C policies and procedures established for early intervention services (children with disabilities aged birth through two) and Part B policies and procedures for special education and related services (children with disabilities aged three through 21).

34 CFR § 300.2 Applicability of this part to State and local agencies.
(a) States. This part applies to each State that receives payments under Part B of the Act, as defined in § 300.4.
(b) Public agencies within the State. The provisions of this part—
(1) Apply to all political subdivisions of the State that are involved in the education of children with disabilities, including—
(i) The State educational agency (SEA);
(ii) Local educational agencies (LEAs), educational service agencies (ESAs), and public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA;
(iii) Other State agencies and schools (such as Departments of Mental Health and Welfare and State schools for children with deafness or children with blindness).

58974-OKEd-SpecialEd text.indd 6 2/10/11 11:26 AM

(iv) State and local juvenile and adult correctional facilities; and
(2) Are binding on each public agency in the State that provides special education and related services to children with disabilities, regardless of whether that agency is receiving funds under Part B of the Act.
(c) Private schools and facilities. Each public agency in the State is responsible for ensuring that the rights and protections under Part B of the Act are given to children with disabilities—
(1) Referred to or placed in private schools and facilities by that public agency; or
(2) Placed in private schools by their parents under the provisions of § 300.148.

(Authority: 20 U.S.C. 1412)

Agencies responsible for special education and related services must abide by Oklahoma State law, policies, and procedures, and the federal regulations for the IDEA Part B. Agencies having these responsibilities are: local educational agencies (LEA), educational service agencies (ESA), public charter schools not otherwise included as LEAs or ESAs, other public agencies (e.g., State schools for students with deafness and blindness and State and local juvenile and adult correctional facilities), and accredited private schools and facilities as described in the applicable federal regulations and established by Oklahoma State laws.

34 CFR § 300.12 Educational service agency.
Educational service agency means—
(a) A regional public multiservice agency—
(1) Authorized by State law to develop, manage, and provide services or programs to LEAs;
(2) Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State;
(b) Includes any other public institution or agency having administrative control and direction over a public elementary or secondary school; and
(c) Includes entities that meet the definition of intermediate educational unit in section 602(23) of the Act as in effect prior to June 4, 1997.

(Authority: 20 U.S.C. 1401(5))

34 CFR § 300.28 Local educational agency.
(a) General. Local educational agency or LEA means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.
(b) Educational service agencies and other public institutions or agencies. The term includes—
(1) An educational service agency, as defined in § 300.10; 300.12; and
(2) Any other public institution or agency having administrative control and direction of a public elementary or secondary school, including a public nonprofit charter school that is established as an LEA under State law; and
(c) BIA funded schools. The term includes an elementary or secondary school funded by the Bureau of Indian Affairs, and not subject to the jurisdiction of any SEA other than the Bureau of Indian Affairs, but only to the extent that the inclusion makes the school

58974-OKEd-SpecialEd text.indd 7 2/10/11 11:26 AM

eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under this Act with the smallest student population.

(Authority: 20 U.S.C. 1401(19))

Local public school districts, legally established and recognized in the State for public elementary and secondary education, are LEAs. For purposes of this manual, references to LEAs under the IDEA will include all ESAs, as authorized by Oklahoma State law, and public agencies responsible for providing elementary or secondary education to children with disabilities.

Oklahoma State law authorizes the boards of education of any two or more LEAs to enter into an interlocal cooperative agreement for the purpose of jointly performing any of the services, duties, functions, activities, obligations, or responsibilities that are authorized or required by law to be performed by LEAs (70 O.S. § 5-117c). An interlocal cooperative agreement, which is optional to LEAs and must be effective only after it is approved by the State Board of Education (SBE) and the board of directors, may be designated as an LEA for some or all State and federal applications, reporting, and auditing procedures. An interlocal cooperative must not be considered an LEA for purposes of filing or responding to a due process and/or state complaint. For purposes of due process and/or state complaints, the LEA must be the student's school district of residence. An interlocal cooperative board of directors that has been designated as an LEA must comply with State and federal laws and the regulations of the Oklahoma SBE.

34 CFR § 300.33 Public agency.
Public agency includes the SEA, LEAs, ESAs, nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and any other political subdivisions of the State that are responsible for providing education to children with disabilities.

(Authority: 20 U.S.C. 1412 (a)(11))

Public agencies include LEAs, the Department of Human Services (DHS), Office of Juvenile Affairs (OJA) (e.g., State operated juvenile institutions), Department of Rehabilitation Services (DRS) (e.g., Oklahoma School for the Deaf [OSD] and Oklahoma School for the Blind [OSB]), Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) (e.g., Oklahoma Youth Center [OYC]), Department of Corrections (DOC), and the Oklahoma State Department of Education (OSDE).

58974-OKEd-SpecialEd text.indd 8 2/10/11 11:26 AM

34 CFR § 300.11 Day; business day; school day.
(a) Day means calendar day unless otherwise indicated as business day or school day.
(b) Business day means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day, as in § 300.148(d)(1)(ii)).
(c)(1) School day means any day, including a partial day that children are in attendance at school for instructional purposes.
(2) School day has the same meaning for all children in school, including children with and without disabilities.

(Authority: 20 U.S.C. 1221e–3)

The definition and use of "day," "business day," and "school day" for the purposes of the IDEA and this manual must be as described at 34 CFR § 300.11, unless otherwise specified.

58974-OKEd-SpecialEd text.indd 9 2/10/11 11:26 AM

RIGHT TO EDUCATION: FREE APPROPRIATE PUBLIC EDUCATION

FAPE Requirements

34 CFR § 300.101 Free appropriate public education (FAPE).

(a) General. A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in § 300.530(d).

(b) FAPE for children beginning at age 3.

(1) Each State must ensure that—

(i) The obligation to make FAPE available to each eligible child residing in the State begins no later than the child's third birthday; and

(ii) An IEP or an IFSP is in effect for the child by that date, in accordance with § 300.323(b).

(2) If a child's third birthday occurs during the summer, the child's IEP Team shall determine the date when services under the IEP or IFSP will begin.

(c) Children advancing from grade to grade.

(1) Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, is advancing from grade to grade.

(2) The determination that a child described in paragraph (a) of this section is eligible under this part, must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.

(Authority: 20 U.S.C. 1412(a)(1)(A))

34 CFR § 300.102 Limitation - exception to FAPE for certain ages.

(a) General. The obligation to make FAPE available to all children with disabilities does not apply with respect to the following:

(1) Children aged 3, 4, 5, 18, 19, 20, or 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children of those ages.

(2)(i) Students aged 18 through 21 to the extent that State law does not require that special education and related services under Part B of the Act be provided to students with disabilities who, in the last educational placement prior to their incarceration in an adult correctional facility—

(A) Were not actually identified as being a child with a disability under § 300.8; and

(B) Did not have an IEP under Part B of the Act.

(ii) The exception in paragraph (a)(2)(i) of this section does not apply to students with disabilities, aged 18 through 21, who—

(A) Had been identified as a child with disability under § 300.8 and had received services in accordance with an IEP, but who left school prior to their incarceration; or

(B) Did not have an IEP in their last educational setting, but who had actually been identified as a child with a disability under § 300.8.

(3)(i) Children with disabilities who have graduated from high school with a regular high school diploma.

(ii) The exception in paragraph (a)(3)(i) of this section does not apply to children who have graduated from high school but have not been awarded a regular high school diploma.

(iii) Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with § 300.503.

(iv) As used in paragraphs (a)(3)(i) through (a)(3)(iii) of this section, the term regular high school diploma does not include an alternative degree that is not fully aligned with the State's academic standards, such as a certificate or a general education development credential (GED).

58974-OKEd-SpecialEd text.indd 10 2/10/11 11:26 AM

(4) Children with disabilities who are eligible under subpart H of this part, but who receive early intervention services under Part C of the Act.
(b) Documents relating to exceptions.
The State must assure that the information it has provided to the Secretary regarding the exceptions in paragraph (a) of this section, as required by § 300.700 (for purposes of making grants to States under this part), is current and accurate.

(Authority: 20 U.S.C. 1412(a)(1)(B)-(C))

Oklahoma State Department of Education (OSDE)

Oklahoma State law provides that the State Board of Education (SBE) must be the governing authority for control and supervision of the OSDE and the public school system (70 O.S. § 3-104). Powers and duties of the Board include the promulgation and adoption of policies, rules, and regulations for the OSDE and the public school systems of the State. Under the authority of the Board, Special Education Services (SES) of the OSDE implements regulatory, service, and leadership responsibilities for compliance with State standards and federal regulations for special education programs to ensure a FAPE for all eligible children with disabilities aged three through 21 residing in the State, including children who have been suspended or expelled from school. The Oklahoma Department of Corrections (DOC) provides educational services to incarcerated youth with disabilities in adult correctional programs, in accordance with federal regulations. The policies and procedures of the OSDE-SES recognize the provisions and exceptions for a FAPE at 34 CFR §§ 300.101, 300.102, and 300.324(d)(1).

Oklahoma has a continuing goal of providing a full educational opportunity to all children with disabilities aged birth through 21 (70 O.S. §§ 5-132, 5-132.1, 11-103.6, and 13-101, et. seq.), in accordance with 34 CFR §§ 300.101 through 300.102. Policies and procedures for early intervention services to infants and toddlers, aged birth through two, must be in accordance with Part C of the Individuals with Disabilities Education Act (IDEA). The SoonerStart Early Intervention (EI) Program provides Part C services in Oklahoma. A full educational opportunity to children with disabilities, aged three through 21, is provided through local educational agencies (LEAs) and State operated programs in accordance with Oklahoma State laws and federal regulations.

34 CFR § 300.17 Free appropriate public education.
Free appropriate public education or FAPE means special education and related services that—
(a) Are provided at public expense, under public supervision and direction, and without charge;
(b) Meet the standards of the SEA, including the requirements of this part;
(c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and
(d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§ 300.320 through 300.324.

(Authority: 20 U.S.C. 1401(9))

Local Educational Agencies (LEA)

Each LEA must submit to the OSDE-SES, a *Part I, LEA Implementation Agreement for Special Education in Oklahoma* containing specific assurances, policies, and procedures

58974-OKEd-SpecialEd text.indd 11 2/10/11 11:26 AM

for how all eligible children with disabilities in the district will have access to a FAPE. This agreement must comply with the standards, policies, procedures, and laws of the State and with the federal regulations for the IDEA. Special education and related services include appropriate preschool, elementary, and secondary school education provided in conformity with the individualized education program (IEP) requirements for eligible children and provided under public supervision, at public expense, and without charge.

Any eligible child with disabilities has a right to a public education and completion of a secondary education program whereby earning a standard high school diploma (70 O.S. § 11-103.6). Completion of the twelfth grade, which means a young adult has earned all required credits and will receive a standard diploma, must be documented by IEPs and transcripts for eligible young adults with disabilities.

The obligation to make a FAPE available does not apply to young adults with disabilities who have graduated from high school with a standard high school diploma; however, LEAs must provide a FAPE to young adults who have earned a general educational development (GED) and reenroll in public school, the same conditions apply. Services provided under the IDEA cease upon graduation with a standard diploma. Young adults may not reenroll for services (e.g., transition services) at any LEA after graduating and receiving a standard diploma. A FAPE also applies to young adults who have not earned all required credits for graduation and have not exceeded the age of eligibility by reaching their 22nd birthday. When a young adult ages out of special education and related services, he/she would not receive a standard diploma if all required credits were not earned. Each LEA has the discretion to cease educational services upon the young adult's 22nd birthday or to continue providing services until the completion of the current school year. Each young adult's plan must be clearly documented on the IEP.

Reevaluation is not required before termination of a young adult's eligibility under the IDEA Part B due to graduation with a standard high school diploma or exceeding the age eligibility for a FAPE under Oklahoma State law. LEAs are not responsible for evaluating a young adult solely for the documentation purposes and enrollment in a higher education institution; however, the IEP team is responsible for making decisions regarding transition planning and reevaluation needs as they arise. Graduation with a standard high school diploma constitutes a change in placement requiring prior written notice. Upon graduating with a standard diploma or exceeding the age of eligibility, the provisions under the IDEA end, and access to disability-related services would be determined by the provisions under the Americans with Disabilities Act (ADA). Other means of completing an elementary and secondary school program, as allowed by Oklahoma State law, must be addressed by IEPs for eligible children. Oklahoma State law establishes provision of public education beyond age 21 under certain circumstances (refer to 70 O.S. §§ 11-103.6, 13-102, 5-132, and 5-132.1).

Individuals over the age of 21 and under the age of 26 years, who are legal residents of a school district in Oklahoma, may be entitled to receive educational privileges and opportunities to complete a secondary education program when they have been unable to complete the twelfth grade during the time before the student was 21 years of age, due to lack of school attendance for a definite period(s) of time due to a physical disability, or

58974-OKEd-SpecialEd text.indd 12 2/10/11 11:26 AM

service in the United States Armed Forces or auxiliary organizations, by reason whereof it was impossible for the student to complete the twelfth grade before reaching the age of 21. Legal residents of an LEA, 19 years of age or older, who are not enrolled in a high school program and have not completed Grade 12, may attend adult high school completion programs which have been established by LEAs and approved by the State Board of Education. Such attendance in adult high school programs must be approved by the LEA offering the program. Other persons 21 or older who have not completed requirements for a standard high school diploma or received a GED may be given the opportunity to complete such requirements as provided under Oklahoma State law. Any person who has been admitted to any accredited college or university within this State, may be awarded a standard high school diploma by the OSDE, provided that such person has successfully completed at least 30 hours of college work at an accredited college or university (70 O.S. § 24-116).

Independent school districts are responsible for providing a free appropriate public education (FAPE) to children aged three through 21 years old. Elementary school districts have the responsibility for providing a FAPE for children aged three years through the highest grade level of that school. If an elementary school district only serves students who attend Kindergarten through 8th grade, then their responsibility to provide transportation for a child with a disability ends when the child completes the 8th grade in that school district.

Elementary school districts are divided into transportation areas in which one or more independent school districts must provide transportation for high school attendance. If a child whose residence is in the assigned transportation area transfers to an independent school district, then that independent school district must provide transportation for that child. Other independent districts may also enroll any transferred high school child, but they are not required to provide this transportation service outside their transportation area. In the event that transportation is included as a related service in the IEP and is reviewed by the receiving independent school district, the receiving school district will be required to provide transportation, regardless of the transportation area where the child resides.

A special category of student transfer addresses students who have completed the highest grade level in an elementary school district. These students may transfer to any independent school district, regardless of the transportation area. When a child with a disability transfers to an independent school district, the receiving LEA, in consultation with the parent(s), must provide services, including transportation, comparable to those described in the child's IEP from the previous LEA, until the new LEA either adopts the child's existing IEP or develops and implements a new IEP. These students are allowed only one transfer under this statute. Thereafter, they are restricted to seeking an open transfer.

58974-OKEd-SpecialEd text.indd 13 2/10/11 11:26 AM

Other FAPE Requirements
34 CFR § 300.103 FAPE–methods and payments.
(a) Each State may use whatever State, local, Federal, and private sources of support are available in the State to meet the requirements of this part. For example, when it is necessary to place a child with a disability in a residential facility, a State could use joint agreements between the agencies involved in sharing the cost of that placement.
(b) Nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a child with a disability.
(c) Consistent with §§ 300.323(c), the State must ensure that there is no delay in implementing a child's IEP, including any case in which the payment source for providing or paying for special education and related services to the child is being determined.

(Authority: 20 U.S.C. 1401(8), 1412(a)(1))

An LEA may fulfill responsibilities for a FAPE by: (1) directly providing special education and related services for eligible children; (2) joining in an interlocal cooperative program with another LEA or LEAs to provide special education and related services for eligible children; (3) joining in a coordinated arrangement with State-operated and State-funded institutions for children who are deaf or hard of hearing, or for children who are blind or partially sighted; (4) joining in a contractual agreement or written agreement with a private or public institution within the district to provide special education and related services; (5) transferring children with disabilities to other LEAs which accept the transfers for provision of special education and related services, with the LEA of legal residence paying tuition if the transfer is an emergency transfer (and not an open transfer in accordance with 70 O.S. § 8-103); or as otherwise provided by Oklahoma State law.

The district of residence has the responsibility to provide a FAPE for children on an emergency transfer. Representatives from the district of residence are responsible for the development and overseeing the implementation of the IEP and must be included in all IEP meetings. In the event of a due process complaint or a formal written complaint, the district of residence retains responsibility.

The receiving district accepting the transfer has the responsibility to provide a FAPE for children on open transfers. Representatives from the receiving district are responsible for the development and implementation of the IEP, as the receiving district is allocated funds for these children. In the event of a due process complaint or a formal written complaint, the receiving district is responsible.

According to 70 O.S. Supp. 2005, Section 8-103, for students who are deaf or hearing impaired who wish to transfer to a school district with a specialized deaf education program, applications may be filed at any time during the school year. Upon approval of the receiving school district, the student may transfer to the receiving school district at any time during the school year.

Fulfillment of these responsibilities must be in conformity with the requirements for an IEP and for placement in the least restrictive environment (LRE). An LEA may not delay implementing a child's IEP, including any case in which the payment source for providing or paying for the special education and related services to the child is being determined.

58974-OKEd-SpecialEd text.indd 14 2/10/11 11:26 AM

34 CFR § 300.172 Access to instructional materials.

(a) General. The State must—

(1) Adopt the National Instructional Materials Accessibility Standard (NIMAS), published as appendix C to part 300, for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after publication of the NIMAS in the Federal Register on July 19, 2006 (71 FR 41084); and

(2) Establish a State definition of ``timely manner'' for purposes of paragraphs (b)(2) and (b)(3) of this section if the State is not coordinating with the National Instructional Materials Access Center (NIMAC) or (b)(3) and (c)(2) of this section if the State is coordinating with the NIMAC.

(b) Rights and responsibilities of SEA.

(1) Nothing in this section shall be construed to require any SEA to coordinate with the NIMAC.

(2) If an SEA chooses not to coordinate with the NIMAC, the SEA must provide an assurance to the Secretary that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

(3) Nothing in this section relieves an SEA of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats, but are not included under the definition of blind or other persons with print disabilities in § 300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner.

(4) In order to meet its responsibility under paragraphs (b)(2), (b)(3), and (c) of this section to_ensure that children with disabilities who need instructional materials in accessible formats are provided those materials in a timely manner, the SEA must ensure that all public agencies take all reasonable steps to provide instructional materials in accessible formats to children with disabilities who need those instructional materials at the same time as other children receive instructional materials.

(c) Preparation and delivery of files. If an SEA chooses to coordinate with the NIMAC, as of December 3, 2006, the SEA must—

(1) As part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, must enter into a written contract with the publisher of the print instructional materials to—

(i) Require the publisher to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instructional materials using the NIMAS; or

(ii) Purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats.

(2) Provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

(d) Assistive technology. In carrying out this section, the SEA, to the maximum extent possible, must work collaboratively with the State agency responsible for assistive technology programs.

(e) Definitions.

(1) In this section and § 300.210—

(i) Blind persons or other persons with print disabilities means children served under this part who may qualify to receive books and other publications produced in specialized formats in accordance with the Act entitled ``An Act to provide books for adult blind,'' approved March 3, 1931, 2 U.S.C. 135a;

(ii) National Instructional Materials Access Center or NIMAC means the center established pursuant to section 674(e) of the Act;

(iii) National Instructional Materials Accessibility Standard or NIMAS has the meaning given the term in section 674(e)(3)(B) of the Act;

(iv) Specialized formats has the meaning given the term in section 674(e)(3)(D) of the Act.

58974-OKEd-SpecialEd text.indd 15 2/10/11 11:26 AM

(2) The definitions in paragraph (e)(1) of this section apply to each State and LEA, whether or not the State or LEA chooses to coordinate with the NIMAC.

(Authority: 20 U.S.C. 1412(a)(23), 1474(e))

34 CFR § 300.210 Purchase of instructional materials.
(a) General. Not later than December 3, 2006, an LEA that chooses to coordinate with the National Instructional Materials Access Center (NIMAC), when purchasing print instructional materials, must acquire those instructional materials in the same manner, and subject to the same conditions as an SEA under § 300.172.
(b) Rights of LEA.
(1) Nothing in this section shall be construed to require an LEA to coordinate with the NIMAC.
(2) If an LEA chooses not to coordinate with the NIMAC, the LEA must provide an assurance to the SEA that the LEA will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.
(3) Nothing in this section relieves an LEA of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats but are not included under the definition of blind or other persons with print disabilities in § 300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner.

(Authority: 20 U.S.C. 1413(a)(6))

The National Instructional Materials Accessibility Standard (NIMAS) was established by the United States Secretary of Education to be used in the preparation of electronic files suitable and used solely for efficient conversion in specialized formats. NIMAS files are provided for the sole, express purpose of producing student-ready instructional materials for elementary and secondary school children who are blind, visually impaired, or print disabled, in a timely manner as stipulated in 34 CFR §§ 300.172 and 300.210.

To meet its responsibility, each LEA must develop a plan to ensure that all reasonable steps are taken to provide core instructional materials in usable accessible formats to children with print disabilities, in accordance with the child's educational needs, at the same time as other children receive instructional materials, or to the greatest extent possible, and must assure that it meets these requirements as part of the *Part I, LEA Implementation Agreement for Special Education in Oklahoma.*

Use of these instructional materials are limited to children that have a visual impairment or other print disabilities, such as a reading disability resulting from organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner. Children eligible to receive these materials must meet the requirements of the provisions of the Chafee Amendments to the Copyright Act (PL 104-197). Proof of disability must be on file from a qualified professional in the field of disability services, education, medicine, or psychology.

LEAs should contact one of Oklahoma's Authorized Users (AU) to access NIMAS files. Additional information can be located in the technical assistance document regarding NIMAS.

58974-OKEd-SpecialEd text.indd 16 2/10/11 11:26 AM

34 CFR § 300.174 Prohibition on Mandatory Medication.

(a) General. The SEA must prohibit State and LEA personnel from requiring parents to obtain a prescription for substances identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812 (c)) for a child as a condition of attending school, receiving an evaluation under 300.300 through 300.311, or receiving services under this part.

(b) Rules of construction. Nothing in paragraph (a) of this section shall be construed to create a Federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under 300.111 (related to child find).

(Authority: 20 U.S.C. 1412 (a)(25))

LEAs must not require parents or guardians to obtain prescriptions for medications identified under schedules I, II, III, IV, or V in Section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c) for a child as a condition of attending school or receiving special education and related services, including evaluations. In relation to child find, this in no way prevents teachers and other school personnel from consulting or sharing classroom-based observations regarding a child's need for evaluation for special education and related services.

34 CFR § 300.154 Methods of ensuring services.

(a) Establishing responsibility for services. The Chief Executive Officer of a State or designee of that officer must ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each noneducational public agency described in paragraph (b) of this section and the SEA, in order to ensure that all services described in paragraph (b)(1) of this section that are needed to ensure FAPE are provided, including the provision of these services during the pendency of any dispute under paragraph (a)(3) of this section. The agreement or mechanism must include the following:

(1) An identification of, or a method for defining, the financial responsibility of each agency for providing services described in paragraph (b)(1) of this section to ensure FAPE to children with disabilities. The financial responsibility of each noneducational public agency described in paragraph (b) of this section, including the State Medicaid agency and other public insurers of children with disabilities, must precede the financial responsibility of the LEA (or the State agency responsible for developing the child's IEP).

(2) The conditions, terms, and procedures under which an LEA must be reimbursed by other agencies.

(3) Procedures for resolving interagency disputes (including procedures under which LEAs may initiate proceedings) under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism.

(4) Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services described in paragraph (b)(1) of this section.

(b) Obligation of noneducational public agencies.

(1)(i) If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy or pursuant to paragraph (a) of this section, to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in § 300.5 relating to assistive technology devices, § 300.6 relating to assistive technology services, § 300. 34 relating to related services, § 300.41 relating to supplementary aids and

58974-OKEd-SpecialEd text.indd 17 2/10/11 11:26 AM

services, and § 300.42 relating to transition services) that are necessary for ensuring FAPE to children with disabilities within the State, the public agency must fulfill that obligation or responsibility, either directly or through contract or other arrangement pursuant to paragraph (a) of this section or an agreement pursuant to paragraph (c) of this section..

(ii) A noneducational public agency described in paragraph (b)(1)(i) of this section may not disqualify an eligible service for Medicaid reimbursement because that service is provided in a school context.

(2) If a public agency other than an educational agency fails to provide or pay for the special education and related services described in paragraph (b)(1) of this section, the LEA (or State agency responsible for developing the child's IEP) must provide or pay for these services to the child in a timely manner. The LEA or State agency is authorized to claim reimbursement for the services from the noneducational public agency that failed to provide or pay for these services and that agency must reimburse the LEA or State agency in accordance with the terms of the interagency agreement or other mechanism described in paragraph (a) of this section.

(c) Special rule. The requirements of paragraph (a) of this section may be met through—

(1) State statute or regulation;

(2) Signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

(3) Other appropriate written methods as determined by the Chief Executive Officer of the State or designee of that officer and approved by the Secretary.

(d) Children with disabilities who are covered by public benefits or insurance.

(1) A public agency may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under this part, as permitted under the public benefits or insurance program, except as provided in paragraph (d)(2) of this section.

(2) With regard to services required to provide FAPE to an eligible child under this part, the public agency—

(i) May not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive FAPE under Part B of the Act;

(ii) May not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to this part, but pursuant to paragraph (g)(2) of this section, may pay the cost that the parents otherwise would be required to pay;

(iii) May not use a child's benefits under a public benefits or insurance program if that use would—

(A) Decrease available lifetime coverage or any other insured benefit;

(B) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;

(C) Increase premiums or lead to the discontinuation of benefits or insurance; or

(D) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures; and

(iv)(A) Must obtain parental consent, consistent with §300.9, each time that access to public benefits or insurance is sought; and

(B) Notify parents that the parents' refusal to allow access to their public benefits or insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

(e)Children with disabilities who are covered by private insurance.

(1) With regard to services required to provide FAPE to an eligible child under this part, a public agency may access the parents' private insurance proceeds only if the parents provide consent consistent with § 300.9.

(2) Each time the public agency proposes to access the parents' private insurance proceeds,

58974-OKEd-SpecialEd text.indd 18 2/10/11 11:26 AM

the agency must—
(i) Obtain parental consent in accordance with paragraph (e)(1) of this section; and
(ii) Inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.
(f)Use of Part B funds.
(1) If a public agency is unable to obtain parental consent to use the parents' private insurance, or public benefits or insurance when the parents would incur a cost for a specified service required under this part, to ensure FAPE the public agency may use its Part B funds to pay for the service.
(2) To avoid financial cost to parents who otherwise would consent to use private insurance, or public benefits or insurance if the parents would incur a cost, the public agency may use its Part B funds to pay. The cost the parents otherwise would have to pay to use the parents' benefits or insurance (e.g., the deductible or co-pay amounts).
(g)Proceeds from public benefits or insurance or private insurance.
(1) Proceeds from public benefits or insurance or private insurance will not be treated as program income for purposes of 34 CFR 80.25.
(2) If a public agency spends reimbursements from Federal funds (e.g., Medicaid) for services under this part, those funds will not be considered "State or local" funds for purposes of the maintenance of effort provisions in §§ 300.163 and 300.203.
(h)Construction. Nothing in this part should be construed to alter the requirements imposed on a State Medicaid agency, or any other agency administering a public benefits or insurance program by Federal statute, regulations or policy under title XIX, or title XXI of the Social Security Act, 42 U.S.C. 1396 through 1396v and 42 U.S.C. 1397aa through 1397jj, or any other public benefits or insurance program.

(Authority: 20 U.S.C. 1412(a)(12) and (e))

Interagency Coordination for Medicaid and Other Benefits

LEAs and noneducational public agencies must share financial responsibilities in accordance with the requirements of 34 CFR § 300.154 to ensure provision of a FAPE through interagency agreements or other mechanisms for interagency coordination of established responsibilities. In conformity with 34 CFR § 300154(b), the financial responsibility of each noneducational public agency, including the State Medicaid agency and other public insurers of children with disabilities, must precede the financial responsibility of the LEA responsible for developing the child's IEP.

Oklahoma State law provides that public agencies of the State must jointly develop and implement interagency memoranda of agreements for the coordinated delivery of services to children with disabilities (70 O.S. § 13-111). In coordinating efforts and services to meet the needs of children with disabilities, State and local agencies establish such agreements in an ongoing manner. Participation in the State's Medicaid program is addressed through such intergovernmental arrangements.

The Oklahoma Health Care Authority (OHCA) is the State Medicaid agency and administers the public insurance program known as SoonerCare. In Oklahoma, LEAs may enter into intergovernmental agreements or contracts with the OHCA to participate in the Medicaid program. Services provided by the LEA, in accordance with the agreement and OHCA rules, may be billed for reimbursement of eligible claims. LEAs assure a State/local funding match for the federal Medicaid funds received through reimbursements

58974-OKEd-SpecialEd text.indd 19 2/10/11 11:26 AM

for the services provided. Referrals to and coordination with SoonerCare physicians and health maintenance organizations (HMO) are also addressed under these agreements.

A child's entitlement to a FAPE must not be construed as relieving a Medicaid provider or other public insurer of its responsibility to pay for required services under these regulations. The IDEA Part B does not permit a state to reduce medical or other assistance or to alter eligibility under Titles V and XIX of the Social Security Act, with respect to the provision of a FAPE for children with disabilities in the State. This statutory provision emphasizes the obligation for interagency coordination between educational and noneducational public agencies to ensure that all services necessary to ensure a FAPE are provided to children with disabilities, and that the financial responsibility of the State Medicaid agency or other public insurer must precede that of the LEA or State agency responsible for developing the child's IEP. However, there is nothing in this provision that alters who is eligible for coverage or services under Medicaid or other public insurance programs. Therefore, the coverage or service requirements for Title XIX or Title XXI of the Social Security Act as defined in federal statute, regulation, or policy, or the coverage of or service requirements for any other public insurance program, are not affected by the IDEA regulation.

If a public agency is billing a State Medicaid agency (e.g., OHCA) or other public insurance program (e.g., SoonerCare) for services provided under this part, the public agency must ensure that the services and the personnel providing those services meet applicable requirements under statute, regulation, or policy applying to that other program. If a public insurance program is billed for services provided under this part, those services must meet the requirements of that program, including personnel standards that apply to that program, in addition to conforming with the requirements of this part. Parental consent requirements relating to accessing public benefits or insurance at 34 CFR § 300.154(d)(2)(iv)(A) of the federal regulations state that the LEA must obtain parental consent, consistent with 34 CFR § 300.9, each time that access to public benefit or insurance is sought. The United States Department of Education (USDE), Office of Special Education Programs (OSEP), clarified (January 24, 2007 letter to Volusia County Schools) that "due to the very nature of IDEA and its requirements for an IEP, interpretation of 'each time that access to public benefits or insurance is sought' should be consistent with the timeframe of the IEP. School districts should be allowed to obtain consent at the initial development of the IEP and its subsequent reviews. Such an interpretation would lessen what will be a paperwork burden to teachers, service providers and public school system."

Interagency agreements between educational and noneducational public agencies are required under the IDEA, including ensuring the prompt resolution of interagency disputes. Effective interagency coordination should facilitate the timely delivery of special education services as well as minimize any undue delays in the delivery of such services financed by noneducational public agencies. It is particularly important to ensure that there are no undue delays in the provision of required services due to the failure of a noneducational public agency to reimburse the educational public agency for required services for which the noneducational public agency is responsible.

58974-OKEd-SpecialEd text.indd 20 2/10/11 11:26 AM

If Medicaid funds only a portion of required services based on service caps, the public agency responsible for the provision of a FAPE must ensure that any remaining necessary services are provided at no cost to the parent(s). A public agency may not make decisions regarding the provision of required services to children with disabilities under these regulations based solely on availability of Medicaid funding.

Although it is essential that public agencies have the ability to access all available public sources of support to pay for required services under these regulations, services must be provided at no cost to parent(s). However, in the majority of cases, use of federal, State, or local public insurance programs by a public educational agency to provide or pay for a service to a child will not result in a current or foreseeable future cost to the family or child. For example, under the Early Periodic Screening, Diagnosis and Treatment (EPSDT) program of Medicaid, potentially available benefits are only limited based on what the Medicaid agency determines to be medically necessary for the child and are not otherwise limited or capped. In circumstances in which there is no cost to the family or the child, public educational agencies are encouraged to use the public insurance benefits to the extent possible.

To ensure that children with disabilities are afforded a FAPE at no cost to their parent(s), a public agency may use Medicaid or other public insurance benefits programs in which a child participates with certain exceptions. Those exceptions would be that a public agency may not require parent(s) to sign up for public insurance for their child to receive a FAPE under Part B of the Act; require parent(s) to incur out-of-pocket expenses related to filing a public insurance claim for Part B services; and may not use the public insurance if the use would decrease coverage or benefits, increase premiums, lead to discontinuation of insurance, result in the family paying for services that otherwise would be covered by the public insurance and that are required by the child outside of the time the child is in school, or risk loss of eligibility for home and community-based waivers.

Public agencies may not access private insurance if parent(s) would incur a financial cost, and use of parents' insurance proceeds, if parent(s) would incur a financial cost, must be voluntary on the part of the parent(s). Consent must be obtained each time a public agency attempts to access private insurance and should be voluntary on the part of the parent(s). In addition, parent(s) need to be informed that their refusal to permit a public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parent(s).

If a public agency is unable to obtain parental consent to use the parents' private insurance, or public insurance when the parent(s) would incur a cost for a specified service required under this part, the public agency may use its Part B funds to pay for the service to ensure a FAPE. To avoid financial cost to parent(s) who otherwise would consent to use private insurance or public insurance if the parent(s) would incur a cost, the public agency may use its Part B funds to pay the cost the parent(s) otherwise would have to pay to use the parents' insurance (e.g., the deductible or co-pay amounts).

Proceeds from public or private insurance will not be treated as program income for purposes of 34 CFR § 80.25. If a public agency spends reimbursements from federal

58974-OKEd-SpecialEd text.indd 21 2/10/11 11:26 AM

funds (e.g., Medicaid) for services under this part, those funds will not be considered ''State or local'' funds for purposes of the maintenance of effort (MOE) provisions in §§ 300.163 and 300.203.

> ***34 CFR § 300.106 Extended school year services.***
> *(a) General.*
> *(1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.*
> *(2) Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with §§ 300.320–300.324, that the services are necessary for the provision of FAPE to the child.*
> *(3) In implementing the requirements of this section, a public agency may not—*
> *(i) Limit extended school year services to particular categories of disability; or*
> *(ii) Unilaterally limit the type, amount, or duration of those services.*
> *(b) Definition. As used in this section, the term extended school year services means special education and related services that—*
> *(1) Are provided to a child with a disability—*
> *(i) Beyond the normal school year of the public agency;*
> *(ii) In accordance with the child's IEP; and*
> *(iii) At no cost to the parents of the child; and*
> *(2) Meet the standards of the SEA.*
>
> *(Authority: 20 U.S.C. 1412(a)(1))*

Extended school year (ESY) services are defined as special education and related services which are available to children with disabilities beyond the regular instructional year as a necessary part of a FAPE required by the IDEA. Each LEA is responsible for establishing an ESY policy and to provide ESY special education and related services to children with disabilities whose IEP team has determined ESY necessary for the child. Please refer to the OSDE publication, *Technical Assistance Document: ESY Services for Children and Youth with Disabilities,* revised February 2004, regarding necessary components of an ESY policy. Special education and related services must be provided through an ESY program when determined by the IEP team that a child has regressed, or is predicted to regress. The regression must indicate a severe degree in a critical skill area that recovery of such skill loss following the break in programming is unlikely or would require an unusually long period of time to recoup skills obtained. Other factors to be considered in determining the need for ESY services include, but are not limited to: the degree of the child's disability, the parents' ability to provide education in the home, the child's rate of progress, the child's needs for interaction with nondisabled peers, vocational training, and whether the requested services are an integral part of a program for children with similar disabilities. Determination of need for ESY services must be made on an individual basis and addressed appropriately on the IEP. An LEA may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of those services. ESY for special education and related services summer programs is not to be confused with "optional extended school year" programs offered by school districts under Oklahoma State law (70 O.S. § 1-109.1). Teams may utilize the ESY technical assistance document provided by the OSDE-SES, which is located on the Web site. Local and State policies and procedures for ESY must be followed.

58974-OKEd-SpecialEd text.indd 22 2/10/11 11:26 AM

ESY services, which are beyond the school day, may be provided during, but are not limited to, the following times: in the evening after school, on weekends, during holiday breaks, and during the summer.

ESY services for preschool aged children are to be determined by the child's IEP team. If a child will be transitioning from services under Part C, EI, the child's third birthday occurs in the spring or summer, and the child has been determined to be eligible for the IDEA Part B services, the IEP team will determine whether ESY services are necessary based on all pertinent data, including background information, current evaluations, and information provided by SoonerStart.

Each LEA must, as part of the *Part I, LEA Implementation Agreement for Special Education in Oklahoma*, assure that it will establish an ESY policy and provide ESY services. The LEA must provide the ESY policy to the OSDE-SES upon request.

> ***34 CFR § 300.7 Charter school.***
> *Charter school has the meaning given the term in section 5210(1) of the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. 6301 et seq. (ESEA).*
>
> *(Authority: 20 U.S.C. 7221i(1))*

According to Section 5210(1) of the Elementary and Secondary Education Act (ESEA) of 1965, as amended, the term "charter school" means a public school that—
(A) In accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;
(B) Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;
(C) Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;
(D) Provides a program of elementary or secondary education, or both;
(E) Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;
(F) Does not charge tuition;
(G) Complies with the Age Discrimination Act of 1975 [42 U.S.C.A. § 6101 et seq.], Title VI of the Civil Rights Act of 1964, [42 U.S.C.A. § 2000d et seq.] Title IX of the Education Amendments of 1972 [20 U.S.C.A. § 1681 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C.A. § 794], and part B of the Individuals with Disabilities Education Act [20 U.S.C.A. § 1411 et. seq.];
(H) Is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;
(I) Agrees to comply with the same federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;
(J) Meets all applicable federal, State, and local health and safety requirements;

58974-OKEd-SpecialEd text.indd 23 2/10/11 11:26 AM

(K) Operates in accordance with Oklahoma State law; and
(L) Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

> ***34 CFR § 300.209 Treatment of charter schools and their students.***
> *(a) Rights of children with disabilities. Children with disabilities who attend public charter schools and their parents retain all rights under this part.*
> *(b) Charter schools that are public schools of the LEA.*
> *(1) In carrying out Part B of the Act and these regulations with respect to charter schools that are public schools of the LEA, the LEA must—*
> *(i) Serve children with disabilities attending those charter schools in the same manner as the LEA serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the LEA has a policy or practice of providing such services on site to its other public schools; and*
> *(ii) Provide funds under Part B of the Act to those charter schools—*
> *(A) On the same basis as the LEA provides funds to the LEA's other public schools, including proportional distribution based on relative enrollment of children with disabilities; and*
> *(B) At the same time as the LEA distributes other Federal funds to the LEA's other public schools, consistent with the State's charter school law.*
> *(2) If the public charter school is an LEA, that receives funding under §§ 300.705, and includes other public schools—*
> *(i) The LEA is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity; and*
> *(ii) The LEA must meet the requirements of paragraph (b)(1) of this section.*
> *(c) Public charter schools that are LEAs. If the public charter school is an LEA, consistent with § 300.28, that receives funding under 300.705, that charter school—is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity .*
> *(d) Public charter schools that are not an LEA or a school that is part of an LEA.*
> *(1) If the public charter school is not an LEA receiving funding under §300.705, or school that is part of an LEA receiving funding under § 300.705, the SEA is responsible for ensuring that the requirements of this part are met.*
> *(2) Paragraph (d)(1) of this section does not preclude a State from assigning initial responsibility for ensuring the requirements of this part are met to another entity. However, the SEA must maintain the ultimate responsibility for ensuring compliance with this part, consistent with 300.149.*
>
> *(Authority: 20 U.S.C. 1413(a)(5))*

Responsibilities for the provision of a FAPE for children with disabilities who attend public charter schools must be in accordance with Oklahoma State law and federal requirements under the IDEA. The Oklahoma Charter Schools Act (70 O.S. § 3-130, et. seq.) requires that children served in charter schools must be protected by the same State and federal laws as LEAs for the education of children with disabilities. In addition, the admission and enrollment of students in charter schools must not be discriminatory on the basis of disability. LEAs must assure, as part of the *Part I, LEA Implementation Agreement for Special Education in Oklahoma*, that they will serve children with disabilities attending

58974-OKEd-SpecialEd text.indd 24 2/10/11 11:26 AM

charter schools within the LEA in the same manner as it serves children with disabilities in other schools. A Charter school sponsored by a board of education of a school district shall be considered a LEA for proposes of federal funding (70 O.S. § 3-142).

> ***34 CFR § 300.104 Residential placement.***
> *If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child.*
>
> *(Authority: 20 U.S.C. 1412(a)(1), 1412(a)(10)(B))*

Public agencies must ensure that all eligible children receive a FAPE in the LRE and have available a continuum of alternative placements to meet the needs of children with disabilities for special education and related services. Unless the IEP of a child with a disability requires some other arrangement, the child must be educated in the school that the child would attend if nondisabled. For preschool children (aged three to five years) the child must be educated in the environment in which the child would participate if nondisabled, unless the IEP requires some other arrangement.

When placement in a residential program is necessary for educational purposes, such as the Oklahoma School for the Deaf (OSD) or the OSB, the program must be at no cost to the parents of the child. Interagency referrals and coordination of services with other State agencies having financial responsibilities for provision of residential care and supportive services will be necessary in such circumstances to assist in meeting the obligation of the State to provide a FAPE. Under Oklahoma State law and federal regulations, the costs of the program may be at the expense of parents or other entities when residential placements are made unilaterally by parents or by public agencies for reasons other than providing special education and related services. The IDEA does not require an LEA to pay for the cost of education, including special education and related services, of a child with a disability at such a facility if the LEA made a FAPE available to the child and the parents elected to place the child in such facility. Disagreements are subject to due process hearing procedures.

Out-of-state residential placements should only be necessary for those children with disabilities who, because of the nature and severity of their disability, cannot receive a FAPE in the LRE with appropriate accommodations and related services. However, when such a placement is necessary, it should be provided. To facilitate out-of-state residential placements that are recommended by the child's local IEP team, the OSDE-SES will contract with, and pay for, the out-of-state residential facility; however, the LEA must be responsible financially in the amount of one teacher's salary (which the OSDE-SES will calculate based on the LEA's average teacher salary for the preceding year and which will be paid by the LEA to the OSDE-SES monthly) and reimbursement to parents or guardians for reasonable and necessary travel related expenses associated with the out-of-state placement. **(Tier I is currently closed. See High-Need Children with Disabilities section.)**

The documentation that a residential placement is the LRE, thus removing the child from his/her home and community, must come only after certain considerations have been addressed. These considerations include:

58974-OKEd-SpecialEd text.indd 25 2/10/11 11:26 AM

- Has the child received a comprehensive evaluation utilizing tests or other materials selected and administered so as not to be discriminatory on a racial or cultural basis, provided and administered in the child's native language or other mode of communication, unless it is clearly feasible not to do so, using a variety of assessment tools and strategies to gather relevant functional and developmental information about the child, including information provided by the parent and information related to enabling the child to be involved in and progress in the general curriculum, to assist in determining whether a child is a child with a disability?
- Has the child's IEP been developed with meaningful involvement of the child (when appropriate) or the child's parent(s) or guardian(s), teacher(s), and included persons knowledgeable about the child, the meaning of the evaluation information and the continuum of alternative placement options?
- Has the LEA ensured that due to the child's unique educational needs a FAPE cannot be provided in less restrictive settings with the use of supplementary aids and services?
- Has the LEA identified expected benefits from a residential placement in addressing the full range of the student's unique needs in the areas of academic or educational achievement and learning characteristics, social development, physical development, and management needs?
- Has the LEA informed the child's parent(s) about community support services that they may access for additional support? and
- Has the LEA involved other agencies (e.g., Developmental Disabilities Service Division [DDSD]) in the planning for a student who may be in need of a residential placement?

Once it is determined by the IEP team that the child requires placement in a residential facility for a FAPE, the IEP team must:

- Identify a residential facility which can provide appropriate special education and related services necessary for a FAPE in view of the child's disability and unique needs;
- Secure the input and approval of the OSDE-SES (for out-of-state placements requiring the OSDE-SES's financial assistance);
- Assist the OSDE-SES by providing information as necessary for the OSDE-SES to contract with the educational residential facility (for out-of-state placements requiring the OSDE-SES's financial assistance);
- Make application to the appropriate educational residential program; and
- Complete the necessary forms, including a new or revised IEP, associated with the residential placement.

> ***34 CFR § 300.113 Routine checking of hearing aids and external components of surgically implanted medical devices.***
> *(a) Hearing aids. Each public agency must ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.*
> *(b) External components of surgically implanted medical devices.*
> *(1) Subject to paragraph (b)(2) of this section, each public agency must ensure that the external components of surgically implanted medical devices are functioning properly.*
> *(2) For a child with a surgically implanted medical device who is receiving special education and related services under this part, a public agency is not responsible for*

58974-OKEd-SpecialEd text.indd 26 2/10/11 11:26 AM

the post-surgical maintenance, programming, or replacement of the medical device that has been surgically implanted (or of an external component of the surgically implanted medical device).

(Authority: 20 U.S.C. 1401(1), 1401(26)(B))

Condition of hearing aids and external components of surgically implanted medical devices (i.e., cochlear implants) worn by children with hearing impairments must be routinely monitored in an ongoing manner by personnel designated by the LEA to ensure proper functioning.

LEAs are not responsible for the maintenance, programming, mapping, or replacement of a cochlear implant or other surgically implanted device. This includes both the internal and external components of the device.

34 CFR § 300.109 Full educational opportunity goal (FEOG).
The State must have in effect policies and procedures to demonstrate that the State has established a goal of providing full educational opportunity to all children with disabilities, aged birth through 21, and a detailed timeline for accomplishing that goal.

(Authority: 20 U.S.C. 1412(a)(2))

The OSDE-SES ensures that each LEA must establish and implement, through the *Part I, LEA Implementation Agreement for Special Education in Oklahoma,* a goal of providing a full educational opportunity to all eligible children with disabilities served by the LEA and as established by Oklahoma State law regarding residency, transfers, and responsibilities for school purposes. LEAs may apply for use of the IDEA Part B funds through the *Part II, LEA Application for Special Education Funds in Oklahoma,* to provide facilities, personnel, and services necessary to meet the full educational opportunity goal (FEOG).

Children with disabilities are entitled to the same length of school day offered to all children as established by Oklahoma State law and standards approved by the SBE. However, determination of length of school day for children eligible for special education may be made on an individual basis by the IEP team to meet the unique needs of the child. Variations in the length of school day for children with disabilities must be addressed on the IEP. Regardless of any modifications to the length of school day (if appropriate, and as determined by the IEP team), the student must be counted for average daily membership (ADM) for State aid purposes. Transportation, scheduling, or administrative conveniences are not acceptable reasons for children to have shortened instructional days.

34 CFR § 300.110 Program options.
The State must ensure that each public agency takes steps to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education.

(Authority: 20 U.S.C. 1412(a)(2), 1413(a)(1))

58974-OKEd-SpecialEd text.indd 27 2/10/11 11:26 AM

Each LEA must assure, through the *Part I, LEA Implementation Agreement for Special Education in Oklahoma,* that educational program options and services available to nondisabled children must be available to children with disabilities. Such program options are to be considered on an individual basis and addressed on the IEP. Program options may include, but are not limited to: art, music, industrial arts, consumer and homemaking education, vocational and technology education.

> ***34 CFR § 300.107 Nonacademic services.***
> *(a) Each public agency shall take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.*
> *(b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.*
>
> *(Authority: 20 U.S.C. 1412(a)(1))*

Each LEA must assure, through the *Part I, LEA Implementation Agreement for Special Education in Oklahoma,* provision of an equal opportunity for children with disabilities to participate in nonacademic and extracurricular services and activities sponsored by the public agency. Such services and activities are to be considered on an individual basis and addressed on the IEP (e.g., counseling, athletics, transportation, and employment of the young adult).

> ***34 CFR § 300.108 Physical education.***
> *The State must ensure that public agencies in the State comply with the following:*
> *(a) General. Physical education services, specially designed if necessary, must be made available to every child with a disability receiving FAPE, unless the public agency enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.*
> *(b) Regular physical education. Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless—*
> *(1) The child is enrolled full time in a separate facility; or*
> *(2) The child needs specially designed physical education, as prescribed in the child's IEP.*
> *(c) Special physical education. If specially designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child must provide the services directly or make arrangements for those services to be provided through other public or private programs.*
> *(d) Education in separate facilities. The public agency responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate physical education services in compliance with this section.*
>
> *(Authority: 1412(a)(5)(A))*

58974-OKEd-SpecialEd text.indd 28 2/10/11 11:26 AM

LEAs must address the provision of physical education (PE) services to children with disabilities, specially designed if necessary. Each child with a disability must be afforded the opportunity to participate in the regular PE program available to nondisabled children, unless the child requires specially designed PE as prescribed in the child's IEP or is enrolled full-time in a separate facility. Each child with a disability enrolled in a separate facility and whose IEP identifies the need for specially designed PE must receive those services. The IEP team must address goals, objectives (when necessary or appropriate, and content requirements of the IEP, if specially designed PE is necessary.

Assistive Technology

34 CFR § 300.5 Assistive technology device.
As used in this part, Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.

(Authority: 20 U.S.C. 1401(1))

34 CFR § 300.6 Assistive technology service.
As used in this part, Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes—
(a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
(b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
(e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and
(f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

(Authority: 20 U.S.C. 1401(2))

34 CFR § 300.105 Assistive technology.
(a) Each public agency shall ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in §§ 300.5-300.6, are made available to a child with a disability if required as a part of the child's—
(1) Special education under § 300. 36;
(2) Related services under § 300. 34; or
(3) Supplementary aids and services under §§ 300.38 and 300.114(a)(ii).

58974-OKEd-SpecialEd text.indd 29 2/10/11 11:26 AM

(b) On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP team determines that the child needs access to those devices in order to receive FAPE.

(Authority: 20 U.S.C. 1412(a)(1)(B)(i))

Assistive technology (AT) devices or services must be made available to a child with a disability if determined to be necessary through the child's IEP for provision of special education, related services, or supplementary aids and services. AT devices or services may also be necessary as supplementary aids and services in the regular educational environment to ensure that children are educated in the LRE. On a case-by-case basis, the use of school-purchased AT devices in a child's home or in other settings may be required if the child's IEP team determines that the child needs access to those devices to receive a FAPE. Refer to the IEP section for additional information regarding the IEP team's consideration of AT as a special factor.

If a child's IEP team determines that AT devices or services, or both, are required for the child to receive a FAPE, LEAs may use whatever State, local, federal, and private sources of support are available to provide or pay for AT services or devices. LEAs that are otherwise obligated under federal or Oklahoma State law or assigned responsibility under State policy, interagency agreements, or other mechanisms to provide or pay for any AT necessary for ensuring a FAPE, must fulfill that obligation or responsibility either directly or through contract or other arrangements. An LEA may not unnecessarily delay the provision of AT devices and services due to funding issues if a child requires such services to benefit from the IEP. These services and devices must be provided at no cost to the child or parent under federal regulations for a FAPE. Please refer to the OSDE-SES publication, *Technical Assistance Document: Assistive Technology for Children and Youth with Disabilities*, for additional information regarding AT.

34 CFR § 300.44 Universal design.
Universal design has the meaning given the term in section 3 of the Assistive Technology Act of 1998, as amended, 29 U.S.C. 3002.

(Authority: 20 U.S.C. 1401(35))

The Assistive Technology Act of 1998, as amended, states that the term "universal design" means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly usable (without requiring assistive technologies) and products and services that are made usable with assistive technologies. The Council for Exceptional Children (CEC) describes the following about Universal Design of Instruction:

In terms of learning, universal design means the design of instructional materials and activities that make the learning goals achievable by individuals with wide differences in their abilities to see, hear, speak, move, read, write, understand English, attend, organize, engage, and remember. Universal design for learning is achieved by means of flexible curricular materials and activities that provide alternatives for students with differing abilities. These alternatives are built into the instructional design and operating systems of educational materials; they are not added on after-the-fact.

58974-OKEd-SpecialEd text.indd 30 2/10/11 11:26 AM

Universal design is related to "accessible design" or "design for all" and is an approach to the design of all products, services, and environments to be usable by as many people as possible, to the greatest extent possible, regardless of age, ability, or circumstance. It serves people who are young or old, with excellent or limited abilities, in ideal or difficult circumstances. Examples of universal design include, but are not limited to building entrances without stairs, wide interior doors and hallways, lever handles for opening doors rather than twisting knobs, the "undo" function on a word processor, light switches with large flat panels rather than small toggle switches, use of meaningful icons as well as text labels, voice recognition/activation software, and sensor operated devices. Universal design operates under seven main principles: equitable use, flexibility in use, simple and intuitive use, perceptible information, tolerance for error, low physical effort, and size and space for approach and use. Universal design applies to technology, instructions, student response, assessment, and learning environments for children with and without disabilities.

Universal design principles can be applied to lectures, classroom discussions, group work, handouts, Web-based instruction, labs, fieldwork, and other academic activities and materials.

Universal design employs the following principles:

Inclusiveness: Create a classroom environment that respects and values diversity. Encourage students to meet with teachers to discuss disability-related accommodations and other special learning needs. Avoid segregating or stigmatizing any student. Respect the privacy of all students;

Physical Access: Assure that classrooms, labs, and fieldwork are accessible to individuals with a wide range of physical abilities and disabilities. Make sure equipment and activities minimize sustained physical effort, provide options for operation, and accommodate right- and left-handed students as well as those with limited physical abilities. Assure the safety of all students;

Delivery Methods: Alternate delivery methods, including lecture, discussion, hands-on activities, Internet-based interaction, and fieldwork. Make sure each is accessible to students with a wide range of abilities, disabilities, interests, and previous experiences. Face the class and speak clearly in an environment that is comfortable and free from distractions. Use multiple modes to deliver content. Provide printed materials that summarize content that is delivered orally;

Information Access: Use captioned videotapes. Make printed materials available in electronic format. Provide text descriptions of graphics presented on Web pages. Provide printed materials early to allow students to prepare for the topic to be presented. Create printed and Web-based materials in simple, intuitive, and consistent formats. Arrange content in order of importance. Ensure that computer-based programs do not exclude students with disabilities who utilize a specific form of assistive technology;

Interaction: Encourage different ways for students to interact with each other and with teachers. These methods may include in-class questions and discussion, group work, and

58974-OKEd-SpecialEd text.indd 31 2/10/11 11:26 AM

Internet-based communications. Strive to make them accessible to everyone, without accommodations;

Feedback: Provide effective prompting during an activity and feedback after the assignment is complete; and

Demonstration of Knowledge: Provide multiple ways for students to demonstrate knowledge. For example, besides traditional tests and papers, consider group work, demonstrations, portfolios, and presentations as options for demonstrating knowledge.

58974-OKEd-SpecialEd text.indd 32 2/10/11 11:26 AM

CHILD IDENTIFICATION, LOCATION, AND EVALUATION

34 CFR § 300.111 Child find.

(a) General. (1) The State must have in effect policies and procedures to ensure that—
(i) All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and
(ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.
(b) Use of term developmental delay. The following provisions apply with respect to implementing the child find requirements of this section:
(1) A State that adopts a definition of developmental delay under § 300.8(b) determines whether the term applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five).
(2) A State may not require an LEA to adopt and use the term developmental delay for any children within its jurisdiction.
(3) If an LEA uses the term developmental delay for children described in § 300.8(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State.
(4) If a State does not adopt the term developmental delay, an LEA may not independently use that term as a basis for establishing a child's eligibility under this part.
(c) Other children in child find. Child find also must include—
(1) Children who are suspected of being a child with a disability under § 300.8 and in need of special education, even though they are advancing from grade to grade; and
(2) Highly mobile children, including migrant children.
(d) Construction. Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in § 300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.

(Authority: 20 U.S.C. 1401(3)); 1412(a)(3))

State and Local Responsibility

It is the policy of the Oklahoma State Department of Education (OSDE), Special Education Services (SES), to ensure that each local educational agency (LEA) and public agency establishes and implements procedures and activities to identify, locate, and evaluate children with disabilities, aged three through 21. LEAs assure compliance with the requirements for implementation of child find activities for identification, location, and evaluation through the *Part I, LEA Implementation Agreement for Special Education in Oklahoma*. Statewide implementation procedures are monitored and reviewed through the OSDE-SES general supervision process.

LEAs, in collaboration with other public agencies and community resources at the local, county, or regional level, must locate and identify children with established or suspected disability conditions, regardless of the severity of the disabilities. Child identification efforts must include individuals with disabilities, aged three through 21, not enrolled in school, as well as those who attend public and private schools, Head Start, State institutions, and other child care or treatment facilities.

58974-OKEd-SpecialEd text.indd 33 2/10/11 11:26 AM

The requirements for child find apply to all children who are suspected of being a child with a disability under 34 CFR § 300.8 and in need of special education and related services, even though they are advancing from grade to grade. Highly mobile children with disabilities, such as migrant and homeless children, must be included in child find activities.

Child identification, location, and evaluation activities are to be accomplished in a comprehensive, coordinated, and interagency approach. LEAs may effectively implement public awareness, information dissemination, and other child find activities through cooperative efforts with other local and statewide public and private resources. Such efforts include coordination with the SoonerStart early intervention (EI) Program (Part C of the Individuals with Disabilities Education Act [IDEA]) for children who will be transitioning by their third birthday.

Public Awareness

Public awareness activities must provide information about the various special education and related services and programs for children with disabilities available through the LEAs and other responsible public and private resources. Ongoing child find activities must be in collaboration with parents and public agencies. Parents, school personnel, and other cooperating agencies must be informed of screening, referral, and evaluation procedures and services.

Each LEA must designate a person to coordinate and implement public awareness and child find activities. The process, materials, and activities to disseminate information and awareness about the child identification program must be documented. Included in this process should be the position/title of the appropriate individual(s) to contact for information in accessing services.

The public awareness process must include documentation from at least two of the following ongoing/periodic activities: (1) advertisements; (2) news releases; (3) public service announcements (PSA); (4) interviews on radio or television; (5) feature articles in newspapers and agency newsletters; (6) placement of posters or referral cards/ flyers placed in public places (e.g., doctors' offices, pharmacies, community stores, laundromats, libraries, hospitals); (7) mailings (e.g., inserts in utility bills, church bulletins); (8) distribution of brochures, newsletters, or pamphlets; (9) films, slides, video presentations; or (10) public forums.

Geographic factors and cultural and language diversity in a local community must be considered in selecting suitable, effective methods and activities to inform the public of the local child identification process.

The Joint Oklahoma Information Network (JOIN) is a statewide community resource directory that provides a statewide, computerized database of information as a resource to parents, schools, and other professionals. Through this system, users may complete an eligibility questionnaire to assist in locating government services for which they might be eligible to receive. Through a local number for all communities (2-1-1) and online resources, JOIN assists the State and LEAs in providing services and programs in local communities, such as housing assistance and child care, that may or may not be government funded.

58974-OKEd-SpecialEd text.indd 34 2/10/11 11:26 AM

Confidentiality during Child Find

Each LEA is responsible for informing parents of their rights under the Family Educational Rights and Privacy Act (FERPA) as amended and the IDEA regarding personally identifiable information which is maintained in the child identification process (e.g., annual child count).

The LEA must publish or announce notice of rights concerning personally identifiable information in newspapers or other media prior to conducting any major identification, location, screening, or evaluation activity. The newspapers or other media must have circulation adequate to notify parents within the area. LEAs may combine notice of these rights with announcements and publications informing parents of child identification, location, screening, or evaluation activities to be conducted throughout the year.

The notice must fully inform parents about the child find requirements, including: (1) a description of the children on whom personally identifiable information is maintained, the types of information sought, the methods and sources to be used in gathering the information; (2) a summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and (3) a description of the rights of parents and children regarding confidentiality of information in accordance with the FERPA and the IDEA.

The notice must be made available to parents in their native language or other modes of communication, as necessary.

Screening

LEAs are responsible for implementing screening activities and procedures as a means of locating and identifying children who may have disabilities. Screening assists the LEA in determining children who may require referrals for comprehensive evaluations.

Screening activities include, but are not limited to, vision, hearing, and health screening programs available to all children on a schoolwide or classroom basis; districtwide testing; and assessment scores already available from the Oklahoma School Testing Program (OSTP). Screening may include basic tests and activities administered to or procedures available to and used with all children in a class, grade, or school site. The OSDE-SES provides technical assistance and training to assist school sites in implementation of screening activities under State and federal requirements for the IDEA. Other public and private resources may also be utilized in cooperative efforts for screening of children with suspected disabilities.

Referral and Evaluation

Each LEA is responsible for developing and maintaining a comprehensive, multidisciplinary referral, evaluation, and eligibility process for the identification of children with suspected disabilities. Parents and school personnel must be informed of referral and evaluation procedures.

Evaluation means procedures used in accordance with 34 CFR §§ 300.300 through 300.311 to determine whether a child has a disability under the IDEA and the nature and extent of the special education and related services that the child needs.

58974-OKEd-SpecialEd text.indd 35 2/10/11 11:26 AM

Interagency referrals and other public or private resources may be utilized as appropriate; however, LEAs retain responsibility for ensuring the provision of timely evaluations at no cost to the parents. Interagency or intergovernmental agreements and cooperative arrangements may be used to accomplish referrals and evaluations by qualified personnel employed by other public agencies.

Referral procedures must document review of existing data to assist the LEA, the parents, and other qualified professionals in determining evaluation information that may be necessary to determine whether the student has a disability that requires special education; present levels of performance and educational needs; and, for an eligible child, whether any modifications are needed to participate in the general education curriculum and meet IEP goals. Review of data should include any efforts and considerations of interventions and services to assist and support the child's academic functioning in the general education environment or other appropriate settings for preschool aged children. These efforts might include: student support teams; mainstream assistance teams; co-teaching and collaboration models; and cooperative learning and peer tutoring.

Infants and Toddlers with Disabilities

> ***34 CFR § 300.25 Infant or toddler with a disability.***
> *Infant or toddler with a disability –*
> *(a) Means an individual under three years of age who needs early intervention services because the individual –*
> *(1) Is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or*
> *(2) Has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay; and*
> *(b) May also include, at a State's discretion –*
> *(1) At-risk infants and toddlers; and*
> *(2) Children with disabilities who are eligible for services under section 619 and who previously received services under Part C of the Act until such children enter, or are eligible under State law to enter, kindergarten or elementary school, as appropriate, provided that any programs under Part C of the Act serving such children shall include –*
> *(i) An educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills; and*
> *(ii) A written notification to parents of their rights and responsibilities in determining whether their child will continue to receive services under Part C of the Act or participate in preschool programs under 619.*
>
> *(Authority: 20 U.S.C. 1401(16) and 1432(5))*

As determined by the Oklahoma Early Intervention Act (70 O.S. §13-121), the children eligible for entry into the EI services (SoonerStart) must be infants and toddlers aged birth through two years (0-35 months) who are developmentally delayed. As used in this act "developmentally delayed" means children of the chronological age group specified in this section who:

58974-OKEd-SpecialEd text.indd 36 2/10/11 11:26 AM

(1) Exhibit a fifty percent (50%) delay in their developmental age compared to their chronological age or score two standard deviations below the mean in one of the following areas or in a subdomain of one of the following areas: cognitive, physical, communication, social and emotional, or adaptive development;

(2) Exhibit a twenty-five percent (25%) delay in their developmental age compared to their chronological age or score one and one-half standard deviations below the mean in two or more of the following areas or in a subdomain of two or more of the following areas: cognitive, physical, communication, social and emotional, or adaptive development, or

(3) Have a diagnosed physical or mental condition that has a high probability of resulting in delay. This includes, but is not limited to: chromosomal disorders, neurological abnormalities, inborn errors of metabolism, genetic disorders, congenital malformations of the brain, congenital infections, sensory abnormalities, and impairments or identified syndromes.

Oklahoma currently does not serve children beyond the age of three in the SoonerStart program.

Transition of Children from Part C to Part B

> ***34 CFR § 300.124 Transition of children from Part C to preschool programs.***
> *The state must have in effect policies and procedures to ensure that—*
> *(a) Children participating in early intervention programs assisted under Part C of the Act, and who will participate in preschool programs assisted under Part B of the Act, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9) of the Act:*
> *(b) By the third birthday of a child described in paragraph (a) of this section, an IEP or, if consistent with 300.323(b)) and section 636(d) of the Act, an IFSP, has been developed and is being implemented for the child consistent with 300.101(b); and*
> *(c) Each affected LEA will participate in transition planning conferences arranged by the designated lead agency under section 63 5(a)(10) of the Act.*
>
> *(Authority: 20 U.S.C. 1412(a)(9))*

The transition from Part C (i.e., SoonerStart, Oklahoma EI Program), to Part B, preschool special education and related services, must be initiated by the SoonerStart, Early Intervention Unit (EIU), six to 12 months prior to a child's third birthday. The SoonerStart EIU will notify the child's LEA, with parental permission, at the appropriate time for a transition planning conference. If a child will reach the third birthday during the summer, the transition meeting must still occur a minimum of 90 days prior to the child turning three years old.

Three to nine months prior to the child's third birthday, the LEA will participate in Transition Planning Conferences (TPC) arranged by the SoonerStart EIU. TPCs provide an opportunity to address any necessary evaluations and assessment information in preparation for determination of eligibility for Part B, special education and related services, on or before the child's third birthday.

58974-OKEd-SpecialEd text.indd 37 2/10/11 11:26 AM

The TPC may include, but should not be limited to:

- The parent(s), surrogate parent(s), or legal guardian(s);
- The SoonerStart EIU resource coordinator;
- One (or more as appropriate) of the professionals directly involved in evaluating the child;
- One (or more as appropriate) of the professionals who are providing services to the child and family;
- A representative of the LEA; and
- Other future service providers, as appropriate.

Parental consent must be obtained prior to SoonerStart's release of the child's records to the LEA. In those situations where such consent is not granted or the LEA determines that additional information is necessary to provide a FAPE to a child , the LEA must seek to evaluate the child in any area necessary before the child's third birthday (34 CFR §§ 300.307-300.311). Parental consent will be necessary for the LEA to conduct such evaluations (OSDE Form 4). Due process hearing provisions under the IDEA for identification, evaluation, and the provision of a FAPE are available.

The group reviewing existing data must consider all information that the parent provides at the time of review. SoonerStart will provide the team with the most current evaluation data available. The group must review the evaluation information and identify what, if any, additional evaluation information is needed. If it is not necessary to evaluate a child again and sufficient data exists, the group should convene to complete the Multidisciplinary Evaluation and Eligibility Group Summary (MEEGS) where existing information will be documented.

By the child's third birthday, the LEA is responsible for the following:

- Determining whether the referred child is eligible in accordance with Oklahoma's criteria for special education and related services under Part B of the IDEA (refer to the definition and components of a comprehensive evaluation for developmental delay in the Evaluation and Eligibility section);
- Developing and implementing an individualized education program (IEP) in accordance with State policies and procedures for special education; and
- Assuring that the Part B prior notice and parent consent requirements are met and parents have available the rights and protections under Part B.

For eligible children who will turn three after the beginning of the school year, and after the cutoff date for school enrollment, the LEA must develop an IEP and implement services as specified on the IEP on or before the child's third birthday.

Developmental Delay

> ***34 CFR § 300.111 Child find.***
> *(b) Use of term developmental delay. The following provisions apply with respect to implementing the child find requirements of this section:*
> *(1) A State that adopts a definition of developmental delay under § 300.8(b) determines*

58974-OKEd-SpecialEd text.indd 38 2/10/11 11:26 AM

whether the term applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five).
(2) A State may not require an LEA to adopt and use the term developmental delay for any children within its jurisdiction.
(3) If an LEA uses the term developmental delay for children described in § 300.8(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State.

(Authority: 20 U.S.C. 1401(3)); 1412(a)(3))

If an LEA chooses to use the term "developmental delay," the term must be used for all eligible children under the IDEA, aged three to nine, except for the categories of deaf-blindness, hearing impairment (including deafness), and visual impairment (including blindness). If an LEA chooses not to use the term "developmental delay," then all children, aged three to nine, must be identified as eligible by using an appropriate individual disability category as determined by the evaluation and eligibility procedures under 34 CFR §§ 300.300 through 300.311 and State requirements. By the child's ninth birthday, the LEA must determine eligibility for special education and related services in accordance with the definitions of disabilities under the IDEA. The term "developmental delay" must be used until the child turns nine, if the LEA has chosen to use the term.

The LEA must declare annually its decision to use the term "developmental delay" in the *Part I, LEA Implementation Agreement for Special Education in Oklahoma.*

Each LEA must assure, through the *Part I, LEA Implementation Agreement for Special Education in Oklahoma*, that it will conduct child find activities to identify, locate, and evaluate in a timely manner all children, including children transitioning at the age of three from SoonerStart, with disabilities who are in need of special education and related services. The LEA must also assure that it will maintain documentation and data regarding referrals for special education and the number of children that have been identified, located, and evaluated. Finally, the LEA must assure that it is in compliance with all Oklahoma State laws and federal regulations regarding the identification and placement of children with disabilities, and that any disproportionality by race or ethnicity noted by the OSDE-SES is not the result of inappropriate identification or placement.

58974-OKEd-SpecialEd text.indd 39 2/10/11 11:26 AM

CONFIDENTIALITY

34 CFR § 300.123 Confidentiality of personally identifiable information.
The State must have policies and procedures in effect to ensure that public agencies in the State comply with §§ 300.610 through 300.626 related to protecting the confidentiality of any personally identifiable information collected, used, or maintained under Part B of the Act.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

Each local educational agency (LEA) must implement the State policies and procedures for protection of confidentiality of any personally identifiable information, collected, used, or maintained under the Individuals with Disabilities Education Act (IDEA) Part B. Each LEA must also assure, through the *Part I, LEA Implementation Agreement for Special Education in Oklahoma*, that confidentiality procedures will be in accordance with Oklahoma State law and federal regulations.

34 CFR § 300.32 Personally identifiable.
Personally identifiable means information that contains—
(a) The name of the child, the child's parent, or other family member;
(b) The address of the child;
(c) A personal identifier, such as the child's social security number or student number; or
(d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

(Authority: 20 U.S.C. 1415(a))

"Personally identifiable information" includes, but is not limited to: the child's name; the name of the child's parent or other family member; the address of the child or child's family; a personal identifier, such as the child's social security number or student number; a list of personal characteristics or other information that would make the child's identity easily traceable.

"Directory information," as defined by Oklahoma State law (63 O.S. § 51-24A.16), includes a child's name, address, telephone listing, date and place of birth, major field of study, participation in recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational institution attended by the child. Any LEA making public directory information must provide public notice of the categories of information which it has designated as "directory information" with respect to each child attending the LEA. The LEA must allow a reasonable period after such notice has been provided for a parent to inform the LEA that any or all of the information designated should not be released without the parent's or eligible young adult's prior consent.

34 CFR § 300.610 Confidentiality.
The Secretary takes appropriate action, in accordance with section 444 of GEPA, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by SEAs and LEAs pursuant to Part B of the Act, and consistent with §§ 300.611 through 300.627.

58974-OKEd-SpecialEd text.indd 40 2/10/11 11:26 AM

(Authority: 20 U.S.C. 1417(c))

34 CFR § 300.611 Definitions.
As used in §§ 300.611 through 300.625—(a) Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.
(b) Education records means the type of records covered under the definition of ``education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).
(c) Participating agency means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained under Part B of the Act.

(Authority: 20 U.S.C. 1221e-3, 1412(a)(8), 1417(c))

The following definitions must be used regarding confidentiality:

"Destruction of records" means to alter the records in such a way that all information that is considered confidential is removed and destroyed. The remaining record would contain only directory information (i.e., child's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed).

"Education records" are defined as records that are directly related to a child and maintained by the LEA. Education records may include cumulative records, special education records, and health records.

Cumulative records include:

- Transcripts; and
- Group administered achievement and aptitude test scores.

Special education records include:

- Special education evaluation reports, recommendations, and observation of professionals who have individually screened or evaluated a child for identification of a disability or placement in a program;
- Special reports and information from outside agencies or specialists (e.g., private schools, social services agencies, rehabilitation agencies, transition service providers, hospitals, physicians);
- Special education documentation forms (e.g., Child Outcome Summary Form (COSF), Medical Report);
- Documentation of all actions, protests, challenges, meetings, and recommendations by the parents and LEAs for any special education purpose (e.g., taped individualized education programs [IEP] meetings, complaints, due process hearings);
- Videotapes and audiotapes of an individual child in relation to special education services; and
- Disciplinary records including seclusion and physical restraint documentation (in accordance with 70 O.S. § 24-101.4 and 34 CFR § 300.535).

58974-OKEd-SpecialEd text.indd 41 2/10/11 11:26 AM

Health records include:

- Immunizations;
- Medication; and
- Allergies.

Certain medical reports and information, utilized in evaluation procedures and maintained by the district, require additional confidentiality protections. As indicated by Oklahoma State law (63 O.S. § 1-502.2), all information and records that identify any person who has or may have any communicable or venereal disease (e.g., Acquired Immune Deficiency Syndrome [AIDS]) that is required to be reported and that are held or maintained by any State agency or health-care provider or facility, physician, health professional, laboratory, clinic, blood bank, funeral director, third party payer, or any other agency, person, or organization in the State must be confidential. Disclosure of such information must be limited strictly in accordance with provisions of this State statute. Any such information received by the LEA or public agency must also be protected under the confidentiality procedures outlined in this manual.

The term "education records" does not include: records of personnel that are kept in the sole possession of the maker of the record and are not accessible or revealed to others; law enforcement records not disclosed to educational agencies or personnel; student employee records; treatment records on students 18 years of age or older, or attending a postsecondary education institution, that are made or maintained by physicians, psychiatrists, psychologists, or similar professionals only for this purpose; and records that only contain information about an individual after the person is no longer a student at the LEA.

"Eligible student" is any child who has reached the age of eighteen or is attending an institution of postsecondary education and is not otherwise prevented to review and inspect education records by federal regulations, State statutes, or court orders.

"Disclosure" means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records to any party, by any means, including oral, written, or electronic means.

"Participating agencies" mean any schools, institutions (public and private), or agencies who produce, collect, maintain, or have access to any personally identifiable information of children.

> ***34 CFR § 300.625 Children's rights.***
> *(a) The SEA must have in effect policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.*
> *(b) Under the regulations for FERPA in 34 CFR 99.5(a), the rights of parents regarding education records are transferred to the student at age 18.*
> *(c) If the rights accorded to parents under Part B of the Act are transferred to a student who reaches the age of majority, consistent with § 300.520, the rights regarding educational records in §§ 300.613 through 300.624 must also be transferred to the student. However, the public agency must provide any notice required under section 615 of the Act to the student and the parents.*
>
> *(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

58974-OKEd-SpecialEd text.indd 42 2/10/11 11:26 AM

At the age of eighteen, the rights guaranteed to parents concerning confidentiality of education records are transferred to the young adult. Each public agency must provide notice to the student and the parent that rights are transferred at the age of majority. Thus, a young adult of this age would become the "eligible student," granted the rights to review and inspect records, except where otherwise indicated by federal regulation, State laws, or court order.

> ***34 CFR § 300.612 Notice to parents.***
> *(a) The SEA must give notice that is adequate to fully inform parents about the requirements of § 300.123, including—*
> *(1) A description of the extent that the notice is given in the native languages of the various population groups in the State;*
> *(2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;*
> *(3) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and*
> *(4) A description of all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in 34 CFR part 99.*
> *(b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity.*
>
> *(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

Notice to parents must be in accordance with 34 CFR §§ 300.612 and 300.123. The requirements of the notice to parents under this regulation will be published at least annually prior to any major identification, location, or evaluation activities (i.e., child find) conducted by LEAs. This notice will be provided as needed in the native languages of the various population groups of the State. Accommodations for other language or means of communication will be provided by the LEA upon request for parents or eligible young adults who have disabilities or have a primary or home language other than English. LEAs must continue to provide at least annual notice in local communities regarding the rights of parents under the Family Educational Rights and Privacy Act (FERPA) prior to the LEA conducting these activities. This may be accomplished by utilizing announcements in newspapers or other media but must be adequate to reach parents in the general vicinity of the LEA.

In addition, LEAs must continue to be responsible for the annual notice of rights under the FERPA to all parents and eligible young adults currently in attendance. This may be accomplished by utilizing newspapers, student handbooks, enrollment packets, or other means that are reasonably likely to inform parents or eligible young adults of their rights.

Annual notification of the FERPA rights must inform parents or eligible young adults of the following rights to:

58974-OKEd-SpecialEd text.indd 43 2/10/11 11:26 AM

- Inspect and review the child's education records;
- Seek amendment of the child's education records that the parents or eligible children believe to be inaccurate, misleading, or otherwise in violation of the child's privacy rights;
- Consent to disclosures of personally identifiable information contained in the child's education records, except to the extent that the FERPA and 34 CFR § 99.31 authorized disclosure without consent; and
- File with the Family Policy Compliance Office, United States Department of Education (USDE), a complaint under 34 CFR §§ 99.63 concerning alleged failures by the LEA to comply with the requirements of the FERPA.

The notice must include all of the following:

- The procedure for exercising the right to inspect and review education records;
- The procedure for requesting the amendment of records under 34 CFR § 99.20; and
- The LEA's policy of disclosing education records under 34 CFR § 99.31(a)(1) and specific criteria for school officials, including teachers whom the LEA determines to have legitimate educational interests.

The LEA's policies and procedures must be in conformity with federal requirements for confidentiality of personally identifiable information (IDEA, 34 CFR §§ 300.123 and 300.611 through 300.625), including all of the rights of parents and eligible young adults regarding their education records and rights under the FERPA, 34 CFR Part 99.

> ***34 CFR § 300.613 Access rights.***
> *(a) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to § 300.507 or §§ 300.530 through 300.532, or resolution session pursuant to § 300.510, and in no case more than 45 days after the request has been made.*
> *(b) The right to inspect and review education records under this section includes—*
> *(1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;*
> *(2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and*
> *(3) The right to have a representative of the parent inspect and review the records.*
> *(c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.*
>
> *(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

Parents and eligible young adults have the following specific rights concerning education records that are ensured by the FERPA.

- Parents and eligible young adults must be permitted to access, inspect, and review the education records of the individual child, except as limited under the FERPA (34 CFR § 99.12).

58974-OKEd-SpecialEd text.indd 44 2/10/11 11:26 AM

- When the parent or eligible young adult requests to access records, the request must be granted without unnecessary delay (in no case later than 45 days after the request is made). Access must be ensured prior to any meeting or hearing for the purpose of developing or reviewing the IEP, identification, evaluation, or placement of the young adult.
- Parents and eligible young adults have the right to make reasonable requests for and receive an explanation and interpretation of the content of records maintained by the LEA.
- Parents and eligible young adults have the right to request and receive a copy of the individual student's records if failure to receive the copies would effectively prevent the parent or eligible young adult from reviewing and inspecting the records.
- Education records may not be destroyed if there is an outstanding request to inspect and review these records.
- Eligible young adults who do not have access to treatment records under the FERPA may have those records reviewed by a physician, psychologist, or other appropriate professional of the young adult's choice.
- Parents have the right to have a representative inspect and review the young adult's education records.

Unless otherwise notified of an exception, the LEA may presume that the parents have the right to inspect and review education records relating to their children that are collected, maintained, or used by the LEA under the IDEA. If the LEA has been notified with evidence that this right is revoked, the records must not be released to the parent. Documents such as court order, State statutes, or legally binding documents relating to such matters as divorce, separation, or custody that specifically revoke the right to inspect and review records should be accepted as legitimate evidence.

The IDEA and the FERPA provide that an LEA must respond to reasonable requests by parents for explanations and interpretations of education records and the opportunity to inspect and review such records. Parents have the right to request that the LEA provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records. Federal copyright law protects against the distribution of copies of a copyrighted document. Because the IDEA and the FERPA generally do not require the distribution of copies of an education record, but rather parental access to inspect and review, federal copyright law generally should not be implicated under these regulations.

The IDEA requires that parents receive, regardless of whether parents do or do not request, a copy of each of the following documents at no cost to the parents: IEPs, evaluation reports, and eligibility determinations.

The right to access education records of children with a suspected or established disability under the IDEA and the FERPA must not be withheld from parents or eligible young adults because of debts owed to the LEA.

58974-OKEd-SpecialEd text.indd 45 2/10/11 11:26 AM

34 CFR § 300.614 Record of access.
Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the Act (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

The requirement as to who is authorized or unauthorized to access confidential and personally identifiable records is addressed by the FERPA and the implementing regulation at 34 CFR § 99.31.

Unauthorized persons must have parental permission to access confidential records. Documentation of unauthorized persons who access records on what date and for what purpose must be maintained in the confidential record. The Record of Access to Educational Records (OSDE Form 1) may be used for this purpose.

34 CFR § 300.615 Records on more than one child.
If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

If an education record contains information on more than one child, the parents must have access only to information concerning their children or be informed of that specific information. A confidential folder maintained for a child receiving special education and related services should contain only information on that individual child.

34 CFR § 300.616 List of types and locations of information.
Each participating agency must provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

Each LEA must maintain a list of the types and locations of education records collected and maintained by the LEA. This information must be given to parents at their request.

34 CFR § 300.617 Fees.
(a) Each participating agency may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.
(b) A participating agency may not charge a fee to search for or to retrieve information under this part.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

The initial provision of copies of the IEP, evaluations, and eligibility determinations should be at no cost to parents for the first copies in accordance with 34 CFR § 300.322. Parents and eligible young adults have the right to request and receive a copy of the individual young adult's records if failure to receive the copies would effectively prevent

58974-OKEd-SpecialEd text.indd 46 2/10/11 11:26 AM

the parent or eligible young adults from reviewing and inspecting the records. LEAs may charge a reasonable fee for copies made for parents if this fee does not prevent the parent from exercising their right to inspect and review the records. The fee for copies must not exceed twenty-five cents per page. Although a fee for copies may be permissible, fees for search and retrieval may not be assessed.

> ***34 CFR § 300.618 Amendment of records at parent's request.***
> *(a) A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information.*
> *(b) The agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.*
> *(c) If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under § 300.619.*
>
> *(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

Parents and eligible young adults may request an amendment to the education records maintained by the LEA if they believe that the information or education records collected, maintained, or used are inaccurate, misleading, or violate the privacy or other rights of the young adult. The LEA must make a decision concerning the request within a reasonable amount of time but in no case later than 45 days after the request is made. If the LEA refuses to amend the information, it must inform the parent or eligible young adult of the refusal and advise the parent of the right to a FERPA hearing.

If a parent revokes consent for special education and related services the public agency is not required to amend the child's educational records to remove any reference to the child's receipt of special education services and related services as a result of the parent's revocation of consent.

> ***34 CFR § 300.619 Opportunity for a hearing.***
> *The agency must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.*
>
> *(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

On request by a parent or eligible young adult, the LEA must provide an opportunity for a FERPA hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

> ***34 CFR § 300.620 Result of hearing.***
> *(a) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it must amend the information accordingly and so inform the parent in writing.*
> *(b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parent of the parent's right to place in the records the agency maintains on*

58974-OKEd-SpecialEd text.indd 47 2/10/11 11:26 AM

the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.
(c) Any explanation placed in the records of the child under this section must—
(1) Be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and
(2) If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

If, as a result of a FERPA hearing, the LEA decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must amend the information accordingly and so inform the parents in writing. If, as a result of the hearing, the LEA decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parents of the right to place, in the records maintained on the child, a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the LEA. Any explanation placed in the record of the child must be maintained by the LEA as part of the records of the child as long as the record or contested portion is maintained by the LEA. If the records of the child or the contested portion are disclosed by the LEA to any party, the explanation must also be disclosed to that party.

34 CFR § 300.621 Hearing procedures.
A hearing held under § 300.619 must be conducted according to the procedures in 34 CFR 99.22.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

This hearing must be conducted in accordance with the FERPA (34 CFR § 99.22).

34 CFR § 300.622 Consent.
(a) Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with paragraph (b)(1) of this section, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 CFR part 99. (b)(1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this part.
(2) Parental consent, or the consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with § 300.321(b)(3).
(3) If a child is enrolled, or is going to enroll in a private school that is not located in the LEA of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the LEA where the private school is located and officials in the LEA of the parent's residence.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

58974-OKEd-SpecialEd text.indd 48 2/10/11 11:26 AM

The LEA may disclose personally identifiable information from a child's education record to other school officials, including teachers, within the LEA; to officials of another school system or postsecondary education institution where the child seeks or intends to enroll; to State and local educational authorities; to accrediting and monitoring personnel; and to the Comptroller General of the United States or the Secretary of the USDE and others, as further defined by the FERPA (34 CFR § 99.30). The Authority to Transfer Education Records form may be used for this purpose.

Parental consent, or the consent of an eligible young adult who has reached the age of majority under Oklahoma State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

If a child is enrolled, or is going to enroll in a private school that is not located in the LEA of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the LEA where the private school is located and officials in the LEA of the parents' residence.

The LEA may disclose personally identifiable information from a child's record to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the child or other individuals. Such disclosure must be strictly construed in accordance with the FERPA (34 CFR § 99.36). When reporting a crime committed by a child with a disability to the appropriate authorities, the LEA must transmit copies of the child's special education and disciplinary records to the authorities to whom the LEA reports the crime. Such disclosure must be in accordance with the FERPA (34 CFR § 99.38).

Any other disclosure, unless specified by the FERPA or the IDEA, will require written consent from the parent(s) or eligible young adult according to the FERPA regulations (34 CFR § 99.30). The Consent for the Release of Confidential Information form may be utilized to meet this requirement.

In circumstances in which such consent is not granted and the LEA determines that the information may be necessary to provide a FAPE to a child with a disability, due process complaint hearing provisions under the IDEA are available.

A judicial order or lawfully issued subpoena to disclose information would override a parents' refusal to provide consent under this section. However, the LEA must make a reasonable effort to notify the parent(s) or eligible young adult in advance of compliance with an order or subpoena for disclosure of information (34 CFR § 99.31).

According to Oklahoma State law (63 O.S. § 70-6-115), it is a misdemeanor for any teacher to reveal any information concerning a child obtained by that teacher in the capacity as teacher except as may be required in the performance of contractual duties and in accordance with State and federal laws. This information may be furnished to the parent or guardian of the child upon request.

58974-OKEd-SpecialEd text.indd 49 2/10/11 11:26 AM

34 CFR § 300.623 Safeguards.
(a) Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
(b) One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.
(c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under § 300.123 and 34 CFR part 99.
(d) Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

The LEA must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. All confidential special education records for children with disabilities should be maintained in a separate confidential folder, not in the child's school cumulative folder. These records must be maintained in a secure manner, which prevents unauthorized access.

One person from each LEA must be designated to assume responsibility for ensuring the confidentiality of any personally identifiable information. All authorized district personnel with legitimate educational interest must be trained or receive instruction by the LEA in policies and procedures regarding confidentiality. The training or instruction must address protection of confidentiality of any personally identifiable information collected, used, or maintained under the IDEA Part B and the FERPA.

Each LEA must maintain, for public inspection, a current listing of the names and positions of those persons in the district who may have access to personally identifiable information.

34 CFR § 300.624 Destruction of information.
(a) The public agency must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.
(b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

Special education records, including personally identifiable information generated under the IDEA will be maintained to document compliance (34 CFR §§ 76.730 and 76.731). These records may be destroyed after the determination that these records are no longer needed for educational purposes, and if there is no outstanding request by a parent or eligible student to review records (34 CFR § 99.10). If the records meet these requirements and the parent requests that these records be destroyed, the records must be destroyed by the LEA. Destruction of records includes physical destruction or removal of personal identifiers as described at 34 CFR § 300.611. Oklahoma State law requires that records generated by the LEA must be maintained for at least five years.

58974-OKEd-SpecialEd text.indd 50 2/10/11 11:26 AM

The Oklahoma Health Care Authority (OHCA) regulations state that records for Medicaid documentation purposes will be maintained for six years by participating LEAs and public agencies. Such records shall be subject to audit reviews.

The parents must be notified when the personally identifiable information the LEA maintains about the child is determined to no longer be needed. The notice would normally be given after a child graduates or otherwise leaves the LEA. The parent(s) or eligible young adult may want to exercise their right to access the records and may request copies of records as information for other purposes, such as post-school benefits. The parent(s) should be notified in writing at their last known address of the decision that information is no longer needed. A permanent record of the child's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed must be maintained without time limitation.

> ***34 CFR § 300.626 Enforcement.***
> *The SEA must have in effect the policies and procedures, including sanctions that the State uses, to ensure that its policies and procedures consistent with §§ 300.611 through 300.625 are followed and that the requirements of the Act and the regulations in this part are met.*
>
> *(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

LEAs must comply with the provisions of State and federal laws regarding confidentiality of records generated under the IDEA. Assurance statements signed by officials of LEAs will be required as recipients of federal IDEA funds. LEAs and public agencies are subject to compliance reviews and sanctions regarding the requirements for these provisions under the FERPA.

> ***34 CFR § 300.535 Referral to and action by law enforcement and judicial authorities.***
> *(a) Rule of construction. Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.*
> *(b) Transmittal of records.*
> *(1) An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.*
> *(2) An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.*
>
> *(Authority: 20 U.S.C. 1415(k)(6))*

The LEA's policy on transmitting disciplinary information must apply to both nondisabled and disabled students. The LEA must transmit any record of behavior that required disciplinary action (e.g., suspension) and whether the behavior was determined to be a manifestation of a student's disability. Transfer of student records, including the current IEP and discipline records, must be made in a timely manner under Oklahoma State law (70 O.S. § 24-101.4).

58974-OKEd-SpecialEd text.indd 51 2/10/11 11:26 AM

When reporting a crime committed by a child with a disability to the appropriate authorities, the LEA must transmit copies of the child's special education and disciplinary records to the authorities to whom the LEA reports the crime. Such disclosure must be in accordance with the FERPA (34 CFR § 99.38).

> ***34 CFR § 300.627 Department use of personally identifiable information.***
> *If the Department or its authorized representatives collect any personally identifiable information regarding children with disabilities that is not subject to the Privacy Act of 1974, 5 U.S.C. 552a, the Secretary applies the requirements of 5 U.S.C. 552a(b)(1) and (b)(2), 552a(b)(4) through (b)(11); 552a(c) through 552a(e)(3)(B); 552a(e)(3)(D); 552a(e)(5) through (e)(10); 552a(h); 552a(m); and 552a(n); and the regulations implementing those provisions in 34 CFR part 5b.*
>
> *(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

The USDE or its authorized representatives may collect personally identifiable records and information regarding children with disabilities in accordance with this regulation under the IDEA and as otherwise permitted or limited under federal law.

58974-OKEd-SpecialEd text.indd 52 2/10/11 11:26 AM

PARENTAL INVOLVEMENT AND PARTICIPATION

34 CFR § 300.30 Parent.
(a) Parent means—
(1) A biological or adoptive parent of a child;
(2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
(3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
(4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
(5) A surrogate parent who has been appointed in accordance with § 300.519 or section 639(a)(5) of the Act.
(b) (1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.
(2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the ``parent'' of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the ``parent'' for purposes of this section.

(Authority: 20 U.S.C. 1401(23))

A biological or adoptive parent, a foster parent, guardian, person acting as a parent of a child (e.g., relatives or step-parents with whom a child lives, or a person who is legally responsible for the child's welfare), or a surrogate parent must have certain rights and be involved in the designing of the educational program for a child with disabilities. The term "person acting in the place of a parent" does not include the State or employees of agencies responsible for the care or education of a child (e.g., social workers or directors of agencies). Parent(s) will be involved throughout the referral, evaluation, program planning, implementation, review, and reevaluation stages.

Consent

34 CFR § 300.9 Consent.
Consent means that –
(a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
(b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
(c)(1) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime.
(2) If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).
(3) If the parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the child's education records to remove any references to the

58974-OKEd-SpecialEd text.indd 53 2/10/11 11:26 AM

child's receipt of special education and related services because of the revocation of consent.

(Authority: 20 U.S.C. 1414(a)(1)(D))

Consent means that the parent(s):

- Has been fully informed of all information relevant to the activity for which consent is sought, in the parents' native language, or other mode of communication;
- Understands and agrees in writing to the implementation of the activity for which consent is sought, and the consent describes that activity and lists the records (if any) which will be released and to whom; and
- Understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time, but the revocation of consent would not negate an action which occurred before the consent was revoked.

Because a parent revokes consent for continued services, to amend a child's education records to remove references to the child's receipt of special education and related services does not affect the rights provided to a parent in the confidentiality provisions including the opportunity to request amendments to information in education records that is inaccurate or misleading, or violates the privacy or other rights of a child.

34 CFR § 300.300 Parental consent.
(a) Parental consent for initial evaluation. (1)(i) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under § 300.8 must, after providing notice consistent with §§ 300.503 and 300.504, obtain informed consent, consistent with § 300.9, from the parent of the child before conducting the evaluation.
(ii) Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services.
(iii) The public agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.
(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 agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether
the child is a child with a disability if—
(i) Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child;
(ii) The rights of the parents of the child have been terminated in accordance with State law; or
(iii) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.
(3) 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 agency—
(i) May not use the procedures in subpart E of this part (including the mediation procedures under § 300.506 or the due process procedures under §§ 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child;
(ii) 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 the special education and related services for which the parent refuses to or fails to provide consent; and
(iii) Is not required to convene an IEP Team meeting or develop an IEP under §§ 300.320

58974-OKEd-SpecialEd text.indd 54 2/10/11 11:26 AM

and 300.324 for the child.
(4) If, at any time subsequent to 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 agency—
(i) May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with § 300.503 before ceasing the provision of special education and related services;
(ii) May not use the procedures in subpart E of this part (including the mediation procedures under § 300.506 or the due process procedures under §§ 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child;
(iii) 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
(iv) Is not required to convene an IEP Team meeting or develop an IEP under §§ 300.320 and 300.324 for the child for further provision of special education and related services.

(Authority: 20 U.S.C. 1414(a)(1)(D) and 1414(c))

Federal regulations require that parental consent must be obtained before:

- Conducting an initial evaluation or reevaluation; and
- Initial provision of special education and related services to a child with a disability.

Except for initial evaluation and initial placement, the federal regulations provide that consent may not be required as a condition of any benefit to the parent or child. Any changes in a child's special education program, after the initial placement, are not subject to parental consent under the Individuals with Disabilities Education Act (IDEA) Part B but are subject to prior notice, individualized education program (IEP) accountability, and procedural safeguards. Parental consent is not required to review existing data as part of an evaluation, reevaluation, or administering tests or screening procedures applied to all children.

In the event that a parent fails to respond to a request for reevaluation, the local educational agency (LEA) may proceed with the reevaluation, if the LEA can demonstrate that it has taken reasonable measures to obtain parent consent. The LEA must maintain records of the attempts to obtain parent consent. Such record may include documentation of telephone calls made or attempted and the results, copies of correspondence sent to the parents and any responses received, and/or detailed records of visits made to the parent's home or place of employment and the results of those visits.

When a parent fails to respond to a consent request for reevaluation, the LEA must provide written notice to the parent regarding the action to be taken. The LEA must provide this notice through the use of Written Notice to Parents (OSDE Form 8).

If State law grants a child who has reached the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law) all rights previously granted to parents, then the parents' rights are transferred to the child as provided in §300.520(a), enabling that child to revoke consent for special education and related services under §300.300(b)(4). The public agency must provide any notice

58974-OKEd-SpecialEd text.indd 55 2/10/11 11:26 AM

required under Part B of the Act to the appropriate persons. Parents of young adults who have reached the age of majority that are still living at home, supported by parents, and counted on the parents' income tax, have the right to receive copies of any notices given to the young adult, to attend IEP meetings, and to access their young adults' records. However, if a young adult who has reached the age of majority requests in writing that his or her parents do not have access to records, the LEA must comply with that request.

IDEA does not give parents a right to revoke consent for a particular service. If a parent chooses to revoke consent, the revocation is in its entirety.

If a parent who revoked consent for special education and related services later requests that his or her child be reenrolled in special education, an LEA must treat this request as a request for an initial evaluation under §300.301 (rather than a reevaluation under §300.303).

Parent Refusal

Procedures where parent refuses consent:

- The public agency may use the due process complaint hearing or mediation procedures under the IDEA to determine if the child may be evaluated or reevaluated without parental consent, except to the extent inconsistent with State and federal law relating to such parental consent.
- The IDEA does not permit LEAs to initiate a due process complaint hearing to determine if the child may be initially provided special education and related services without parental consent. However, an LEA may offer mediation and informal means of resolving these issues.
- A decision made by the hearing officer is final, except that any party involved in the hearing may appeal the decision under the provisions of 34 CFR §§ 300.514 and 300.516.

Parent Revocation of Consent

The regulations require a parent to submit in writing their request to revoke consent for services. This regulation also allows students who reach the age of majority to revoke consent for their services as well. If a parent chooses to revoke consent, the revocation is in its entirety. IDEA does not give the parents the ability to revoke consent for a particular service. Each district will need to develop a policy consistent with federal regulations 34 CFR §300.09 and 34 CFR § 300.300. This policy shall not delay the cessation of services.

The parent's right to terminate their child's IEP services is not subject to challenge in a due process hearing or mediation. If a parent revokes consent the LEA is not in violation of the requirement to provide a free appropriate public education (FAPE) for the child because of the failure to provide special education services.

If a parent revokes consent, the school must respond to the parent's request with a Written Notice to Parents (OSDE, Form 8) before ceasing services. The LEA must

58974-OKEd-SpecialEd text.indd 56 2/10/11 11:26 AM

cease services in a timely manner. The notice must include information on sources for parents in understanding the requirements of Part B of IDEA. Additionally, the notice must have language that is understandable to the general public regarding the change in educational placement and services that result from the parent's revocation of consent. Parents should be informed that their child will be treated as a nondisabled student for disciplinary purposes.

The parent may request, at any time after revocation, for the child to be reenrolled in special education. The student should be treated as any student in the child-find process. The request shall be treated as an initial evaluation.

Prior Notice

34 CFR § 300.503 Prior notice by the public agency; content of notice.
(a) Notice. Written notice that meets the requirements of paragraph
(b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency—
(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.
(b) Content of notice. The notice required under paragraph (a) of this section must include—
(1) A description of the action proposed or refused by the agency;
(2) An explanation of why the agency proposes or refuses to take the action;
(3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
(4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
(5) Sources for parents to contact to obtain assistance in understanding the provisions of this part;
(6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and
(7) A description of other factors that are relevant to the agency's proposal or refusal.
(c) Notice in understandable language. (1) The notice required under paragraph (a) of this section must be—
(i) Written in language understandable to the general public; and
(ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
(2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure—
(i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
(ii) That the parent understands the content of the notice; and
(iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met.

(Authority: 20 U.S.C. 1415(b)(3) and (4), 1415(c)(1), 1414(b)(1))

Parent(s) must be given written notice in a reasonable amount of time before the public agency:

58974-OKEd-SpecialEd text.indd 57 2/10/11 11:26 AM

- Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education (FAPE) to the child; or
- Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a FAPE to the child; and
- Initiates the reevaluation process.

In addition to the written information provided to parent(s) through the IEP (Oklahoma State Department of Education [OSDE] Form 7) and the evaluation and eligibility process (OSDE Form 5), written notice is to be provided.

Content of Written Notice to Parents
The content of written notice must include:

- A description of the action proposed or refused by the LEA, an explanation of why the LEA proposes or refuses to take the action, and a description of any options the LEA considered and the reasons why those options were rejected;
- A description of each evaluation procedure, assessment, record, or report the LEA uses as a basis for the proposal or refusal;
- A description of any other factors which are relevant to the LEA's proposal or refusal;
- A statement that the parent(s) of a child with a disability have protection under the procedural safeguards of this part; and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
- Information regarding sources for parent(s) to contact to obtain assistance in understanding the provisions of prior notice by the LEA.

The notice must be written in a language understandable by the general public and provided in the native language of the parent(s) or other mode of communication used by the parent(s), unless it is clearly not feasible to do so.

If the native language or other mode of communication is not a written language, the LEA must take steps to ensure that the notice is translated orally or by other means to the parent(s). The LEA must take steps to ensure that the parent(s) understands the content of the notice. There must be written evidence that these requirements have been met.

> ***34 CFR § 300.504 Procedural safeguards notice.***
> *(a) General. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents—*
> *(1) Upon initial referral or parent request for evaluation;*
> *(2) Upon receipt of the first State complaint under §§ 300.151 through 300.153 and upon receipt of the first due process complaint under § 300.507 in a school year;*
> *(3) In accordance with the discipline procedures in § 300.530(h); and*
> *(4) Upon request by a parent.*
> *(b) Internet Web site. A public agency may place a current copy of the procedural safeguards notice on its Internet Web site if a Web site exists.*
> *(c) Contents. The procedural safeguards notice must include a full explanation of all of the*

58974-OKEd-SpecialEd text.indd 58 2/10/11 11:26 AM

procedural safeguards available under § 300.148, §§ 300.151 through 300.153, § 300.300, §§ 300.502 through 300.503, §§ 300.505 through 300.518, § 300.520, §§ 300.530 through 300.536 and §§ 300.610 through 300.625 relating to—
(1) Independent educational evaluations;
(2) Prior written notice;
(3) Parental consent;
(4) Access to education records;
(5) Opportunity to present and resolve complaints through the due process complaint and State complaint procedures, including—
(i) The time period in which to file a complaint;
(ii) The opportunity for the agency to resolve the complaint; and
(iii) The difference between the due process complaint and the State complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;
(6) The availability of mediation;
(7) The child's placement during the pendency of any due process complaint;
(8) Procedures for students who are subject to placement in an interim alternative educational setting;
(9) Requirements for unilateral placement by parents of children in private schools at public expense;
(10) Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
(11) State-level appeals (if applicable in the State);
(12) Civil actions, including the time period in which to file those actions; and
(13) Attorneys' fees.
(d) Notice in understandable language. The notice required under paragraph (a) of this section must meet the requirements of § 300.503(c).

(Authority: 20 U.S.C. 1415(d))

A copy of the procedural safeguards notice, *Parents' Rights in Special Education: Notice of Procedural Safeguards,* is located in the appendix of this manual. This notice must be provided to parent(s) only one time per school year, except that a copy must be given to the parent(s) – (1) upon initial referral or parent(s) request for evaluation; (2) upon reevaluation of their child; (3) upon receipt of the first State complaint or a request for due process complaint hearing in a school year; (4) in accordance with the discipline procedures in 34 CFR § 300.530(h); and (5) upon request by parent(s).

An LEA may place a current copy of the procedural safeguards notice on its Internet Web site if a Web site exists.

Parent Participation

34 CFR § 300.322 Parent participation.
(a) Public agency responsibility—general. Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including –
(1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
(2) Scheduling the meeting at a mutually agreed on time and place.
(b) Information provided to parents. (1) The notice required under

58974-OKEd-SpecialEd text.indd 59 2/10/11 11:26 AM

paragraph (a)(1) of this section must –
(i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and
(ii) Inform the parents of the provisions in § 300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), and § 300.321(f) (relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the Act).
(2) For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, the notice also must—
(i) Indicate –
(A) That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with § 300.320(b); and
(B) That the agency will invite the student; and
(ii) Identify any other agency that will be invited to send a representative.
(c) Other methods to ensure parent participation. If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with § 300.328 (related to alternative means of meeting participation).
(d) Conducting an IEP Team meeting without a parent in attendance. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as –
(1) Detailed records of telephone calls made or attempted and the results of those calls;
(2) Copies of correspondence sent to the parents and any responses received; and
(3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.
(e) Use of interpreters or other action, as appropriate. The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.
(f) Parent copy of child's IEP. The public agency must give the parent a copy of the child's IEP at no cost to the parent.

(Authority: 20 U.S.C. 1414(d)(1)(B)(i))

The LEA must take steps to ensure that parent(s) are present at IEP meetings or afford parent(s) the opportunity to participate in the development of the IEP and its annual review in accordance with the regulations for parent participation. LEAs must notify parent(s) of the meeting early enough to ensure that they will have an opportunity to attend. The meeting must be scheduled at a mutually agreed upon time and place. The Notification of Meeting, (OSDE Form 6), must indicate the purpose, time, location, and who will be in attendance. If neither parent can attend, the LEA must use other methods to ensure parent participation, including individual or conference telephone calls, or videoconferencing.

A meeting may be conducted without the involvement of a parent, if the LEA is unable to convince the parents that they should attend. In this case the LEA must have a *record* of

58974-OKEd-SpecialEd text.indd 60 2/10/11 11:26 AM

its attempts to ensure their involvement. This must include at least two of the following methods of contact:

- Detailed records of telephone calls made or attempted and the results of these calls;
- Copies of correspondence sent to the parent(s) and any responses received; or
- Detailed records of visits made to the parents' home or place of employment and the results of those visits.

The LEA must take whatever action is necessary to ensure that the parent(s) understands the proceedings at a meeting, including arranging for an interpreter for parent(s) with deafness or whose native language is not English. The LEA must give the parent(s) a copy of the IEP at no cost to the parent(s).

> ***34 CFR § 300.501 Opportunity to examine records; parent participation in meetings.***
> *(a) Opportunity to examine records. The parents of a child with a disability must be afforded, in accordance with the procedures of §§ 300.613 through 300.621, an opportunity to inspect and review all education records with respect to –*
> *(1) The identification, evaluation, and educational placement of the child; and*
> *(2) The provision of FAPE to the child.*
> *(b) Parent participation in meetings. (1) The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to –*
> *(i) The identification, evaluation, and educational placement of the child; and*
> *(ii) The provision of FAPE to the child.*
> *(2) Each public agency must provide notice consistent with § 300.322(a)(1) and (b)(1) to ensure that parents of children with disabilities have the opportunity to participate in meetings described in paragraph (b)(1) of this section.*
> *(3) A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.*
> *(c) Parent involvement in placement decisions. (1) Each public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child.*
> *(2) In implementing the requirements of paragraph (c)(1) of this section, the public agency must use procedures consistent with the procedures described in § 300.322(a) through (b)(1).*
> *(3) If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls, or videoconferencing.*
> *(4) A placement decision may be made by a group without the involvement of a parent, if the public agency is unable to obtain the parent's participation in the decision. In this case, the public agency must have a record of its attempt to ensure their involvement.*
>
> *(Authority: 20 U.S.C. 1414(e), 1415(b)(1))*

The parent(s) of a child with a disability must have an opportunity to inspect and review all education records with respect to identification, evaluation, and educational placement of their child, as well as the provision of a FAPE to their child.

58974-OKEd-SpecialEd text.indd 61 2/10/11 11:26 AM

LEAs will provide parent(s) the opportunity to participate in meetings by notifying the parent(s) of meetings early enough to ensure they will have the opportunity to attend. The Notification of Meeting (OSDE Form 6) must indicate the purpose, time, and location of the meeting and who will be in attendance. The LEA must inform the parent(s) of the opportunity to include other individuals who have knowledge or special expertise about the child as participants on the IEP team (34 CFR § 300.321(a)(6)).

The parent(s) of a child with a disability must be included in any group that makes decisions on the educational placement of their child. If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the LEA must use other methods to ensure their participation. This may include individual or conference telephone calls, or videoconferencing. If the LEA is unable to obtain the parents' participation in the decision, a placement decision can be made by a group without the involvement of the parent(s). When the LEA is unable to obtain the parents' participation, it must have record of its attempt to ensure the parents' participation. The LEA's record must include: (1) detailed records of telephone calls made or attempted and the results of those calls; (2) copies of correspondence sent to the parents and any responses received; and (3) detailed records of visits made to the parents' home or place of employment and the results of those visits.

The following situations do not constitute a meeting that requires parent participation: informal or unscheduled conversations involving LEA personnel and conversations on issues such as (1) teaching methodology, (2) lesson plans, or (3) coordination of service provision if those issues are not addressed in the child's IEP. Preparatory activities that LEA personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting also does not constitute a meeting which requires parent participation.

Parent(s) must be given the opportunity to participate in meetings regarding identification, evaluation, and educational placement of their child, and the provision of a FAPE to their child. Parent(s) must also have the opportunity to be part of groups that determine what additional data are needed as part of an evaluation of their child. Reasonable effort must be made by the LEA to ensure that the parent(s) understand, and are able to participate in, any group discussions relating to the educational placement of their child, including arranging for an interpreter for parents with deafness, or whose native language is other than English.

> ***34 CFR § 300.328 Alternative means of meeting participation.***
> *When conducting IEP Team meetings and placement meetings pursuant to this subpart, and subpart E of this part, and carrying out administrative matters under section 615 of the Act (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and a public agency may agree to use alternative means of meeting participation, such as videoconferences and conference calls.*
>
> *(Authority: 20 U.S.C. 1414(f))*

The LEA must take steps to ensure parents participate in meetings concerning their child, including the IEP Team and placement meetings. Pursuant to 34 CFR §§ 300.322 and 300.501, the LEA must attempt, with the agreement of the parent(s), to use other

58974-OKEd-SpecialEd text.indd 62 2/10/11 11:26 AM

methods to ensure parent participation in the IEP and placement meetings. This may include individual or group video and/or telephone conference calls.

> ***34 CFR § 300.505 Electronic mail.***
> *A parent of a child with a disability may elect to receive notices required by §§ 300.503, 300.504, and 300.508 by an electronic mail communication, if the public agency makes that option available.*
>
> *(Authority: 20 U.S.C. 1415(n))*

To ensure that parent(s) of a child with a disability receive required proper notice, the parent(s) may give permission to receive Notification of Meeting (OSDE Form 6), Written Notice to Parents (OSDE Form 8), *Parents Rights in Special Education: Notice of Procedural Safeguards*, and due process complaint through electronic mail. This process is available only if the LEA chooses to make this option available.

Surrogate Parents

> ***34 CFR § 300.519 Surrogate parents.***
> *(a) General. Each public agency must ensure that the rights of a child are protected when—*
> *(1) No parent (as defined in § 300.30) can be identified;*
> *(2) The public agency, after reasonable efforts, cannot locate a parent;*
> *(3) The child is a ward of the State under the laws of that State; or*
> *(4) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).*
> *(b) Duties of public agency. The duties of a public agency under paragraph (a) of this section include the assignment of an individual to act as a surrogate for the parents. This must include a method—*
> *(1) For determining whether a child needs a surrogate parent; and*
> *(2) For assigning a surrogate parent to the child.*
> *(c) Wards of the State. In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate meets the requirements in paragraphs (d)(2)(i) and (e) of this section.*
> *(d) Criteria for selection of surrogate parents. (1) The public agency may select a surrogate parent in any way permitted under State law.*
> *(2) Public agencies must ensure that a person selected as a surrogate parent—*
> *(i) Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child;*
> *(ii) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and*
> *(iii) Has knowledge and skills that ensure adequate representation of the child.*
> *(e) Non-employee requirement; compensation. A person otherwise qualified to be a surrogate parent under paragraph (d) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.*
> *(f) Unaccompanied homeless youth. In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to paragraph (d)(2)(i) of this section, until a surrogate parent can be appointed that meets all of the requirements of paragraph (d) of this section.*
> *(g) Surrogate parent responsibilities. The surrogate parent may represent the child in all matters relating to—*

58974-OKEd-SpecialEd text.indd 63 2/10/11 11:26 AM

(1) The identification, evaluation, and educational placement of the child; and
(2) The provision of FAPE to the child.
(h) SEA responsibility. The SEA must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

(Authority: 20 U.S.C. 1415(b)(2))

When no parent can be identified, the parent cannot be located, the child is an unaccompanied homeless youth, or the child is a ward of the State, the LEA or public agency providing educational services must ensure that the rights of the child with a disability are protected by assignment of a surrogate parent. It is permissible, although not required, for the LEA to reimburse surrogate parents for expenses involved in carrying out their responsibilities.

Upon determining the need for a surrogate parent to represent a child with a disability, the LEA or public agency providing educational services must assign a surrogate parent. The LEA must ensure that a person selected as a surrogate parent is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child and has no personal or professional interest that conflicts with the interest of the child. A record of surrogate parents assigned to individual children with disabilities must be maintained by the LEA or public agency providing educational services. This record must be maintained in a confidential manner. In addition, a copy of the Surrogate Parents Verification of Training (OSDE Form 10) must be maintained in the child's confidential special education folder.

To ensure knowledge and skills, the training of surrogate parents should include:

- Information regarding State and federal requirements for education of children with disabilities;
- Parents rights and responsibilities;
- Procedural safeguards and due process;
- Step-by-step process for delivery of special education services;
- Structures, procedures, or forms of the LEA to document procedural safeguards;
- Information about the nature of the child's disability and needs; and
- Other information deemed necessary by the LEA or surrogate parent.

Training of surrogate parents is to be provided by the LEA. When surrogate parents receive training from an LEA, written documentation verifying completion of training should be provided to the surrogate parent and maintained by the LEA.

Surrogate parents have the responsibility and rights to represent the child with disabilities in all matters relating to the identification, evaluation, and educational placement of the child, and provision of a FAPE for the child.

58974-OKEd-SpecialEd text.indd 64 2/10/11 11:26 AM

If an assigned surrogate parent no longer wishes to serve as a child's representative, this request will be honored by the LEA. A statement to this effect by the surrogate parent or notation on the Surrogate Parents Verification of Training (OSDE Form 10) could be made to document this action. Upon resignation by a surrogate parent, another trained surrogate parent must be assigned to the child and the prior assignment will no longer be applicable.

The LEA must ensure that surrogate parents perform their responsibilities, remain free from conflict of interest, and take no actions that might be harmful to the child. If an assigned surrogate parent fails to perform the necessary duties or no longer meets the criteria, the LEA may seek resignation or removal of assignment as surrogate parent. Disagreements about surrogate parent assignments may be subject to due process complaint hearing or mediation procedures, if necessary.

Court Authority Regarding Custody and Guardianship

Parent authority ceases upon appointment by a court of a guardian for a child (10 O.S. § 10). When the court has placed a child with a disability under legal guardianship of a State agency, the LEA should take steps to make surrogate parent representation available to the child.

Children in Special Residential Facilities and Institutions

When a child with a disability has been placed in a special facility or institution for residential treatment or full-time care, the LEA must ensure that the child has representation by parent(s) or surrogate parent(s). In some circumstances parent(s) may have agreed to voluntarily relinquish custody of a child for purposes of placement in a residential child care or treatment facility or State operated institution. Regardless of whether the parent(s) have placed the child on their own or have voluntarily relinquished custody, every effort should be made to continue the involvement and participation of the parent(s) in the special education process, unless parent rights have otherwise been limited or removed by the court or Oklahoma State law. Although employees of the agency involved cannot serve as parent(s) or surrogate parent(s), because they do not meet the criteria outlined by State standards and the IDEA, LEAs are encouraged to invite relevant personnel from appropriate agencies to team meetings. In circumstances in which a parent's rights have been terminated and the court has made the State guardian of the child, a surrogate parent must be appointed. If the location of the parent(s) cannot be determined or no parent(s) can be identified, the LEA would then assign a surrogate parent on behalf of the child.

Unaccompanied Homeless Youth

> ***34 CFR § 300.19 Homeless children.***
> *Homeless children has the meaning given the term homeless children and youths in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 et seq.*
>
> *(Authority: 20 U.S.C. 1401(11))*

58974-OKEd-SpecialEd text.indd 65 2/10/11 11:26 AM

According to the McKinney-Vento Homeless Assistance Act the term "homeless children and youth" means:

"(A) Individuals who lack a fixed, regular, and adequate nighttime residence...; and (B) Includes—
(i) Children and youth who are sharing the housing of other persons due to loss of housing, economic hardship or similar reason; are living in motels, hotels, trailer parks, or camping grounds due the lack of alternative accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
(ii) Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings.
(iii) Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus stations, or similar settings; and
(iv) Migratory children who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii)."

The McKinney-Vento Act and the IDEA mandate protections and services for children and youth who are homeless and children and youth with disabilities. Moreover, both the McKinney-Vento Act and the IDEA address serving children and youth who are homeless and have disabilities, ensuring that their complex and unique needs are met.

In reviewing the needs of children and youth who are homeless and have disabilities, program coordinators should bring to bear the full range of both laws to optimize the educational access and success of these children. It is important to note that the two laws do not operate exclusively of one anther, nor does one law supersede the other.

In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents until a surrogate parent can be appointed that meets all the requirements of this section.

In unique circumstances, natural parent(s) of a child with a disability may voluntarily request appointment of a surrogate parent. For example, a parent who is incarcerated may request appointment of a surrogate parent during the period of their incarceration. Such parent requests must be in writing, signed by the parent(s), and can be revoked by the parent(s) at any time. The natural parent(s) are still entitled to written notice of meetings and other actions, including provision of copies of the IEP.

Parent(s) must always be informed of their right to participate in the process through telephone conferences, videoconference, and written communication, which, if accessed, would not require the appointment of a surrogate parent.

Emancipated Children/Age of Majority

Oklahoma State law provides that a "child" is defined as any unmarried or unemancipated person under the age of 18 years. A "minor" means any person who has not attained the age of 18 years (10 O.S. § 402). When parent authority ceases at age 18 years or upon

58974-OKEd-SpecialEd text.indd 66 2/10/11 11:26 AM

marriage of the child (10 O.S. § 10), the individual may give legal consent on his or her own behalf. However, under the IDEA, it could be permissible for parent(s) who still maintain guardianship responsibility for the individual to continue involvement on behalf of their young adult with a disability through age 21, where necessary, or otherwise with agreement of the eligible young adult who has reached the age of majority. Transfer of rights should be discussed at least one year prior to the young adult reaching the age of majority. This will allow families to consider their options and to prepare for this transition. In circumstances in which a young adult is no longer considered a "child" or "minor" and parent(s) are not available, surrogate parents might be assigned, with agreement of the child, to assist in representing the child's rights as a child with a disability. In circumstances where the child is unable to give consent, courts can appoint parent(s) or relatives as guardians to act on behalf of the child.

58974-OKEd-SpecialEd text.indd 67 2/10/11 11:26 AM

EVALUATION AND ELIGIBILITY PROCEDURES

34 CFR § 300.15 Evaluation.
Evaluation means procedures used in accordance with §§ 300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

(Authority: 20 U.S.C. 1414(a) (c))

34 CFR § 300.301 Initial evaluations.
(a) General. Each public agency must conduct a full and individual initial evaluation, in accordance with §§ 300.305 and 300.306, before the initial provision of special education and related services to a child with a disability under this part.
(b) Request for initial evaluation. Consistent with the consent requirements in § 300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.
(c) Procedures for initial evaluation. The initial evaluation—
(1)(i) Must be conducted within 60 days of receiving parental consent for the evaluation; or
(ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and
(2) Must consist of procedures—
(i) To determine if the child is a child with a disability under § 300.8; and
(ii) To determine the educational needs of the child.
(d) Exception. The timeframe described in paragraph (c)(1) of this section does not apply to a public agency if—
(1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or
(2) A child enrolls in a school of another public agency after the relevant timeframe in paragraph (c)(1) of this section has begun, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability under § 300.8.
(e) The exception in paragraph (d)(2) of this section applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed.

(Authority: 20 U.S.C. 1414(a))

34 CFR § 300.302 Screening for instructional purposes is not evaluation.
The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

(Authority: 20 U.S.C. 1414 (a) (1) (E))

"Evaluation" means procedures used, in accordance with federal and State requirements, to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

Prior to the initial placement of a child with a disability, a full and individual evaluation must be accomplished in all areas related to the suspected disability of the child including, if appropriate, health, vision, hearing, social and emotional status, general intelligence (or cognitive abilities), adaptive behavior, academic performance, communication skills,

58974-OKEd-SpecialEd text.indd 68 2/10/11 11:26 AM

and motor abilities. The initial evaluation must include sufficiently comprehensive information to identify the suspected disability and all of the child's special education and related services needs, whether or not commonly linked to the disability category. The purpose of the evaluation is to determine the presence of disabilities, any adverse effects on academic performance, the child's educational needs, and whether the child requires special education and related services.

Request for initial evaluation

Either a parent of a child or the local educational agency (LEA) may initiate a request for an initial evaluation to determine if the child is a child with a disability. The evaluation must consist of procedures to determine if the child is a child with a disability and to determine the educational needs of the child.

The initial eligibility determination must be completed within 45 school days of receiving parental consent for the evaluation. The timeframe does not apply if the parent of a child repeatedly fails or refuses to produce the child for the evaluation. It also does not apply if the child enrolls in a school of another LEA after the relevant timeframe has begun and prior to a determination by the child's previous LEA as to whether the child is a child with a disability. This exception applies only if the subsequent LEA is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and the LEA agree to a specific time when the evaluation will be completed.

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

Initial evaluations, including reviews of existing data, are necessary for children transitioning from SoonerStart (Individuals with Disabilities Education Act [IDEA] Part C, Early Intervention [EI]) at age three to determine eligibility for special education and related services under the IDEA Part B. Through transition planning meetings and release of records from SoonerStart prior to the child's third birthday, there may be sufficient existing evaluation data available for the group to determine eligibility without additional evaluation components. Parent consent is required for SoonerStart to release records to the LEA for this purpose.

Parent consent is required for an initial evaluation. Parental consent for evaluation must not be construed as consent for initial provision of special education and related services. As part of this consent, the parent must be given a description of the evaluation procedures the LEA proposes to use as a basis for determining whether a child has a disability and whether special education and related services are needed. Parent consent is not required to administer an assessment or other evaluation (e.g., districtwide assessments) that is administered to all children, if consent would not be required of all children's parents.

The Review of Existing Data (RED; Oklahoma State Department of Education [OSDE] Form 3), Parent Consent (OSDE Form 4), *Parents Rights in Special Education: Notice of Procedural Safeguards,* and the Multidisciplinary Evaluation and Eligibility Group Summary (MEEGS; OSDE Form 5) document the completion of steps for an initial

58974-OKEd-SpecialEd text.indd 69 2/10/11 11:26 AM

evaluation and eligibility determination of a child with a disability prior to development and implementation of the initial individualized education program (IEP). A full and individual evaluation, as described by the IDEA and State requirements, must be conducted and eligibility established before special education and related services are initially provided.

Review of Existing Data

34 CFR § 300.305 Additional requirements for evaluations and reevaluations.
(a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must—
(1) Review existing evaluation data on the child, including—
(i) Evaluations and information provided by the parents of the child;
(ii) Current classroom-based, local, or State assessments, and classroom-based observations; and
(iii) Observations by teachers and related services providers; and
(2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—
(i)(A) Whether the child is a child with a disability, as defined in § 300.8, and the educational needs of the child; or
(B) In case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;
(ii) The present levels of academic achievement and related developmental needs of the child;
(iii)(A) Whether the child needs special education and related services; or
(B) In the case of a reevaluation of a child, whether the child continues to need special education and related services; and
(iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.
(b) Conduct of review. The group described in paragraph (a) of this section may conduct its review without a meeting.
(c) Source of data. The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified under paragraph (a) of this section.
(d) Requirements if additional data are not needed.
(1) If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs, the public agency must notify the child's parents of'—
(i) That determination and the reasons for the determination; and
(ii) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability, and to determine the child's educational needs.
(2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.
(e) Evaluations before change in eligibility.
(1) Except as provided in paragraph (e)(2) of this section, a public agency must evaluate a child with a disability in accordance with §§ 300.304 through 300.311 before determining that the child is no longer a child with a disability.
(2) The evaluation described in paragraph (e)(1) of this section is not required before the termination of a child's eligibility under this part due to graduation from secondary school

58974-OKEd-SpecialEd text.indd 70 2/10/11 11:26 AM

with a regular diploma, or due to exceeding the age eligibility for FAPE under State law.
(3) For a child whose eligibility terminates under circumstances described in paragraph (e)(2) of this section, a public agency must provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

(Authority: 20 U.S.C. 1414(c))

Initial Evaluations: Review of Existing Data
As part of an initial evaluation, a group of qualified professionals and the parent(s) must review existing evaluation data. This must be documented by utilizing the RED (OSDE Form 3), and, on the basis of that review and input from the child's parent(s), identify what additional data are needed to determine:

- Whether the child has a particular category of disability;
- The present levels of performance and educational needs of the child; and
- Whether the child needs special education and related services.

The LEA may use data from existing evaluations conducted by qualified individuals or agencies other than the LEA if the evaluations are less than one year old. This includes evaluations and information provided by the parent(s), current classroom-based, local, or State assessments, and observations by teachers and other qualified related services personnel. This review may be conducted by the group without a meeting.

In most circumstances for initial evaluations, this documentation to identify and determine what additional data, if any, are needed may be accomplished on pages one and two of the RED (OSDE Form 3); however, additional pages of the form are provided for optional use as needed. Signing and review dates may vary as this process does not require a meeting.

Based on review of this information to identify and determine necessary evaluations, Parent Consent (OSDE Form 4), will be completed and provided to the parents to obtain consent for the proposed initial evaluation. *Parents Rights in Special Education: Notice of Procedural Safeguards* must be provided to the parents at the time of obtaining consent for evaluation. Upon receiving written parental consent for any additional evaluations, and eligibility determination the LEA must provide for the necessary evaluations and eligibility determination within 45 school days.

Reevaluation: Review of Existing Data
As part of any reevaluation, a group of qualified professionals and the parent must review existing evaluation data, which includes:

- Existing assessments, information, and input provided by the parent(s);
- Current classroom-based, local, or State assessments (or other age appropriate settings for preschool children), and classroom-based observations; and
- Observations by teachers and related service providers.

58974-OKEd-SpecialEd text.indd 71 2/10/11 11:26 AM

On the basis of the review of existing evaluation data, which may be documented by using the RED (OSDE Form 3), the team will determine what additional evaluation information and data, if any, are needed to determine:

- Whether the child continues to have such a disability and the educational needs of the child;
- Present levels of academic achievement and related developmental needs of the child;
- Whether the child continues to need special education and related services; and
- Whether any additions or modifications to the special education and related services are needed to meet the measurable annual goals of the IEP and to participate, as appropriate, in the general education curriculum.

In preparation for the IEP meeting to address reevaluation, the group of qualified professionals and the parent must document their review of existing evaluation data and may utilize, as appropriate, relevant pages of the RED (OSDE Form 3). This review of existing evaluation data does not require a meeting, thus signing dates may vary on the RED (OSDE Form 3). The review of existing data and information will assist the LEA and the team, including the parents, in identifying other appropriate qualified professionals to invite to the IEP meeting to address the reevaluation process and, upon completion of the reevaluation, the child's continued eligibility as a child with a disability requiring special education and related services.

It is permissible to review existing data to determine needed evaluation data as part of the IEP meeting. If additional evaluations are needed, parental consent is obtained on the Parent Consent (OSDE Form 4). Parental consent may also be necessary to obtain additional information from outside sources. The Consent for the Release of Confidential Information from may be used.

When Additional Reevaluation Data are Needed

An LEA must reevaluate a child before determining the child is no longer eligible for special education and related services as a child with a disability. If additional reevaluation data are needed, the team will address this on the Parent Consent (OSDE Form 4). Additional evaluation data for eligibility decisions will be documented in the MEEGS (OSDE Form 5). The parents will be given a copy of the evaluation results and the MEEGS (OSDE Form 5, when the additional data are compiled and considered by the team, which includes the parents.

When Additional Reevaluation Data are Not Needed

If additional reevaluation 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 LEA will document this on the MEEGS (OSDE Form 5) for the three-year reevaluation, or more often for reevaluation consideration as needed. The MEEGS (OSDE Form 5) will document the three-year reevaluation process. The parent will be provided with a copy of the MEEGS (OSDE Form 5) informing them of the team's decision and, as appropriate, the Review of Existing Data (OSDE Form 3). Parents are to be informed of their right to request an assessment to determine whether their child continues to be a child with a disability. The LEA is not required to conduct the assessment if the team determines

58974-OKEd-SpecialEd text.indd 72 2/10/11 11:26 AM

additional data are not needed, unless the parent requests data to determine whether the child continues to be eligible as a child with a disability and to determine the child's educational needs under the IDEA (34 CFR § 300.8). Reevaluation is not required prior to a child's eligibility ending under the IDEA due to graduation with a standard high school diploma or exceeding age eligibility for a free appropriate public education (FAPE) under Oklahoma State law and federal regulations.

The LEA must provide the young adult with a summary of the young adult's academic achievement and functional performance that includes recommendations on how to assist the young adult in meeting the young adult's postsecondary goals. This information will be documented on the Student Summary of Performance (SOP; OSDE Form 11).

Evaluation Procedures and Eligibility

34 CFR § 300.304 Evaluation procedures.

(a) Notice. The public agency must provide notice to the parents of a child with a disability, in accordance with § 300.503, that describes any evaluation procedures the agency proposes to conduct.

(b) Conduct of evaluation. In conducting the evaluation, the public agency must—

(1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining—

(i) Whether the child is a child with a disability under § 300.8; and

(ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);

(2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

(3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(c) Other evaluation procedures. Each public agency must ensure that—

(1) Assessments and other evaluation materials used to assess a child under this part—

(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;

(iii) Are used for the purposes for which the assessments or measures are valid and reliable;

(iv) Are administered by trained and knowledgeable personnel; and

(v) Are administered in accordance with any instructions provided by the producer of the assessments.

(2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(3) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

58974-OKEd-SpecialEd text.indd 73 2/10/11 11:26 AM

(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;
(5) Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with § 300.301(d) (2) and (e), to ensure prompt completion of full evaluations.
(6) In evaluating each child with a disability under §§ 300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.
(7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

(Authority: 20 U.S.C. 1414(b)(1)-(3), 1412(a)(6)(B))

34 CFR § 300.306 Determination of eligibility.
(a) General. Upon completion of the administration of assessments and other evaluation measures—
(1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in § 300.8, in accordance with paragraph (b) of this section and the educational needs of the child; and
(2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.
(b) Special rule for eligibility determination. A child must not be determined to be a child with a disability under this part—
(1) If the determinant factor for that determination is—
(i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA);
(ii) Lack of appropriate instruction in math; or
(iii) Limited English proficiency; and
(2) If the child does not otherwise meet the eligibility criteria under § 300.8(a).
(c) Procedures for determining eligibility and educational need.
(1) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under § 300.8, and the educational needs of the child, each public agency must—
(i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and
(ii) Ensure that information obtained from all of these sources is documented and carefully considered.
(2) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§ 300.320 through 300.324.

(Authority: 20 U.S.C. 1414(b)(4) and (5))

34 CFR § 300.27 Limited English proficient.
Limited English proficient has the meaning given the term in section 9101(25) of the ESEA.

(Authority: 20 U.S.C. 1401(18))

58974-OKEd-SpecialEd text.indd 74 2/10/11 11:26 AM

Multidisciplinary Evaluation and Eligibility Group Summary
Evaluation procedures and determination of eligibility for the purpose of determining if a child has a disability under 34 CFR § 300.8, and the educational needs of the child, must be conducted in accordance with 34 CFR §§ 300.304 through 300.306.

Upon completing the review of existing data and the administration of additional assessments and other evaluation materials, a group of qualified professionals and the parent(s) of the child must determine whether the child is or continues to be a child with a disability, as defined at 34 CFR § 300.8, and whether the child requires special education and related services. The MEEGS (OSDE Form 5) documents the variety of assessment tools and strategies used, the results, conclusions, and the determination of the group. This form will be used for initial evaluations and for reevaluations.

A child may not be determined to be eligible as a child with a disability under the IDEA if the determinant factor is lack of appropriate instruction in reading, including the essential components of reading instruction, lack of appropriate instruction in mathematics, or limited English proficiency (LEP), or the child does not otherwise meet the eligibility criteria under 34 CFR § 300.8. The LEA must reevaluate a child with a disability in accordance with 34 CFR §§ 300.304 through 300.311 before determining that a child is no longer eligible as a child with a disability requiring special education and related services. Reevaluation to determine that a child is no longer eligible is not required before the termination of a young adult's eligibility due to graduation with a standard high school diploma, or exceeding the age eligibility for a FAPE under Oklahoma State law.

When conducting an evaluation, the LEA must ensure that the child is assessed in all areas related to the suspected disability including, as appropriate, health, vision, hearing, social and emotional status, general intelligence (or cognitive abilities), academic performance, communicative status, and motor abilities, as referenced in the components listed in this section. Review of existing data and information will assist the group in determining what evaluation information is needed. In evaluating a child with a disability and determining eligibility, under the evaluation procedures at 34 CFR §§ 300.304 through 300.311, the LEA must ensure that the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified. In this assessment process, the LEA must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. Assessment tools and strategies must provide relevant information to assist in determining the educational needs of the child.

Evaluation procedures, assessments, and associated materials must be selected and administered so as not to be discriminatory on a racial or cultural basis; provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so; validated for the specific purposes for which they are used; and administered by qualified professionals who are trained and knowledgeable in accordance with the instructions provided by the test producer and in conformity with State standards. In addition,

58974-OKEd-SpecialEd text.indd 75 2/10/11 11:26 AM

assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure). No single procedure may be used as the sole criterion to determine whether a child is a child with a disability or to determine an appropriate educational program for a child.

Assessments of children with disabilities who transfer from one LEA to another in the same school year must be coordinated between schools as expeditiously as possible to ensure prompt completion of full evaluations.

In situations in which it is clearly not feasible to provide and administer assessments in the child's native language or mode of communication for a child determined LEP, the LEA must still obtain and consider accurate and reliable information that will enable the group to make an informed decision as to whether the child has a disability and the effects of the disability on the child's educational needs. 34 CFR § 300.304 requires that assessments of children determined LEP must be selected and administered to ensure that they measure the extent to which a child has a disability and needs special education, and do not, instead, measure the child's limited English language skills.

If an assessment is not conducted under standard conditions, information about the extent to which the assessment varied from standard conditions, such as the qualifications of the person administering the test or the method of test administration, must be included in the evaluation report.

The multidisciplinary evaluation and eligibility group must include parent(s), person(s) knowledgeable about the child, evaluation personnel knowledgeable about the meaning of the evaluation data (e.g., qualified examiners appropriate for the evaluation procedures utilized), and person(s) with knowledge in the area of suspected disability (e.g., special education teacher or other qualified specialists). Membership in the group will vary depending on the areas of suspected and/or previously identified disability(ies) and the evaluation procedures determined to be necessary to address the educational needs of the child, referral questions, and concerns. Qualified examiners, such as school psychologists and psychometrists, provide necessary expertise for the group in reviewing existing data, conducting, and interpreting an appropriate evaluation, as required under federal regulations.

The MEEGS (OSDE Form 5) documents the full and individual evaluation of the educational functioning and needs of the child, utilizing various evaluation procedures which are selected and tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient or cognitive score. The form documents evaluation information, evaluation procedures, and results as the information is received, culminating with the overall determination in the summary and conclusions section.

In interpreting evaluation data for the purpose of determining if a child is a child with a disability under 34 CFR § 300.8, and the educational needs of the child, each LEA must

58974-OKEd-SpecialEd text.indd 76 2/10/11 11:26 AM

draw upon information from a variety of sources, including aptitude and achievement assessments, parent input, teacher recommendations, as well as information about the child's physical condition, social or cultural background and adaptive behavior, and ensure that information obtained from all of these sources is documented and carefully considered.

Information provided by the parent, and information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool aged child, to participate in age-appropriate activities), will be compiled to assist the group in determining whether the child has a disability. The IEP team will determine the content of the child's IEP including the child's current educational needs, present levels of performance, strengths, implications of the findings on the child's educational progress, and whether special education and related services are necessary. The MEEGS (OSDE Form 5) will facilitate interpretation of the comprehensive evaluation results to the parent(s) and the determination of whether the child has a disability which requires special education and related services. This interpretation of evaluation data and determination of eligibility for special education and related services are documented on the summary and conclusions section of the form by the group.

The parent(s) will be given a copy of the evaluation results and the MEEGS (OSDE Form 5), when additional data are compiled and considered by the group, which includes the parent(s).

The LEA must ensure that: (1) the IEP team for each child with a disability has all of the evaluation information it needs to make required decisions regarding the educational program of the child, including the consideration of special factors required by 34 CFR §§ 300.320 through 300.324; and (2) the group determining a child's eligibility has all of the information it needs to ensure that the child is not determined to be a child with a disability if the determining factor is a lack of appropriate instruction in reading, including the essential components of reading instruction, or mathematics, or LEP as required by 34 CFR § 300.306, and the child is not otherwise eligible under the criteria at 34 CFR § 300.8.

An LEA must reevaluate a child before determining the child is no longer an eligible child with a disability. Reevaluation is not required prior to a student's eligibility ending due to graduation with a standard high school diploma or exceeding age eligibility for a FAPE under Oklahoma State law and federal regulations.

Multidisciplinary Evaluation and Eligibility Group Meeting

The LEA must schedule a meeting with the parents and provide notification of the meeting (OSDE Form 6) to review the information and to determine whether a child has a disability that requires special education and related services or other educational interventions and services.

The explanation to the parent(s) documented by the MEEGS (OSDE Form 5) provides the parent(s) with notice of the proposed identification of a disability which requires special education and related services or determination that the child is not a child with a disability. The LEA must document that the parents have received their rights regarding

58974-OKEd-SpecialEd text.indd 77 2/10/11 11:26 AM

this process. If the parent(s) choose not to participate in the MEEGS meeting or are in disagreement with the group's determination regarding identification of a disability, Written Notice to Parents (OSDE Form 8), a copy of the MEEGS (OSDE Form 5), and the *Parents Rights in Special Education: Notice of Procedural Safeguards* must be provided by the LEA.

When the initial determination is made that a child is eligible for special education and related services, the LEA must hold a meeting within 30 calendar days to develop an IEP that addresses the child's needs resulting from the child's disability and meeting each of the child's other educational needs. The IEP team must obtain parental consent to implement the eligible child's initial IEP. After developing and implementing the initial IEP for an identified child, each LEA is responsible for annually reviewing and revising the IEP.

It is permissible for the IEP team to meet to develop the IEP at the same time the evaluation results and the MEEGS are reviewed by the team, with copies provided to the parent(s).

Reevaluations

34 CFR § 300.303 Reevaluations.
(a) General. A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§ 300.304 through 300.311—
(1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
(2) If the child's parent or teacher requests a reevaluation.
(b) Limitation. A reevaluation conducted under paragraph (a) of this section—
(1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and
(2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.

(Authority: 20 U.S.C. 1414(a)(2))

Role of the IEP Team in Reevaluations

A reevaluation will be conducted at least once every three years, or more often if conditions warrant the need for reevaluation, or if requested by the child's parent or teacher in accordance with the requirements of 34 CFR §§ 300.304 through 300.311.

A group of individuals, and qualified professionals, as appropriate, must review existing evaluation data and determine what, if any, additional evaluation data is needed to determine whether the child continues to have a disability. Data to consider during this review process must include the following:

- Evaluations and information provided by the parent(s) of the child;
- Current classroom-based assessments and observations;
- Observations by teachers and related service providers; and
- Input from the child's parent(s).

58974-OKEd-SpecialEd text.indd 78 2/10/11 11:26 AM

It is permissible to review existing data without a meeting in preparation for the IEP Review meeting or as part of the meeting.

In the event that a parent fails to respond to a request for reevaluation, the LEA may proceed with the reevaluation, if the LEA can demonstrate that it has taken reasonable measures to obtain parent consent. The LEA must maintain records of the attempts to obtain parent consent. Such record may include documentation of telephone calls made, or attempted, and the results; copies of correspondence sent to the parents and any responses received; and/or detailed records of visits made to the parent's home or place of employment and the results of those visits.

When a parent fails to respond to a consent request for reevaluation, the LEA must provide written notice to the parent regarding the action to be taken. The LEA must provide this notice through the use of Written Notice to Parents (OSDE Form 8).

The LEA need not obtain informed parent consent for the reevaluation if the LEA can demonstrate that it made reasonable efforts to obtain consent for the reevaluation, and the student's parent(s) has failed to respond to the request for such consent. Thus, under this regulation, a LEA may conduct a reevaluation of a student with a disability if the LEA can demonstrate that it made reasonable efforts to obtain parent consent for the reevaluation, and the student's parent(s) has failed to respond to the request for consent.

If the parent refuses to consent to the reevaluation, the LEA may, but is not required to, pursue the reevaluation by using the consent override procedures through the use of the procedural safeguards including the mediation procedures or the due process procedures. However, the LEA does not violate its obligation under child find or procedures for evaluations/reevaluations if it declines to pursue the evaluation.

If the LEA chooses not to pursue the reevaluation by using the consent override procedures and the LEA believes based on existing data that the student does not continue to have a disability or does not continue to need special education and related services the LEA may determine that it will not continue to provide special education and related services to the student. If the LEA determines that it will not continue to provide special education and related services to the student, the LEA must provide the parent with written notice of its proposal to discontinue the provision of FAPE to the student.

The LEA and the parent(s) may agree that no additional data is needed to document the reevaluation If such an agreement is reached, the three-year reevaluation may be documented by utilizing the MEEGS (OSDE Form 5); however, the LEA must continue to provide a FAPE to the student.

The results of any reevaluations must be addressed by the child's IEP team under 34 CFR §§ 300.320 through 300.324. The IEP team will use the information in determining the present levels of performance and educational needs of the child, special education and related services, and whether any additions or modifications to the services are needed to meet the child's measurable annual goals in the IEP and to participate, as appropriate, in the general education curriculum. It is important that additional assessment data,

58974-OKEd-SpecialEd text.indd 79 2/10/11 11:26 AM

including evaluations and information provided by the parent(s), be shared with the IEP team so that it may be used in reviewing and, as appropriate, revising the IEP.

Parent Participation in Reevaluations

Parent(s) must be afforded the opportunity to participate as members of the IEP Review team in accordance with 34 CFR § 300.322, including review of existing data to determine any additional information needed for reevaluations. Review of existing data does not require a meeting or parent consent. If neither parent can attend scheduled meetings for a review of the IEP or MEEGS, other methods must be utilized to ensure parent participation, including individual or conference telephone calls. A MEEGS meeting may be conducted without a parent in attendance if the LEA is unable to convince the parent that they should attend and the LEA has a record of reasonable attempts to schedule meetings at a mutually agreed on time and place. In this case, Written Notice to Parents (OSDE Form 8) must be used to inform the parents of the team's decision, reasons for that decision regarding reevaluation, and the parent's right to request an evaluation to determine whether the child continues to be a child with a disability and requires services under the IDEA.

Three-Year Reevaluations

A reevaluation must be conducted if conditions indicate the need for a reevaluation, or if the child's parent(s) or teacher requests a reevaluation. A reevaluation may occur not more than once a year, unless the parent(s) and the LEA agree otherwise, and must occur at least once every three years unless the parent(s) and the LEA agree otherwise. Review of existing data and information is used to determine whether any additional individual assessments or evaluations may be necessary. Areas of suspected disability that have been ruled out through the initial evaluation will **not** require reevaluation, unless conditions exist that warrant additional assessments for reevaluation. Reevaluation procedures to address specific areas of functioning related to the suspected disability(ies) are not necessarily required to be the same assessments or procedures as those administered for the initial evaluation.

The IEP team and other qualified professionals, as appropriate, must determine, based upon review of existing data, what reevaluation data is necessary:

- The present levels of performance and educational needs of the child;
- Whether the child needs special education and related services;
- Whether the child continues to have a disability, as defined in 34 CFR § 300.8; or
- Whether any additions or modifications are needed to enable the child to meet the measurable annual goals set in the IEP of the child and to participate, as appropriate, in the general education curriculum.

The IEP team must consider the additional and existing evaluation results and, as appropriate, revise the IEP. The parent(s) must be provided a copy of the evaluation report and the documentation of the team decisions.

If a parent requests additional assessments, the LEA must either: (1) conduct the assessments or (2) provide the parent(s) with written notice of the LEA's refusal to

58974-OKEd-SpecialEd text.indd 80 2/10/11 11:26 AM

conduct the assessments utilizing Written Notice to Parent (OSDE Form 8). The parent(s) may challenge such a proposal or refusal by requesting a due process hearing. If the LEA and the group reviewing the existing evaluation data concludes that under 34 CFR § 300.305(a) no additional assessments are needed to determine whether the child continues to be a child with a disability, the LEA must provide parent(s) with the notice required by 34 CFR § 300.305(d)(1).

Additional Evaluation Considerations

Functional Assessments

In determining the educational needs of the individual child, a full and comprehensive evaluation may require functional and relevant assessment techniques and strategies to obtain needed information. For example, evaluation procedures for children with sensory, motor, or communication impairments or severe levels of impairment may require functional assessment methods to adequately measure skills and abilities. Functional assessments may include observations, portfolios, and checklists.

Functional Evaluations of Assistive Technology (AT) Needs

The evaluation of needs for AT services or devices and functional capabilities of the child in the customary environment may be a necessary component of the evaluation for individual children with disabilities.

Functional Behavioral Assessment

In the case of a child whose behavior impedes his/her learning or the learning of others, a functional behavioral assessment (FBA) may be a necessary component of a comprehensive evaluation. However, in certain situations, an FBA may be done independently of a comprehensive evaluation. This FBA may be provided by a group of qualified professionals who are knowledgeable about the child and his/her behaviors. School psychologists, licensed psychologists (with appropriate specialty designation), and licensed social workers may provide related services and consultation for the FBA. The information gathered through this assessment, including parent information, may be used to develop a behavior intervention plan (BIP) for the child.

Procedures for Children with Specific Learning Disabilities

Additional procedures for evaluations are required in determining whether a child suspected of having a specific learning disability is a child with a disability and requires special education and related services under the IDEA. These additional procedures must be in accordance with 34 CFR §§ 300.307 – 300.311.

Adverse Effects on Educational Performance

Determination of adverse educational effects must reflect consideration of the effect of the child's disability on overall educational performance. It is not intended to imply that the child must be below grade level or must be failing in an academic area to be eligible for special education and related services. In addition, eligibility for and dismissal from special education and related services programs should not be based on a sole criterion of educational deficits in basic academic performance, or achievement scores (e.g., reading, mathematics, spelling). Consideration must be given to the factors and characteristics of the child's disability, as defined in the federal regulations.

58974-OKEd-SpecialEd text.indd 81 2/10/11 11:26 AM

Team Participants and Examiner Qualifications

Multidisciplinary Evaluation and Eligibility Group Composition

A group of individuals, including the parent(s) of the child and other qualified professionals, must determine whether the child has a disability, as defined in 34 CFR § 300.8, and whether the child requires special education and related services. Depending upon the needs of the child, the group must include the following qualified professionals:

- At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment); if the child does not have a regular education teacher, a regular education teacher qualified to teach that age child would serve on this group. If the child is less than school age, an individual qualified by the OSDE to teach a nondisabled child of that age must serve on this group;
- At least one special education teacher certified in the area of the child's suspected and/or previously identified disability or one who meets registry requirements for those areas where no certification exists; and
- A specific qualified examiner(s) who can interpret comprehensive evaluation results (e.g., a school psychologist, psychometrist, or other qualified professionals appropriate for the disability and concerns addressed in the evaluation process, in accordance with State standards and the Personnel Qualifications section of the manual).
- Other group members might include professionals with necessary qualifications to assess the child's functioning in the areas of suspected disability (e.g., speech language pathologist [SLP], occupational therapist [OT], physical therapist [PT]).

Specific Examiner Qualifications

Assessments and other evaluation materials must be administered by qualified professionals in conformity with the instructions provided by their producer. Professionals who provide special education and related services, including diagnostic evaluations, must hold appropriate credentials outlined in the Personnel Qualifications section of this manual and be qualified in accordance with the IDEA.

As members of the group, certified reading and special education teachers may administer those assessments and evaluation procedures which are specific to their area of expertise and training and are administered in conformity with the instructions provided by their producer. Use of many standardized assessment materials and assessment of some disabilities may require additional training or credentials.

SoonerStart professional staff may also administer developmental assessments for infants and toddlers (birth through two years of age) for early intervention (EI) services, in accordance with State policies and procedures under the IDEA Part C. Existing evaluation data and assessments conducted under these provisions for SoonerStart, and released with parental consent, will be helpful to LEAs in considering evaluation and eligibility of children referred for transition from Part C to Part B.

SLPs are professionals qualified to assess speech, language, and communication skills. Similarly, PTs, and OTs conduct evaluations within their scope of practice and the personnel standards and licensure laws of the State.

58974-OKEd-SpecialEd text.indd 82 2/10/11 11:26 AM

For children with sensory disabilities, special education teachers certified in the area of the disability (e.g., hearing impairment, including deafness, and visual impairment, including blindness) will be essential qualified members of the multidisciplinary evaluation and eligibility group. Information from other qualified professionals (e.g., audiologist, ophthalmologist), as appropriate, must also be considered. Special education teachers certified in the sensory disability areas may assist the group with educational implications of the data.

School nurses and special education teachers with registry training in other health impairments or with certification in mild/moderate or severe/profound/multiple disabilities may assist the group with educational implications of the health related data for children with other health impairments. The school nurse may provide relevant information for the group concerning health and medical data obtained from physicians and other sources. If a health condition involves neuropsychological or psychological/behavioral concerns (e.g., attention deficit hyperactivity disorder [ADHD], seizures, Tourette Syndrome), other qualified professionals will be needed to assist the group in addressing implications of the evaluation results and educational needs for the child.

Components of Comprehensive Evaluations for Suspected Disabilities

The following definitions of disabilities are reprinted from the federal regulations for the IDEA Part B.

The multidisciplinary evaluation must include relevant and functional information from the home and school, or other age appropriate settings, to provide a comprehensive perspective of the child's educational needs. LEAs are required to utilize the following information, as appropriate, in determining needed assessments, assessment procedures, eligibility determinations, and placement decisions for all children with suspected disabilities: educational history (or developmental for preschool children) and academics; present levels of performance, including aptitude and achievement tests; observations (classroom or age appropriate setting); parent and teacher input; social or cultural background and adaptive behavior; and health information and physical condition (e.g., vision and hearing screening).

In reviewing the suspected disabilities, the evaluation and eligibility group must consider whether lack of appropriate instruction in reading, including the essential components of reading instruction, or mathematics, or LEP are the determining factors and whether the child otherwise meets the eligibility requirements for a child with a disability under the IDEA.

Additional required components of a comprehensive evaluation are listed according to each disability area along with specific eligibility indicators.

58974-OKEd-SpecialEd text.indd 83 2/10/11 11:26 AM

Definitions: Child with a Disability

34 CFR § 300.8 Child with a disability.
(a) General.
(1) Child with a disability means a child evaluated in accordance with §§ 300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as ``emotional disturbance''), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.
(2)(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§ 300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.
(ii) If, consistent with § 300.39(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.

(Authority: 20 U.S.C. 1401(3); 1401(30))

Autism

Definition

34 CFR § 300.8 Child with a disability.
(c)(1)(i) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.
(ii) Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance.
(iii) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in paragraph (c)(1)(i) of this section are satisfied.

(Authority: 20 U.S.C. 1401(3); 1401(30))

Components of a Comprehensive Evaluation

- Medical information
- Cognitive/intellectual
- Motor processing/perceptual/sensory
- Academic/achievement/functional levels
- Communication/language
- Adaptive behavior
- Social or cultural background
- Behavioral functioning

Assessment procedures should include a wide variety of methods, including both formal and informal observations, interviews, and direct child evaluation. Evaluation procedures

58974-OKEd-SpecialEd text.indd 84 2/10/11 11:26 AM

and instruments developed and validated for the identification of children with autism provide information about the child in various areas of functioning and are an essential part of the assessment process.

Medical information from a licensed physician, an Advanced Registered Nurse Practitioner (ARNP), or the parent is a required component in the appropriate evaluation for children with autism. The Medical Report (OSDE Form 9) may be utilized. However, a medical "diagnosis" of autism is not required to determine whether a child is eligible under the disability category of autism.

The child's health, medical history, developmental and behavioral history, with emphasis on language and social development, and interests and preferences, should be documented through a structured parent/caregiver interview and/or checklist. Vision and hearing screening, if existing information is not available, should occur to ensure that sensory problems are not overlooked. Motor processing/perceptual/sensory assessment provides information about how the child processes and responds to sensory input.

Present levels of performance in the general curriculum, academic performance, achievement (in meaningful contexts), and/or age appropriate activities, will be important information for the team to document and consider. Readiness and developmental activities would be appropriate for children in the early childhood years.

Assessment of communication/language, adaptive behavior in the home and school setting (or other age appropriate settings as needed), and social/emotional/behavioral, as well as other areas, may include functional evaluation procedures to appropriately measure the abilities and unique needs of the child.

Depending on the individual needs of the child, AT may also be a special factor for additional consideration in the evaluation.

Key Eligibility Indicators

Impairments must be documented in both communication and social interaction that adversely affect educational performance. Lack of appropriate instruction in reading, including the essential components of reading instruction, mathematics or LEP must not be the determining factor. Note: Use of the term “autism” for eligibility purposes under the IDEA may include any autism spectrum disorder (ASD). The child would not be determined eligible under the category of autism if the child has an emotional disturbance.

Deaf-Blindness

Definition

> ***34 CFR § 300.7 Child with a disability.***
> *(c)(2) Deaf-blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.*
>
> *(Authority: 20 U.S.C. 1401(3)(A) and (B); 1401(26))*

58974-OKEd-SpecialEd text.indd 85 2/10/11 11:26 AM

Components of a Comprehensive Evaluation

- Audiological/hearing
- Communication/language
- Ophthalmological or optometric/vision
- Adaptive behavior and social or cultural background
- Cognitive/intellectual
- Academic/achievement/developmental

An otologist's or audiologist's report indicating the extent of the child's hearing impairment and an ophthalmologist's or optometrist's report stating the diagnosis and description of the child's visual problems are required. Indication of visual acuity, field of vision, statement of visual functioning, and degree of hearing loss are necessary in determining the special services necessary. When no response to the visual and hearing stimuli can be elicited from the child, a physician's report or existing medical records could fulfill this portion of the evaluation. Information regarding specific syndromes and special health problems, pertaining to the child's hearing and vision, and the long-term medical prognosis for the child should be collected and considered.

Prior to assessment in other areas, an evaluation is needed of the child's ability to communicate with others, including general developmental and functional levels in communication/language, preferred modalities for receptive and expressive language, and acquisition of new language skills.

Present levels of performance in the general education curriculum, academic performance, achievement, or age appropriate activities are important information the group must document and consider. Readiness and developmental activities would be appropriate for children in the early childhood years.

Assessment of cognitive functioning could include a combination of standardized instruments, behavioral or criterion-based instruments, trial teaching procedures, checklists, interviews, and observations.

Adaptive behavior information must be assessed in a manner that reflects the ability of the child to compensate for the sensory losses. This information should be gathered in a variety of settings and should include auditory and visual functioning.

Relevant adaptive behavior information and functional assessments are beneficial in determining the need for adaptations or modifications in the individual assessment of academic performance, and achievement. Assessments selected and administered should accurately reflect the child's achievement level rather than reflecting the child's hearing and vision impairment. Evaluation procedures may range from standardized assessments to a focus on basic developmental levels or curriculum and functional skills assessments.

AT needs, communication, and Braille instruction, depending on the individual child, are additional special factors that must be considered in the evaluation process.

58974-OKEd-SpecialEd text.indd 86 2/10/11 11:26 AM

Key Eligibility Indicators

A combination of concomitant hearing and vision impairments that cause severe communication and other developmental and learning needs that cannot be appropriately met in special education programs provided solely for children with deafness or blindness. Lack of appropriate instruction in reading, including the essential components of reading instruction, mathematics, or LEP must not be the determining factor.

Developmental Delays

Definition

> ***34 CFR § 300.8 Child with a disability.***
> *(b) Children aged three through nine experiencing developmental delays. The term child with a disability for children aged three through nine (or any subset of that age range, including ages three through five), may, subject to the conditions described in § 300.111 (b), include a child*
> *(1) Who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development.*
>
> *(Authority: 20 U.S.C. 1401(30))*

Components of a Comprehensive Evaluation

- Adaptive development
- Cognitive development
- Communication
- Social or emotional development
- Physical development
- Present levels of performance in the general curriculum or developmentally age appropriate activities for the child

The evaluation procedures must identify all of the child's special education and related services needs.

When determining eligibility for a preschool child three to Kindergarten school age, who is turning five before September 2, the team must document levels of developmental functioning through an evaluation procedure in all five domains and present levels of performance. At least two independent procedures must be used to document the current levels of performance. One procedure must be norm-referenced. Information sources, such as medical records, social services records, parent and provider interviews, anecdotal information, and child observation records must be documented as information considered in the evaluation process to assist in determining eligibility, educational needs, measurable annual goals, services, and placement in the least restrictive environment (LRE).

When it is not possible to obtain valid results from standardized/norm-referenced assessments due to the nature or severity of the delay, at least two independent sources of diagnostic information must be utilized to substantiate the delay. Information from

58974-OKEd-SpecialEd text.indd 87 2/10/11 11:26 AM

instruments, along with existing data and functional assessments, may be used for documentation of present levels. Depending on the individual needs of the child, AT and other special factors may be additional considerations for evaluation.

Key Eligibility Indicators

A preschool child three to Kindergarten school age, who is, turning five by September 2, must be determined to be eligible as a child with a developmental delay requiring special education and related services if one or more of the two eligibility criteria below are met:

- Functioning one and a half standard deviations below the mean in two domains or two standard deviations below the mean in one domain; or
- In extraordinary cases when a standardized score cannot be determined, a child may be determined to have a disability based on functionality and the informed opinion of the group with documentation of the rationale for the inability to obtain a standardized score.

The evaluation results identifying the areas of the developmental delay should be documented on the MEEGS (OSDE Form 5), along with present levels of performance in age appropriate activities and consideration of the educational needs resulting from the disability. For children, Kindergarten school age (turning five by September 2) to age nine, criteria for delay in developmental domains or indicators for specific disability categories may be used to determine eligibility through the comprehensive evaluation process for developmental delay. Criteria for specific disability categories (e.g., autism, speech language impairment, other health impairment) may be used to determine developmental delay eligibility for children in this age range.

If the LEA has chosen to use the term "developmental delay," the eligibility category on the MEEGS form should be "developmental delay" (except for the categories of deaf-blindness, hearing impairment including deafness, and visual impairment including blindness), even though the child qualifies for special education and related services by meeting the criteria for a specific disability category. For example, a child may be determined eligible under developmental delay by meeting the criteria for specific learning disability (i.e., utilizing the components of a comprehensive evaluation for specific learning disabilities).

Emotional Disturbance

Definition

> ***34 CFR § 300.8 Child with a disability.***
> *(C)(4)(i) Emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:*
> *(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.*
> *(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.*
> *(C) Inappropriate types of behavior or feelings under normal circumstances.*
> *(D) A general pervasive mood of unhappiness or depression.*

58974-OKEd-SpecialEd text.indd 88 2/10/11 11:26 AM

(E) A tendency to develop physical symptoms or fears associated with personal or school problems.
(ii) Emotional disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance under paragraph (c)(4)(i) of this section.

(Authority: 20 U.S.C. 1401(3)); 1401)(30))

Components of a Comprehensive Evaluation

- Psychological/social/emotional/behavioral
- Academic/achievement/developmental
- Adaptive behavior and social or cultural background
- Cognitive/intellectual

An evaluation of psychological/social/emotional/behavioral functioning conducted by qualified examiner(s) is required. Components of the evaluation may include behavior/adjustment scales, personality profiles, self-report inventories, interviews, and observations.

The evaluation should address the relationship between the behaviors and concerns which resulted in the referral and any influencing factors on the child's necessary skills and behaviors in the school setting.

Behavioral observations of the child in a variety of settings, behavior rating scales, and checklists are necessary to document characteristics, behaviors, social skills, and interpersonal relationships. Documentation and history of the child's behavior over an extended period of time is required, including instructional and behavioral interventions attempted and whether the interventions have or have not been effective.

Academic and/or developmental achievement must be assessed, but other aspects of educational performance should also be considered. A demonstrable, causal relationship between the child's emotional condition and adverse effects on educational performance must be documented.

Present levels of performance in the general education curriculum, academic performance, achievement, or age appropriate activities will be important information for the group to document and consider. Readiness and developmental activities would be appropriate for children in the early childhood years.

Intellectual/cognitive ability is determined by a reliable, valid, standardized instrument that is individually administered. Intellectual disabilities, health, and sensory factors should be ruled out as the determining causes of the child's inability to learn.

Assessment will also be made of the child's adaptive behavior in the home or school setting (or other age appropriate settings as needed) by using appropriate, standardized instruments, and functional assessments, as needed.

58974-OKEd-SpecialEd text.indd 89 2/10/11 11:26 AM

Medical information and health history will also be essential when a child's condition is such that medications and medical/psychiatric treatments are prescribed.

Depending on the individual needs of the child, behavior impeding the learning of the child or others, and other special factors may be additional considerations for evaluation.

Counseling may be considered as a related service.

Key Eligibility Indicators

An emotional condition (may include schizophrenia) exhibiting one or more of the defined characteristics over a long period of time and to a marked degree, which adversely affects educational performance is a key eligibility indicator. The term does **not** include social maladjustment or conduct disorder unless the group also determines the child has an emotional disturbance. Lack of appropriate instruction in reading, including the essential components of reading instruction, mathematicsm, or LEP must not be the determining factor.

Tourette Syndrome is a neurological disorder; not an emotional disorder. Tourette Syndrome is commonly misunderstood to be a behavioral or emotional condition, rather than a neurological condition.

Hearing Impairment, Including Deafness

Definitions

> ***34 CFR § 300.8 Child with a disability.***
> *(c)(3) Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's educational performance.*
>
> ***34 CFR § 300.8 Child with a disability.***
> *(c)(5) Hearing impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section.*
>
> *(Authority: 20 U.S.C. 1401(3); 1401(30))*

Components of a Comprehensive Evaluation

- Audiological examination
- Communication/language
- Academic/achievement/developmental
- Adaptive behavior and social or cultural background

An otologist's or audiologist's report indicating the extent of the child's hearing impairment is required. When no response to the hearing stimuli can be elicited from the child, a physician's report or existing medical records could fulfill this requirement.

Present levels of performance in the general curriculum, academic performance, achievement, or age appropriate activities are important information the group must

58974-OKEd-SpecialEd text.indd 90 2/10/11 11:26 AM

document and consider. Readiness and developmental activities would be appropriate for children in the early childhood years.

Relevant adaptive behavior should be assessed in a manner that must reflect the ability of the child to compensate for the loss of hearing. This information may be gathered by a hearing specialist and should include auditory functioning and mode of communication.

Adaptive behavior observations and functional hearing information are beneficial in determining the need for adaptations or modifications in the individual assessment of academic performance and achievement. Assessments selected and administered must accurately reflect the child's achievement level rather than reflecting the child's hearing impairment.

Communication/language evaluation information should include language growth and development, speech intelligibility, and effective modes of communication.

AT and communication may be additional considerations as special factors for the evaluation process.

Project Enriching Children's Communication Opportunities (ECCO), may be considered as a related service (ages three to six).

Key Eligibility Indicators

"Deafness" - a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's educational performance [300 CFR § 300.8 (c)(3)]. The National Association of State Directors of Special Education, (NASDSE) Inc. also defines deafness as a trilingual, primarily sensorineural, bilateral hearing loss of 91 decibels or more. The term means that the child's communication development and current primary communication mode is visually based (either sign language or speechreading). Residual hearing (if any) is a secondary and supplementary sensory avenue; vision is the major channel for receiving information.

"Hearing Impairment" - a hearing impairment, whether permanent or fluctuating, that adversely affects a child's educational performance, but which is not included under the definition of "deafness" [300 CFR § 300.8 (c)(5)]. Additionally NASDSE states "The person's linguistic development is primarily auditorally based, with vision serving as a secondary and supplemental channel. No satisfactory definition has been drawn between deaf and hearing impaired, other than a behavioral one, because hearing loss exists on a continuum and is influenced by many other external factors."

Lack of appropriate instruction in reading, including the essential components of reading instruction, mathematics, or LEP must not be the determining factor.

LEAs should note that, for the purposes of child count and reporting to the OSDE-SES, the disability category for children who are deaf or hearing impaired should be hearing impaired.

58974-OKEd-SpecialEd text.indd 91 2/10/11 11:26 AM

Intellectual Disabilities

Definition

> ***34 CFR § 300.8 Child with a disability.***
> *(c)(6) Mental retardation means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.*
>
> *(Authority: 20 U.S.C. 1401(3); 1401(30))*

Components of a Comprehensive Evaluation

- Cognitive/intellectual
- Communication/language
- Academic/achievement/developmental
- Adaptive behavior and social or cultural background

An individual intellectual/cognitive evaluation administered by a qualified examiner is required. If subareas within the cognitive measure are significantly discrepant or inconsistent with adaptive behavior or achievement, further evaluation is necessary to determine the reason for the discrepancy and to ensure that the child's primary disability is within the general intellectual/cognitive area.

Standardized evaluation procedures, validated and developed for the purposes for which they are being used, are required unless the child's disability is so severe as to prevent appropriate assessment of the child's abilities. Additional functional evaluation of cognitive abilities and adaptive behavior may be necessary for children with severe and profound delay in mental development.

Present levels of performance in the general education curriculum, academic performance, achievement, or age appropriate activities will be important information for the team to document and consider. Readiness and developmental activities would be appropriate for children in the early childhood years.

Evaluation of home and/or school (or other age appropriate settings as needed) adaptive behavior could include the following areas: motor skills, communication, self-help/daily living skills, socialization, leisure/recreational, academic, and vocational. Components of adaptive behavior will vary at different age levels. Other measures such as interviews and observations of the student in various settings and activities may be included as informal assessment of adaptive behavior to support the level of functioning.

Assessment procedures must demonstrate that deficits in functioning are not a result of environmental or sociocultural factors and reflect consideration of the physical health of the child which may impact functioning. Developmental and health history information should be reviewed and considered. Evaluation procedures must be selected and administered so as not to be racially or culturally discriminatory. Communication, speech/language functioning, and present levels of functioning are essential components of a comprehensive evaluation.

58974-OKEd-SpecialEd text.indd 92 2/10/11 11:26 AM

Depending on the individual needs of the child, communication, behavior, AT, and other special factors may be additional considerations for evaluation.

The American Association on Intellectual and Developmental Disabilities (AAIDD) recommends that the following be taken into consideration when developing evaluations and programming for individuals with an intellectual disability:

- Limitations in present functioning must be considered within the context of community environments typical of the individual's age peers and culture;
- Valid assessment considers cultural and linguistic diversity as well as differences in communication, sensory, motor, and behavioral factors;
- Within an individual, limitations often coexist with strengths;
- An important purpose of describing limitations is to develop a profile of needed supports; and
- With appropriate personalized supports over a sustained period, the life functioning of the person with an intellectual disability generally will improve.

The group may identify degrees of intellectual disability as mild/moderate or severe/profound, or the levels of support needed.

Key Eligibility Indicators

Eligibility decisions should not be based solely on an intelligence quotient (IQ) or cognitive score. Intellectual, academic (or age appropriate activities), developmental information, and adaptive behavior assessments should demonstrate overall significantly low profiles across measures. An intellectual disability is considered to be at least two standard deviations below the mean on both cognitive measures **and** with significant deficits in adaptive behavior. Consideration should be given to the standard error of measurement and the range of standard scores. An intellectual disability is manifested during the developmental years, usually considered to be prior to age 18. Lack of appropriate instruction in reading, including the essential components of reading instruction, lack of appropriate instruction in math, or LEP must not be the determining factor.

Multiple Disabilities

Definition

> ***34 CFR § 300.8 Child with a disability.***
> *(c)(7) Multiple disabilities means concomitant impairments (such as mental retardation-blindness or mental retardation-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.*
>
> *(Authority: 20 U.S.C. 1401(3) and 1401(30))*

Components of a Comprehensive Evaluation

- Medical information
- Communication/language
- Cognitive/intellectual

58974-OKEd-SpecialEd text.indd 93 2/10/11 11:26 AM

- Adaptive behavior and social or cultural background
- Motor/sensorimotor/perceptual
- Academic/achievement/developmental

Evaluations for a child with multiple disabilities require specific assessment procedures, which are addressed under individual disability areas in this section. Dependent upon the combination of disability areas, additional evaluation components may be necessary.

Medical information from a licensed physician or an ARNP providing relevant medical findings, specific syndromes, health problems, medication, and/or any information deemed necessary for planning the child's educational program is required. The Medical Report (OSDE Form 9) may be utilized, but must adhere to the Health Insurance Portability and Accountability Act (HIPAA) guidelines.

Present levels of performance in the general curriculum, academic performance, achievement, and/or age-appropriate activities will be important information for the group to document and consider in the development of the IEP. Readiness and developmental activities would be appropriate for children in the early childhood years.

For a child with multiple disabilities, cognitive/intellectual, communication/language, motor/sensorimotor/perceptual, academic, and adaptive behavior domains could be assessed by utilizing a combination of standardized tests and functional assessments, behavioral or criterion-based instruments, trial teaching procedures, interviews, checklists, and observations. Information about a child's ability to communicate with others and preferred modalities for receptive and expressive language is needed. Various qualified professionals (e.g., SLP, PT, and OT) may contribute information and data to the evaluation process, as appropriate. AT, communication, and behavior may be additional considerations as special factors for the evaluation process.

Key Eligibility Indicators

Two or more concomitant disabilities, the combination of which causes such **severe** educational needs that they cannot be accommodated in special education programs solely for one of the impairments. This does not include deaf-blindness. LEAs should note that for the purposes of child count and reporting to the OSDE, Special Education Services (SES), the primary disability category for children with more than one disability resulting in educational needs should be multiple disabilities; however, attention should be paid to conditions that must be ruled out. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage. Lack of appropriate instruction in reading, including the essential components of reading instruction, mathematics, or LEP must not be the determining factor.

58974-OKEd-SpecialEd text.indd 94 2/10/11 11:26 AM

Orthopedic Impairments

Definition

> ***34 CFR § 300.8 Child with a disability.***
> *(c)(8) Orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).*
>
> *(Authority: 20 U.S.C. 1401(3); 1401(30))*

Components of a Comprehensive Evaluation

- Medical information
- Academic/achievement/developmental
- Motor

Medical information from a licensed physician, an ARNP, or the parent providing relevant medical findings of orthopedic conditions, specific syndromes, health problems, medication, and any information deemed necessary for planning the child's educational program is required. The Medical Report (OSDE Form 9) may be utilized.

An evaluation of motor functioning by a licensed PT and/or OT, as appropriate to the needs of the child, must be included. Individual evaluation of the child's specific educational needs and present levels of performance in the general education curriculum (or other age appropriate activities for preschool children) should be included.

AT will be an additional consideration as a special factor for the evaluation process.

The effect the child's orthopedic impairment has on his/her present levels of performance in the general education curriculum, academic performance, achievement, or age appropriate activities will be important information for the team to document and consider. Readiness and developmental activities would be appropriate for children in the early childhood years.

Key Eligibility Indicators

A severe orthopedic impairment caused by congenital anomaly, disease, or other causes which adversely affects educational performance. Lack of appropriate instruction in reading, including the essential components of reading instruction, mathematics, or LEP must not be the determining factor.

Other Health Impairments

Definition

> ***34 CFR § 300.8 Child with a disability.***
> *(c)(9) Other health impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that—*

58974-OKEd-SpecialEd text.indd 95 2/10/11 11:26 AM

(i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and
(ii) Adversely affects a child's educational performance.

(Authority: 20 U.S.C. 1401(3); 1401(30))

Components of a Comprehensive Evaluation

- Medical information
- Other information as relevant to the child's health condition
- Academic/achievement/developmental

Medical information from a licensed physician, an ARNP, or the parent is required providing any relevant medical findings, health problems, medication, and any information deemed necessary for determining eligibility and/or planning the child's educational program. The Medical Report (OSDE Form 9) may be utilized. Health information from the school nurse may also be useful.

Individual evaluation of the child's specific educational needs and present levels of academic and/or developmental functioning is also required. Present levels of performance in the general education curriculum, academic performance, achievement, or age appropriate activities are important information the group must document and consider. Readiness and developmental activities would be appropriate for children in the early childhood years.

Further evaluation procedures may be necessary for the child's specific health condition(s) to determine whether the child has a disability which requires special education and related services and the impact of the specific health condition on the child's educational needs.

Attention deficit disorder (ADD) or ADHD may require psychoeducational, cognitive, behavioral and/or psychological, or other evaluation procedures to determine eligibility under the disability category of "other health impairment." Because ADD or ADHD may coexist with other disabilities or conditions, the evaluation procedures must be sufficiently comprehensive to determine: whether the child may be primarily identified under "other health impairment" or another disability category; whether the child requires special education and related services; and to identify the child's other educational needs. A medical "diagnosis" of ADD or ADHD is not necessarily required to determine whether a child is eligible for purposes of special education and related services under the IDEA. Licensed psychologists and certified school psychologists are qualified to conduct evaluations for the purpose of establishing the condition of ADD or ADHD. The multidisciplinary evaluation and eligibility group must determine whether the condition results in a disability, as defined under the IDEA, and whether the child requires special education and related services as a result of the disability.

Tourette Syndrome is a neurological disorder; not an emotional disorder. Tourette Syndrome is commonly misunderstood to be a behavioral or emotional condition, rather than a neurological condition.

58974-OKEd-SpecialEd text.indd 96 2/10/11 11:26 AM

Depending on the individual needs of the child, consideration of other special factors may be needed (e.g., AT, behavior, communication).

Key Eligibility Indicators

Limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli (resulting in limited alertness with respect to the educational environment) due to chronic or acute health condition and which adversely affects educational performance are key eligibility indicators. Lack of appropriate instruction in reading, including the essential components of reading instruction, mathematics, or LEP must not be the determining factor. Note: In determining eligibility for "other health impairment," when the suspected condition is ADD or ADHD, the Diagnostic and Statistical Manual of Mental Disorders (DSM), most current edition, or Professional Group for Attention and Related Disorders (PGARD) criteria, and definitions published in the most recent Children and Adults with Attention-Deficit/Hyperactivity Disorder (CHADD) *Educators Manual* may be useful to the group.

Specific Learning Disability

Definition

34 CFR § 300.8 Child with a disability.
(c)(10) Specific learning disability—
(i) General. Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.
(ii) Disorders not included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(Authority: 20 U.S.C. 1401(3); 1401(30))

34 CFR § 300.35 Scientifically based research.
Scientifically based research has the meaning given the term in section 9101(37) of the ESEA.

(Authority: 20 U.S.C. 1411(e)(2)(C)(xi))

34 CFR § 300.307 Specific learning disabilities.
(a) General. A State must adopt, consistent with § 300.309, criteria for determining whether a child has a specific learning disability as defined in § 300.8(c)(10). In addition, the criteria adopted by the State—
(1) Must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability, as defined in § 300.8(c)(10);
(2) Must permit the use of a process based on the child's response to scientific, research-based intervention; and
(3) May permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability, as defined in § 300.8(c)(10).

58974-OKEd-SpecialEd text.indd 97 2/10/11 11:26 AM

(b) Consistency with State criteria. A public agency must use the State criteria adopted pursuant to paragraph (a) of this section in determining whether a child has a specific learning disability.

(Authority: 20 U.S.C. 1221e-3; 1401(30;1414(b)(6))

34 CFR § 300.310 Observation.
(a) The public agency must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.
(b) The group described in § 300.306(a)(1), in determining whether a child has a specific learning disability, must decide to—
(1) Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or
(2) Have at least one member of the group described in § 300.306(a)(1) conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with § 300.300(a), is obtained.
(c) In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.

(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))

Components of Comprehensive Evaluation

- Documentation of instruction and intervention
- Documentation of repeated assessments of achievement (progress monitoring)
- Cognitive/intellectual development
- Observation
- Academic/achievement/development
- Social/cultural background

Depending on the individual needs of the child, assistive technology, adaptive behavior, and perceptual processing may be additional considerations for evaluation.

Instruction and intervention

Information regarding differentiated instruction and scientific, research-based interventions attempted may include data that demonstrates the child was provided appropriate instruction (general components of core curriculum) in general education settings, delivered by qualified personnel, and a description of scientific, research-based intervention services provided including: methods, duration, materials used, and outcomes.

Scientifically based research

A simple set of questions may be used to distinguish between research that confirms the effectiveness of an instructional practice and research that does not.

- Has the study been published in a peer-reviewed journal or approved by a panel of independent experts?
- Have the results of the study been replicated by other scientists?
- Is there consensus in the research community that the study's findings are supported by a critical mass of additional studies?

58974-OKEd-SpecialEd text.indd 98 2/10/11 11:26 AM

Repeated Assessment of Achievement
Information regarding repeated assessments of achievement must include data-based documentation of repeated assessments/progress monitoring, progress reports, and grades. Data may include benchmark assessments, districtwide assessments, and screening procedures.

Cognitive/intellectual development
Information regarding intellectual development may include, but is not limited to:
- Observation(s) of the child during instruction;
- Historical review of the child's academic progress;
- Development of adaptive behaviors;
- Health history;
- Interview(s) with parent(s) and teacher(s);
- Review of data reflecting the child's response to intervention;
- Standardized measures of cognitive ability (such as intelligence tests); and
- Direct measures of cognitive processes related to specific academic skills.

Observation
The child must be observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the area(s) of difficulty.

Information from an observation in routine classroom instruction and monitoring of the child's performance that was conducted before the child was referred for an evaluation may be used; or

After a child has been referred for evaluation and parental consent has been obtained, a group member may conduct an observation of the child's academic performance and behavior in the child's learning environment. If a child is less than school age or not in school, a group member must observe the child in an environment appropriate for a child of that age.

This observation must be documented in writing and include the name and title of the observer, the site of the observation, and the date(s) of the observation. This information is then summarized on the MEEGS (OSDE Form 5) in determining eligibility for specific learning disabilities.

Academic/achievement/developmental
Information regarding academic achievement or developmental progress may include, but is not limited to: standardized achievement tests, observation(s), grades, criterion-referenced test(s) (CRT), districtwide assessment(s), curriculum based measurement(s), benchmark assessment(s), progress monitoring(s), and developmental activities.

Social/cultural factors
Consideration of environmental or economic disadvantage requires information related to educational history (including school enrollments, attendance records, and grades

58974-OKEd-SpecialEd text.indd 99 2/10/11 11:26 AM

repeated) and family background. Consideration of cultural factors requires information related to native language or mode of communication and English proficiency.

> ***34 CFR § 300.308 Additional group members.***
> *The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in § 300.8, must be made by the child's parents and a group of qualified professionals, which must include —*
> *(a)(1) The child's regular teacher; or*
> *(2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach child of his or her age; or*
> *(3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and*
> *(b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.*
>
> *(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))*

The MEEG for specific learning disabilities must include additional group members and procedures. The group must minimally include the child's parent(s) and qualified professionals that include the child's regular education teacher, a special education teacher qualified to teach children with a specific learning disability, and a remedial reading teacher as appropriate. Additionally, the group must include at least one person qualified to conduct individualized diagnostic examinations of children, and interpret the resulting data, such as a school psychologist, psychometrist, or SLP as appropriate.

If the child does not have a regular education teacher, a regular education teacher qualified to teach that age child would serve on this group. If the child is less than school age, an individual qualified by the OSDE to teach a nondisabled child of that age must serve on this group.

> ***34 CFR § 300.309 Determining the existence of a specific learning disability.***
> *(a) The group described in § 300.306 may determine that a child has a specific learning disability, as defined in § 300.8(c)(10), if—*
> *(1) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards:*
> *(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.*
> *(2)(i) The child does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in paragraph (a)(1) of this section when using a process based on the child's response to scientific, research-based intervention; or*
> *(ii) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning*

58974-OKEd-SpecialEd text.indd 100 2/10/11 11:26 AM

disability, using appropriate assessments, consistent with §§ 300.304 and 300.305; and
(3) The group determines that its findings under paragraphs (a)(1) and (2)of this section are not primarily the result of—
(i) A visual, hearing, or motor disability;
(ii) Mental retardation;
(iii) Emotional disturbance;
(iv) Cultural factors;
(v) Environmental or economic disadvantage; or
(vi) Limited English proficiency.
(b) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in §§ 300.304 through 300.306—
(1) Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
(2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.
(c) The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes described in §§ 300.301 and 300.303, unless extended by mutual written agreement of the child's parents and a group of qualified professionals, as described in § 300.306(a)(1) —
(1) If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in paragraphs (b)(1) and (b)(2) of this section; and
(2) Whenever a child is referred for an evaluation.

(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))

Key Eligibility Indicators

Evaluation information documents a disorder in basic psychological processing abilities which manifests itself in present levels of academic performance in the general education curriculum (or age appropriate activities for preschool aged children). Specific learning disabilities may include conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

The group may determine a child has a specific learning disability if the child does not achieve adequately for the child's age or to meet State approved grade-level standards in oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, or mathematics problem solving when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards; **and**

- The child does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in this section when using a process based on the child's response to scientific, research-based intervention (see appendices); **or**
- Based upon individually administered assessments and other evaluation information reviewed, a severe discrepancy of 1.5 standard deviations between achievement and intellectual ability exists in one or more of the above areas.

58974-OKEd-SpecialEd text.indd 101 2/10/11 11:26 AM

Additionally, the group must document the procedures utilized to determine the presence of a specific learning disability and the adverse effects on educational performance. The LEA must establish criteria and a process for such determinations and make this information available to the group, including the parent(s), as needed. The group may not identify a child as having a specific learning disability if the child's performance is primarily the result of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors**;** environmental or economic disadvantage, or LEP.

Lack of appropriate instruction in reading, including the essential components of reading instruction, mathematics, or LEP must not be the determining factor. To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading, or mathematics, the group must consider, as part of the evaluation:

- Data that demonstrates that prior to, or as a part of, the referral process, the child was provided appropriate differentiated instruction designed to increase the child's rate of learning in general education settings, delivered by qualified personnel; and
- Data-based documentation of repeated assessments collected during the period of differentiated instruction of achievement at reasonable intervals, reflecting formal assessment of student progress that was provided to the child's parent(s).

> ***34 CFR § 300.311 Specific documentation for the eligibility determination.***
> *(a) For a child suspected of having a specific learning disability, the documentation of the determination of eligibility, as required in § 300.306(a)(2), must contain a statement of—*
> *(1) Whether the child has a specific learning disability;*
> *(2) The basis for making the determination, including an assurance that the determination has been made in accordance with § 300.306(c)(1);*
> *(3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;*
> *(4) The educationally relevant medical findings, if any;*
> *(5) Whether—*
> *(i) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards consistent with § 300.309(a)(1); and*
> *(ii)(A) The child does not make sufficient progress to meet age or State-approved grade-level standards consistent with § 300.309(a)(2)(i); or*
> *(B) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards or intellectual development consistent with § 300.309(a)(2)(ii);*
> *(6) The determination of the group concerning the effects of a visual, hearing, or motor disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and*
> *(7) If the child has participated in a process that assesses the child's response to scientific, research-based intervention—*
> *(i) The instructional strategies used and the student-centered data collected; and*
> *(ii) The documentation that the child's parents were notified about—*
> *(A) The State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;*
> *(B) Strategies for increasing the child's rate of learning; and*
> *(C) The parents' right to request an evaluation.*

58974-OKEd-SpecialEd text.indd 102 2/10/11 11:26 AM

(b) Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))

The MEEGS (OSDE Form 5) documents the criteria for determination (34 CFR § 300.309) and a written statement (34 CFR § 300.311)**,** including the additional procedures and requirements for determining eligibility for specific learning disabilities. The LEA must adhere to the State approved evaluation timeframe unless extended by mutual written agreement of the child's parents and a group of qualified professionals.

Specific documentation for the group to address on the MEEGS (OSDE Form 5):

- Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate differentiated instruction designed to increase the child's rate of learning in regular education settings, delivered by qualified personnel;
- Data-based documentation of repeated assessments collected during the period of differentiated instruction of achievement at reasonable intervals, reflecting formal assessment of student progress which was provided to the child's parent(s).
- The relevant behavior noted during the observation of the child as it relates to the child's academic functioning;
- The educationally relevant health or medical findings, if any;
- Whether the child does not achieve adequately for the child's age or to meet State-approved grade-level standards in oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, or mathematics problem solving;
- Whether the child does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in this section when using a process based on the child's response to scientific, research-based intervention; or
- Based upon individually administered assessment and other evaluation information reviewed, a severe discrepancy (1.5 standard deviations) between achievement and intellectual ability exists in one or more of the above areas;
- The effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factor; environmental/economic disadvantage, or LEP;
- Whether the disability is correctable without special education and related services;
- Whether the child has a specific learning disability; and
- The basis for making the determination.

If the child has participated in a process that assesses the child's response to scientific, research-based intervention, the group must address:

- The instructional interventions used, duration and frequency of implementation, and the student-centered data collected; and
- The documentation that the child's parents were notified about the State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
- Effective interventions for increasing the child's rate of learning; and
- The parents' right to request an evaluation.

58974-OKEd-SpecialEd text.indd 103 2/10/11 11:26 AM

Each group member must indicate agreement or disagreement with the conclusion. If a group member disagrees, the person must submit a separate statement presenting their conclusions.

Speech or Language Impairment

Definition

> ***34 CFR § 300.8 Child with a disability.***
> *()(c)(11) Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.*
>
> *(Authority: 20 U.S.C. 1401(3)(A) and (B); 1401(26))*

Components of Comprehensive Evaluation

- Communication/speech and/or language
- Present levels of performance in the general curriculum or age appropriate activities

More than one evaluation procedure must be used to determine the existence of a speech and/or language impairment. At least one assessment tool must be a standardized measure. Other measures may be informal or functional, such as observations, checklists, and language samples. Any informal or functional evaluation measure must be documented in the evaluation summary whether speech/language is the primary disability or a related service.

Evaluation of speech skills may include articulation, voice, fluency, and oral-motor skills. Language skills may involve receptive and expressive language, including phonology, morphology, syntax, semantics, and pragmatics.

Review of existing information might include health and developmental histories, results of hearing screenings, and audiological data.

Present levels of performance in the general education curriculum, academic performance, achievement, or age appropriate activities will be important information for the group to document and consider. Readiness, pre-literacy and developmental activities would be appropriate for children in the early childhood years. The child's native language and social or cultural background will be important considerations.

Depending on the individual needs of the child, communication, AT, and other special factors may be additional considerations for evaluation.

Key Eligibility Indicators

A communication, speech and/or language or voice impairment that adversely affects educational performance is a key eligibility indicator. Lack of appropriate instruction in reading, including the essential components of reading instruction, mathematics or LEP must not be the determining factor.

58974-OKEd-SpecialEd text.indd 104 2/10/11 11:26 AM

Traumatic Brain Injury

Definition

> ***34 CFR § 300.8 Child with a disability.***
> *(c)(12) Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.*
>
> *(Authority: 20 U.S.C. 1401(3) and 1401(30))*

Components of a Comprehensive Evaluation

- Medical information
- Communication/language
- Cognitive/intellectual
- Social/emotional/behavioral
- Sensorimotor/perceptual
- Adaptive behavior and social or cultural background
- Academic/achievement/developmental

Medical information from a licensed physician or an ARNP should be obtained regarding relevant medical and neurological findings, medications, the child's current status and prognosis, and any information pertinent to planning the child's educational program. Information is necessary to establish that the child has an acquired brain injury which occurred after birth and was caused by an external force (including the external force of near-drowning).

Formal evaluation of cognitive/intellectual and academic/achievement (or age appropriate developmental activities for preschool children) should be supported by functional and ecological assessment of the child's ability to generalize and apply skills in various settings. Samples and observations of academic related tasks may provide meaningful direction in planning for the gradual reintroduction to the academic school setting. The child's educational and developmental history prior to the injury also provides important information for educational planning and expectations for prognosis.

Present levels of performance in the general curriculum, academic performance, achievement, or age appropriate activities will be important information for the group to document and consider. Readiness and developmental activities would be appropriate for children in the early childhood years.

Neuropsychological factors and possible implications should be considered in evaluating the child's abilities. In addition to implications for cognitive/intellectual evaluation, the child's functioning in the areas of sensorimotor/perceptual processing

58974-OKEd-SpecialEd text.indd 105 2/10/11 11:26 AM

and communication/language abilities should be assessed with this focus. The abilities of the child to effectively perceive, process, integrate, recall, respond to information, and communicate are important considerations.

The evaluation of the child's social/emotional/behavioral and adaptive behavior status may include functional assessment in various settings. If the child has not yet reentered school, adaptive behavior may need to be assessed in settings or in response to tasks that are as similar to the school setting or other age appropriate settings, as possible. Assessment of the child's adaptive behavior in the home or other settings and social/emotional/behavioral functioning with family and peers will provide valuable information for program planning.

Depending on the needs of the individual child, AT, communication, and behavior may be additional considerations for evaluation.

Key Eligibility Indicators

An acquired brain injury caused by an external physical force, that occurred after birth, must be documented. Additionally, evaluation information must establish that total or partial functional disability or psychosocial impairment, or both, are due to the injury. The resulting impairment(s) adversely affects educational performance. Lack of appropriate instruction in reading, including the essential components of reading instruction, mathematics or LEP must not be the determining factor.

Visual Impairment Including Blindness

Definition

> ***34 CFR § 300.8 Child with a disability.***
> *(c)(13) Visual impairment including blindness means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.*
>
> *(Authority: 20 U.S.C. 1401(3) and 1401(30))*

Components of a Comprehensive Evaluation

- Vision examination
- Academic/achievement/developmental
- Adaptive behavior and social or cultural background

An ophthalmologist's or optometrist's report stating the diagnosis and description of the child's visual problems is required. The Vision Report form may be utilized. Indication of acuity and field of vision are necessary in determining the special services needed. In the case of total blindness, a physician's statement, medical records, or ophthalmologist's report could meet this requirement.

Present levels of performance in the general education curriculum, academic performance, achievement, or age appropriate activities will be important information for the group to

58974-OKEd-SpecialEd text.indd 106 2/10/11 11:26 AM

document and consider. Readiness and developmental activities would be appropriate for children in the early childhood years.

Adaptive behavior information may be assessed in a manner that will reflect the ability of the student to compensate for the loss of vision or visual condition. This information, including assessment of reading medium, should be gathered by a visual specialist, when possible, through a functional vision assessment. Information regarding the child's independent movement in the school and home environment or other age appropriate settings may be provided by an orientation and mobility specialist. Structured observations which include considerations for lighting, size of print or material to be identified visually, and the distance and positioning of the child from objects to be viewed may be utilized. In addition, checklists and interviews developed for this purpose may also be used.

Adaptive behavior and functional vision information will be beneficial in determining the need for adaptations or modifications in the individual assessment of academic performance, achievement and/or present levels of performance in the general education curriculum (or age appropriate activities for preschool children). Assessments selected and administered should accurately reflect the child's achievement level rather than reflecting the child's visual impairment.

AT and Braille instruction needs will be special factors in additional considerations for evaluation of children who have partial sight and blindness.

Key Eligibility Indicators

The vision examination must document that a child meets one or more of the following indicators which adversely affect educational performance: (1) a visual acuity of 20/70 or less in the better eye after the best possible correction; (2) a visual field limited to 20 degrees or less even if the acuity is normal; or (3) a physical eye condition that has been diagnosed by a qualified physician that affects visual functioning to the extent that specially designed instruction is needed. The IEP team must consider any medical documentation in an eligibility determination.

Lack of appropriate instruction in reading, including the essential components of reading instruction, mathematics or LEP must not be the determining factor.

Independent Educational Evaluation

> ***34 CFR § 300.502 Independent educational evaluation.***
> *(a) General.*
> *(1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.*
> *(2) Each public agency shall provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section.*
> *(3) For the purposes of this subpart—*

58974-OKEd-SpecialEd text.indd 107 2/10/11 11:26 AM

(i) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and
(ii) Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with § 300.103.
(b) Parent right to evaluation at public expense.
(1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b)(2) through (4) of this section.
(2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either—
(i)File a due process complaint to request a hearing to show that its evaluation is appropriate; or
(ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to §§ 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria.
(3) If the public agency files a due process complaint notice to request a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.
(4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.
(5) A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.
(c) Parent-initiated evaluations. If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation—
(1) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and
(2) May be presented by any party as evidence at a hearing on a due process complaint under subpart E of this part regarding that child.
(d) Requests for evaluations by hearing officers. If a hearing officer requests an independent educational evaluation as part of a hearing, on a due process complaint, the cost of the evaluation must be at public expense.
(e) Agency criteria.
(1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.
(2) Except for the criteria described in paragraph (e) (1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

(Authority: 20 U.S.C. 1415(b)(1) and (d)(2)(A))

Parents have the right to obtain an independent educational evaluation (IEE). The LEA must provide information to parents, upon request, about where an IEE may be obtained and the agency's criteria for such evaluations. This information must be maintained as part

58974-OKEd-SpecialEd text.indd 108 2/10/11 11:26 AM

of the district's administrative records and will be subject to compliance review. Examples might include the Oklahoma State Department of Health (OSDH) (local county clinics), Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) (community mental health centers), and other public or private qualified resources.

A parent has a right to an IEE at public expense if the parent disagrees with an evaluation which has been obtained by the LEA**.** If the LEA believes that its evaluation is appropriate, the LEA may file a due process complaint to request a hearing to determine whether the evaluation is appropriate. If the evaluation is determined to be appropriate, the parent still has a right to an independent educational evaluation, but not at public expense. The results of all IEEs must be considered in decisions regarding a FAPE of a child and may be presented as evidence in due process complaint hearings.

A parent has the right to only one IEE at public expense for each time the LEA conducts an evaluation in which they disagree.

If the parent obtains an evaluation at public expense or shares evaluation results obtained at private expense with the LEA, the results must be considered by the LEA.

If a hearing officer requests an evaluation as a part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

Agency criteria for independent educational evaluations at public expense, including location and qualifications of the examiner, must be the same as the criteria that the LEA uses when it initiates educational evaluations. IEEs at public expense must be provided in accordance with State standards and federal regulations.

IEEs at public expense must be conducted by qualified examiners who meet OSDE approved or recognized certification and licensing standards to provide such professional services.

IEEs must be conducted by persons who are not employees of the LEA. The LEA may fulfill this obligation by arranging for IEEs through other public agencies or resources or may pay for the cost of the evaluation.

Criteria for Reasonable Costs

LEAs may establish a schedule of reasonable fees for IEEs. If the maximum allowable fees are established, the fees must:

- Not simply be an average of the fees customarily charged in the area.
- Only eliminate excessive fees, while still allowing for the parents to choose from qualified examiners.
- Allow the parents an opportunity to demonstrate unique circumstances that justify an IEE that exceeds the criteria or maximum fee schedule.

If the LEA has established a cost ceiling that is reasonable for the type of evaluation requested and the IEE exceeds the ceiling, the LEA must pay up to the ceiling amount.

In addition to other criteria for IEE, if the LEA establishes a schedule of reasonable fees, it must be provided as part of the information available to parents upon request.

58974-OKEd-SpecialEd text.indd 109 2/10/11 11:26 AM

INDIVIDUALIZED EDUCATION PROGRAM

There are three main parts of the individualized education program (IEP) requirement: the IEP meeting(s), in which the parent(s) and school personnel jointly make decisions about an educational program for a child with a disability; the IEP document, a written record of the decisions reached at the meeting; and the review/revision of the IEP, as appropriate. The overall IEP requirement, comprised of these parts, has a number of purposes and functions.

The IEP meeting serves as a communication tool between the parent(s) and the local educational agency (LEA) and enables them, as equal participants, to jointly determine the child's needs, the services which will be provided to meet these needs, and the anticipated outcomes. When necessary, the IEP process provides an opportunity for resolving any differences between the parent(s) and the LEA.

The IEP is:

- A written commitment of necessary resources;
- A management tool;
- A compliance document ensuring a free appropriate public education (FAPE) agreed to by the parent(s) and the LEA, enabling the child to be involved in and progress in the general education curriculum and to meet the child's educational needs resulting from the disability;
- A method of evaluating the extent of the child's progress toward meeting the annual goals; and
- A transition plan including, when appropriate, each LEAs responsibilities or linkages before the child leaves the school setting.

> ***34 CFR § 300.320 Definition of individualized education program.***
> *(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include-*
> *(1) A statement of the child's present levels of academic performance, including-*
> *(i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or*
> *(ii)For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;*
> *(2)(i) A statement of measurable annual goals, including academic and functional goals designed to-*
> *(A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and*
> *(B) Meet each of the child's other educational needs that result from the child's disability;*
> *(ii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;*
> *(3)A description of-*
> *(i)How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and*
> *(ii)When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;*

58974-OKEd-SpecialEd text.indd 110 2/10/11 11:26 AM

(4)A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child-
(i)To advance appropriately toward attaining the annual goals;
(ii)To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and
(iii)To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;
(5)An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section;
(6)(i)A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16)of the Act; and
(ii)If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why-
(A)The child cannot participate in the regular assessment; and
(B)The particular alternate assessment selected is appropriate for the child; and
(7)The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.
(b) Transition services. Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include—
(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to train, education, employment, and, where appropriate, independent living skills; and
(2) The transition services (including courses of study) needed to assist the child in reaching those goals.
(c) Transfer of rights at age of majority. Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under § 300.520.
(d) Construction. Nothing in this section shall be construed to require—
(1) That additional information be included in a child's IEP beyond what is explicitly required in section 614 of the Act; or
(2) The IEP Team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

(Authority:20 U.S.C. 1414(d)(1)(A) and (d)(6))

The IEP (OSDE Form 7) for a child with a disability is a written document which must be developed, reviewed, and revised in a meeting in accordance with the IEP requirements under the Individuals with Disabilities Education Act (IDEA) Part B and State standards. The responsibilities for other participating agencies regarding the provision of transition services described in the IEP must be in accordance with 34 CFR §300.324.

The IEP must include a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's

58974-OKEd-SpecialEd text.indd 111 2/10/11 11:26 AM

involvement and progress in the general education curriculum and postsecondary transition; or for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; the effects of the disability on the child's other educational needs; the results from the child's evaluation (may include a variety of assessment data, including transition assessment); statements written in objective measurable terms; and a description of the direct relationship between present levels of performance, annual goals, and other components of the IEP.

The IEP must include measurable annual goals, including academic and functional goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum. The annual goals in the IEP are statements that describe what a child with a disability can reasonably be expected to accomplish within a twelve month period. There should be a direct relationship between the annual goals and the present levels of academic achievement and functional performance.

The IEP must also include for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of short-term objectives or benchmarks. Short-term objectives or benchmarks are developed based on logical breakdown of the major components of the annual goals and can serve as milestones for measuring progress towards meeting the goals. These short-term objectives or benchmarks may be projected to be accomplished over an extended period of time (e.g., an entire school quarter or semester). The annual goals, including short-term objectives or benchmarks, should be related to meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general education curriculum and to meeting each of the child's other educational needs that result from the child's disability.

The IEP must include a description of how the child's progress towards meeting the annual goals will be measured and how the child's parent(s) will be regularly informed (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards), and the extent to which progress is sufficient to enable the child to achieve the goals by the end of the year.

The IEP must identify the special education and related services, supplementary aids and services (based on peer-reviewed research to the extent practicable), and program modifications, or supports for school personnel to be provided to enable the child to advance appropriately toward attaining the annual goals; to be involved in and make progress in the general education curriculum; to participate in extracurricular and other nonacademic activities; and to be educated and participate with other children with disabilities and nondisabled children.

The amount of time the child will participate in the general education curriculum must be identified. When the general education curriculum is determined to be the least restrictive environment for a child with disabilities, supplementary aids and services (based on peer-reviewed research to the extent practicable), and program modifications, or supports for school personnel that will be provided for the child must be addressed, when necessary, to assist the child to benefit from educational services. Opportunities to

58974-OKEd-SpecialEd text.indd 112 2/10/11 11:26 AM

participate in nonacademic and extracurricular activities and services must be addressed in the IEP.

After appropriate annual goals and short-term objectives or benchmarks (for children who are taking alternate assessments aligned to alternate achievement of the standard) have been developed, the IEP team must determine the necessary special education and related services and the appropriate placement to meet the stated educational needs of the child. This determination is made with consideration for participation in age appropriate general education curriculum settings to the maximum extent appropriate, the least restrictive environment LRE for the child, and the location where the annual goals can most effectively be addressed. An explanation must be provided about the extent, if any, to which a child will not participate in the general education curriculum and nonacademic or extracurricular activities with nondisabled children. The IEP team must document consideration of LRE placement options and the basis and justification for the proposed placement.

The IEP team determines the appropriate State or districtwide assessment for each child on an individual basis (regular assessment without accommodations, regular assessment with accommodations, Oklahoma Modified Alternate Assessment Program [OMAAP] without accommodations, OMAAP with accommodations, Oklahoma Alternate Assessment Program [OAAP] Portfolio, or a combination of appropriate assessments), by utilizing the "Criteria Checklist for Assessing Students with Disabilities on State Assessments." If the child must take an alternate assessment instead of the regular State or districtwide assessment the IEP must include a statement as to why the child cannot participate in the regular assessment and the particular alternate assessment selected for the child. The IEP must include a statement of any State-approved accommodations that are necessary to measure the academic achievement and functional performance of the child on State, districtwide, and national (e.g., National Assessment of Educational Progress [NAEP]) assessments.

Nothing would prevent a general education teacher from providing a child, whose parent has revoked consent for the continued provision of special education and related services, with accommodations that are available to nondisabled children under relevant State standards. However, once a parent revokes consent a teacher is not required to provide the previously identified IEP accommodations in the general education environment.

If consent is revoked prior to test administration of a statewide assessment, there is no longer a requirement to provide the assessment accommodations that were previously included in the student's IEP. Additionally, the student would not be eligible for an alternate assessment.

The IEP must include the projected date for the beginning of the services and the anticipated frequency, location, and duration of those services.

The IEP must include transition services beginning not later than the first IEP developed during the student's ninth grade year or upon turning 16 years of age, whichever comes first, or younger, if determined appropriate by the IEP team, and updated annually. The

58974-OKEd-SpecialEd text.indd 113 2/10/11 11:26 AM

IEP must also include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills. It should also include transition services needed to assist the young adult in reaching those goals.

Transition Assessment

To assist young adults in making informed decisions about their postsecondary goals, vocational assessments, including interest, aptitude and ability inventories, may be utilized. Assessment results must be incorporated into the IEP and considered as one of many components in making transition planning decisions. Additional components to consider include the young adult's strengths, preferences, and interests. Transition assessment tools come in several forms—paper and pencil, computer-based, Internet documents and programs, picture-based, auditory, texts, and more. LEAs must ensure that the transition assessment tool fits the young adult's needs, preferences, and abilities. A young adult attending higher education may utilize a different assessment than a young adult entering the workforce or a young adult preparing for independent living. The provision of this information, as appropriate, must be documented on the young adult's IEP and provided in a language and form that parents and young adults understand.

Postsecondary Goals

Each young adult at transition age must have a postsecondary goal/vision listed on the top of the transition services plan page of the IEP. This postsecondary goal must address education/training and employment. Independent living goals are optional and determined as needed.

Transition IEP Goals

The postsecondary goal should drive further development of the transition plan, including annual transition IEP goal(s). The annual transition IEP goal(s) must demonstrate the movement toward reaching the postsecondary goal(s). That does not mean that there must be a separate annual transition IEP goal for each postsecondary goal, as long as the annual transition IEP goal addresses and helps the young adult work toward achieving all components of the postsecondary goal. The coordinated set of activities will assist the young adult in accomplishing the annual transition IEP goals.

Additionally, the IEP must include, beginning no later than one year before the young adult reaches the age of majority under Oklahoma State law, a statement that the young adult has been informed of the young adult's rights and the rights will transfer to the young adult upon reaching the age of majority. Oklahoma State law states that age of majority is 18 years of age.

34 CFR § 300.323 When IEPs must be in effect.

(a) General. At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in § 300.320.

(b) IEP or IFSP for children aged three through five.

(1) In the case of a child with a disability aged three through five (or, at the discretion of the SEA, a two-year-old child with a disability who will turn age three during the school year), the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing

58974-OKEd-SpecialEd text.indd 114 2/10/11 11:26 AM

regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is—

(i) Consistent with State policy; and

(ii) Agreed to by the agency and the child's parents.

(2) In implementing the requirements of paragraph (b)(1) of this section, the public agency must —

(i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and

(ii) If the parents choose an IFSP, obtain written informed consent from the parents.

(c) Initial IEPs; provision of services. Each public agency must ensure that –

(1) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and

(2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

(d) Accessibility of child's IEP to teachers and others. Each public agency must ensure that –

(1) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and

(2) Each teacher and provider described in paragraph (d)(1) of this section is informed of –

(i) His or her specific responsibilities related to implementing the child's IEP; and

(ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

(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 is 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.

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

(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 implements a new IEP, if appropriate, that meets the applicable requirements in §§ 300.320 through 300.324.

(g) Transmittal of records. To facilitate the transition for a child described in paragraphs (e) and (f) of this section—

(1) The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2); and

(2) The previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency.

(Authority: 20 U.S.C. 1414 (d)(2)(A)—(c))

58974-OKEd-SpecialEd text.indd 115 2/10/11 11:26 AM

Eligibility as a child with a disability under the IDEA must be established, and an IEP must be developed and in effect prior to provision of special education and related services. For continuing students with disabilities, an IEP must be in effect and implemented at the beginning of each school year (i.e., the first day of school). Special education and related services may not be initially provided to any eligible child until an appropriate IEP has been developed.

The program and services documented in an appropriate IEP must be implemented as soon as possible, in most instances immediately. The child's IEP must be accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for implementation. Each teacher and provider must be informed of his or her specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications, or supports that must be provided for the child in accordance with the IEP.

For eligible preschool aged children with disabilities (3 through 5 years), IEPs will be developed in accordance with State standards, policies, and procedures. The difference between individualized family service plans (IFSPs) and IEPs must be discussed with parents of eligible children who transition from SoonerStart, Part C, Early Intervention (EI) program for infants and toddlers with disabilities. When developing the initial IEP, the content of the child's IFSP must be considered.

Each LEA must ensure a meeting to develop an IEP for a child is conducted within 30 calendar days of a determination that the child is eligible for special education and related services. In addition, as soon as possible following the development of the IEP, special education and related services must be made available to the child.

Move-In Students

If a child with a disability (who had an IEP that was in effect in a previous LEA in the same State) transfers to a new LEA in the same State, and enrolls in a new school within the same school year, the new LEA, in consultation with the parent(s), must provide a FAPE to the child (including services comparable to those described in the child's IEP from the previous LEA), until the new LEA either adopts the child's existing IEP or develops and implements a new IEP.

If a child with a disability (who had an IEP that was in effect in a previous LEA in another State) transfers to an LEA in a new State, and enrolls in a new school within the same school year, the new LEA, in consultation with the parent(s), must provide the child with a FAPE (including services comparable to those described in the child's IEP from the previous LEA), until the LEA determines eligibility and develops and implements a new IEP, if appropriate.

To facilitate the transition for a child, the new LEA 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 LEA. The previous LEA must take reasonable steps to promptly respond to the request from the new LEA.

58974-OKEd-SpecialEd text.indd 116 2/10/11 11:26 AM

Enrollment of Previously Identified Children

When a previously identified child enrolls in a new LEA with a copy of a current IEP, the LEA must contact the parent(s) to determine if they are satisfied with the current IEP. The LEA must document this contact and may use the Record of Parent Contact (OSDE Form 2) for this purpose. If the parent(s) are satisfied with the existing IEP, and the LEA determines that the current IEP is appropriate and can be implemented as written, no further action is necessary.

However, if the current IEP is not available, or the LEA or parent(s) believes it is not appropriate, an IEP meeting must be conducted within ten school days. If additional information or new evaluations are necessary before a final placement decision can be made, an interim IEP may be written to ensure continued services for the eligible child. All requirements for written notification of meeting and parent participation must be met. The LEA must ensure that the parent(s) receives a copy of *Parents Rights in Special Education: Notice of Procedural Safeguards.*

Interim IEP

The purpose of the interim IEP is to aid in determining the appropriate placement for a child who has been determined to be eligible for special education and related services. Under no circumstances should an interim IEP be written for a child who has not yet been determined eligible for special education and related services. The interim IEP must include specific conditions and timelines which must not exceed 30 calendar days. An IEP meeting must be conducted at the end of this time to develop the child's IEP in accordance with IEP procedures and content requirements under the IDEA. The LEA must ensure that the parent(s) agree to the interim placement before it is implemented and that they are involved throughout the process of developing, reviewing, and revising the child's IEP.

34 CFR § 300.324 Development, review, and revision of IEP.
(a) Development of IEP.
(1) General. In developing each child's IEP, the IEP Team must consider—
(i) The strengths of the child;
(ii) The concerns of the parents for enhancing the education of their child;
(iii) The results of the initial or most recent evaluation of the child; and
(iv) The academic, developmental, and functional needs of the child.
(2) Consideration of special factors. The IEP Team must—
(i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;
(ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
(iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
(iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language

58974-OKEd-SpecialEd text.indd 117 2/10/11 11:26 AM

and communication mode, academic level, and full range of needs , including opportunities for direct instruction in the child's language and communication mode; and
(v) Consider whether the child needs assistive technology devices and services.
(3) Requirement with respect to regular education teacher. A regular education teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of—
(i) Appropriate positive behavioral interventions and supports and other strategies for the child; and
(ii) Supplementary aids and services, program modifications, and support for school personnel consistent with § 300.320(a)(4).
(4) Agreement.
(i) In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP.
(ii) If changes are made to the child's IEP in accordance with paragraph (a)(4)(i) of this section, the public agency must ensure that the child's IEP Team is informed of those changes.
(5) Consolidation of IEP Team meetings. To the extent possible, the public agency must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.
(6) Amendments. Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or as provided in paragraph (a)(4) of this section, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.
(b) Review and revision of IEPs.
(1) General. Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team—
(i) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and
(ii) Revises the IEP, as appropriate, to address—
(A) Any lack of expected progress toward the annual goals described in §300.320(a)(2), and in the general education curriculum, if appropriate;
(B) The results of any reevaluation conducted under § 300.303;
(C) Information about the child provided to, or by, the parents, as described under §300.305(a)(2);
(D) The child's anticipated needs; or
(E) Other matters.
(2) Consideration of special factors. In conducting a review of the child's IEP, the IEP Team must consider the special factors described in paragraph (a)(2) of this section.
(3) Requirement with respect to regular education teacher. A regular education teacher of the child, as a member of the IEP Team, must, consistent with paragraph (a)(3) of this section, participate in the review and revision of the IEP of the child.
(c) Failure to meet transition objectives.
(1) Participating agency failure. If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with § 300.320(b), the public agency must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.
(2) Construction. Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency.
(d) Children with disabilities in adult prisons.
(1) Requirements that do not apply. The following requirements do not apply to children with

58974-OKEd-SpecialEd text.indd 118 2/10/11 11:26 AM

disabilities who are convicted as adults under State law and incarcerated in adult prisons:
(i) The requirements contained in section 612(a)(16) of the Act and § 300.320(a)(6) (relating to participation of children with disabilities in general assessments).
(ii) The requirements in § 300.320(b) (relating to transition planning and transition services) do not apply with respect to the children whose eligibility under Part B of the Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.
(2) Modifications of IEP or placement.
(i) Subject to paragraph (d)(2)(ii) of this section, the IEP Team of a child with a disability who is convicted as an adult under State law and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.
(ii) The requirements of §300.320 (relating to IEPs), and § 300.112 (relating to LRE), do not apply with respect to the modifications described in paragraph (d)(2)(i) of this section.

(Authority: 20 U.S.C. 1414(a)(1), 1412(a)(12)(A)(i), 1414(d)(3), (4)(B), and (7); and 1414(e))

In developing each child's IEP, the IEP team must consider the following: the strengths of the child; the concerns of the parent(s) for enhancing the education of their child; the results of the initial or most recent evaluation of the child; and the academic, development, and functional needs of the child.

Special factors must be considered:

- In the case of a child whose behavior impedes his or her learning or that of others, strategies including positive behavioral interventions, other strategies, and supports to address that behavior should be included, if appropriate;
- In the case of a child with limited English proficiency (LEP), the language needs of the child as they relate to the child's IEP must be addressed;
- In the case of a child who is blind or visually impaired, instruction in Braille and the use of Braille must be provided unless the IEP team determines after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille) that instruction in Braille or the use of Braille is not appropriate for the child;
- Communication needs of the child and (in the case of a child who is deaf or hard of hearing) the child's native language and communication needs, opportunities for direct communication with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's native language and communication mode; and
- Whether the child requires AT devices and services.

If, in considering the special factors described above, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) for the child to receive a FAPE, the IEP team must include a statement to that effect in the child's IEP.

58974-OKEd-SpecialEd text.indd 119 2/10/11 11:26 AM

The regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP. This includes assisting in the determination of appropriate positive behavioral interventions and supports and other strategies for the child, supplementary aids and services, program modifications, or supports for school personnel that will be provided for the child.

IEP Accountability

It is the responsibility of the LEA to provide special education and related services to children with disabilities in accordance with an IEP. This does not require that the LEA, teachers, or others who implement the IEP are to be held accountable if a child does not achieve all of the stated annual goals and short-term objectives or benchmarks (for children who are taking alternate assessments aligned to alternate achievement of the standards) established on the IEP. However, teachers and responsible personnel of LEAs must make good faith efforts to implement the IEP and assist the child in achieving these annual goals and benchmarks or objectives. If a child's teacher feels that the IEP or placement is not appropriate for the child, steps should be taken to contact the parent(s) and to request an IEP team meeting to review the child's IEP. Parent(s) have the right to seek revisions in their child's IEP and to access the mediation, complaint, or due process complaint hearing procedures established under federal regulations if the parent(s) feels that these efforts are not being made.

It is also the responsibility of the LEA to initiate and conduct meetings to develop, review, and revise the IEP for children with disabilities that are residents of the district (or as otherwise provided under Oklahoma State law for residency and transfers, including the Open Transfer Act). A meeting must be held periodically for this purpose, at least once a year, to determine whether the annual goals are being achieved and to revise the IEP, as appropriate. The IEP team will develop an IEP, not less than annually.

If the parent(s) of a child with a disability believe that the child is not progressing satisfactorily or that there is a problem with the child's current IEP, it would be appropriate for the parent(s) to request an IEP meeting. The LEA should grant any reasonable request for such a meeting.

The IEP team must review and revise IEPs, as appropriate, to address any lack of expected progress toward the annual goals and in the general education curriculum as identified by the IEP team, the results of reevaluations, evaluation information provided by the parent(s), the child's anticipated needs, or other matters.

Each LEA must ensure that the IEP team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved. The LEA must revise the IEP, as appropriate, to address any lack of expected progress toward annual goals and in the general education curriculum, if appropriate; the results of any reevaluation(s); information about the child provided to, or by, the parent(s); the child's anticipated needs; or other matters. In conducting a review of the child's IEP, the IEP team must consider the special factors described in the IEP. A regular education teacher of the child, as a member of the IEP team, must participate in the review and the revision of the IEP of the child.

58974-OKEd-SpecialEd text.indd 120 2/10/11 11:26 AM

In making changes to the child's IEP after an annual IEP meeting, the parent of a child with a disability and the LEA may agree not to convene an IEP meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. If changes are made to the child's IEP, the LEA must ensure that the child's IEP team is informed of those changes. To the extent possible, the LEA must encourage the consolidation of reevaluation meetings and other IEP meetings for the child. Changes to the IEP may be made either by the entire IEP team at the IEP team meeting, or by amending the IEP rather than by redrafting the entire IEP. Upon request, parent(s) must be provided with a revised copy of the IEP with the amendments incorporated.

The LEA is responsible for developing, implementing, reviewing, and revising IEPs for each eligible child with a disability served by that LEA, with the exception of children who are placed by their parent(s) in private schools. If the LEA places or refers an eligible child with a disability to a private school or facility, the LEA must ensure that an IEP is developed and implemented.

Responsibility for IEPs also applies to the Oklahoma School for the Deaf (OSD), the Oklahoma School for the Blind (OSB), and any other public agencies providing special education and related services, either by contract or through other arrangements. The Oklahoma Department of Corrections (DOC) has the responsibility for young adults with disabilities who are convicted as adults under Oklahoma State law and incarcerated in adult prisons.

Transition Services Planning

Transition services that focus on the young adult's courses of study should be addressed by the IEP team for young adults at transition age (or younger, if determined appropriate by the IEP team). To assist in consideration of courses of study, the LEA must provide to young adults with disabilities and their parent(s) information regarding opportunities for vocational education (i.e., high school career and technical education courses, school-based training, work-based training, work-study program, technology education, or area technology center career majors).

Beginning at transition age (or younger, if determined appropriate by the IEP team), a statement of needed transition services will be addressed by the IEP team. The IEP must include, if appropriate, a statement of interagency responsibilities or any needed linkages. If a participating agency fails to provide or pay for transition services described in the IEP, the LEA must reconvene the IEP team to identify alternative strategies. Every young adult with disabilities must be referred to a vocational rehabilitation counselor by the age of 16. The vocational rehabilitation counselor and representatives of any other agency that are likely to be responsible for providing or paying for transition services must be invited to IEP meetings with consent of the parent(s) (or children who have reached the age of majority). The IDEA does not relieve any participating public agency of the responsibility for services that the agency would otherwise provide under eligibility criteria of that agency.

The IEP team must address transfer of rights at least one year prior to the age of majority and include a statement on the IEP that the young adult and parent(s) have been informed of these rights. Oklahoma State law states that age of majority is 18 years of age.

58974-OKEd-SpecialEd text.indd 121 2/10/11 11:26 AM

The requirements for transition planning and transition services do not apply to young adults with disabilities convicted as adults and incarcerated in adult prisons with respect to the young adults whose eligibility under Part B of the Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release (34 CFR § 300.102). The IEP team of a young adult with a disability who is convicted as an adult under Oklahoma State law and incarcerated in an adult prison may modify the young adult's IEP or placement if the State had demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

Clarification on Recording of IEP Meetings

The August 3, 2006, Federal Register does not address the use of audio- or video-recording devices at IEP meetings, and no other federal statute either authorizes or prohibits the recording of an IEP meeting by either a parent or a school official. Therefore, the state educational agency (SEA) or LEA has the option to require, prohibit, limit, or otherwise regulate the use of recording devices at IEP meetings.

According to the relevant Office of Special Education Programs (OSEP) letters, it would be improper not to conduct the meeting because a parent is recording it. Recording should not be grounds for not holding a meeting.

If an LEA has a policy that prohibits or limits the use of recording devices at IEP meetings, that policy must provide for exceptions if they are necessary to ensure that parent(s) understand the IEP or the IEP process, or to implement other parental rights guaranteed under the IDEA Part B. An SEA or LEA that adopts a rule regulating the tape recording of IEP meetings should ensure that it is uniformly applied. The LEA has a responsibility to take steps necessary to ensure parent(s) participation in meetings, including taking steps to ensure that parent(s) understand the proceedings of the IEP meeting. Such steps may include arranging for an interpreter or other mode of communication for the parent(s).

Any recording of an IEP meeting that is maintained by the public agency is an "education record" within the meaning of the Family Educational Rights and Privacy Act (FERPA) and would, therefore, be subject to the confidentiality requirements of the regulations under both the FERPA and the IDEA Part B.

Removal from Special Education

Children with disabilities cannot be removed from a special education program until the following steps are met. Removal from special education, as addressed here, does not refer to graduating with a standard high school diploma or reaching the maximum age of eligibility.

- **Reevaluation** - This may be a comprehensive evaluation, other evaluation procedures, review of existing evaluation data, or documentation that the child's status has changed. In addition, a determination by the team that the child does not need special education and related services must be documented.
- **Review of Placement** - The IEP team must conduct a meeting to review the IEP to document evidence supporting the team's decision. If the parent(s) are unable to attend the meeting, the LEA must document use of methods to ensure parent participation.

58974-OKEd-SpecialEd text.indd 122 2/10/11 11:26 AM

- **Written Notice** – Written notice must be given to parent(s) before the LEA proposes to change the identification and placement of the child. The LEA must document written notice through the use of the Written Notice to Parents (OSDE Form 8).

Participants in Meetings

34 CFR § 300.321 IEP team.

(a) General. The public agency shall ensure that the IEP team for each child with a disability includes—

(1) The parents of the child;

(2)Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);

(3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider o the child;

(4) A representative of the public agency who—

(i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

(ii) Is knowledgeable about the general education curriculum; and

(iii) Is knowledgeable about the availability of resources of the public agency;

(5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;

(6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(7) Whenever appropriate, the child with a disability.

(b) Transition services participants.

(1) In accordance with paragraph (a)(7) of this section, the public agency must invite a child with a disability to attend the child's IEP team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under § 300.320(b).

(2) If the child does not attend the IEP meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered.

(3)To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph(b)(1),of this section, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

(c) Determination of knowledge and special expertise. The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section must be made by the party (parents or public agency) who invited the individual to be a member of the IEP team.

(d) Designating a public agency representative. A public agency may designate another public agency member of the IEP team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied.

(e) IEP Team attendance.

(1) A member of the IEP Team described in paragraphs (a)(2) through (a)(5) of this section is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

(2) A member of the IEP Team described in paragraph (e)(1) of this section may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a

58974-OKEd-SpecialEd text.indd 123 2/10/11 11:26 AM

modification to or discussion of the member's area of the curriculum or related services, if—
(i) The parent, in writing, and the public agency consent to the excusal; and
(ii) The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.
(f) Initial IEP Team meeting for a child under Part C. In the case of a child who was previously served under Part C of the Act, an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.

(Authority: 20 U.S.C. 1414(d)(1)(B)-(d)(1)(D))

The LEA must ensure that the IEP meeting includes the requirement that the participants be present at the actual time of the IEP meeting. Signatures are to be obtained **at the time of the meeting** to indicate that the individual was in attendance and participated in making decisions documented on the IEP.

Each participant in the IEP meeting may indicate their agreement or disagreement with the content of the IEP. If any participant disagrees with the IEP, they may submit in writing a separate statement presenting their conclusions. Disagreement does not indicate that a FAPE will not be provided. The IEP will be implemented as written; however, upon disagreement, the LEA must provide parent(s) with a Written Notice to Parents (OSDE Form 8) to document the proposal or refusal of services. Documentation of such disagreement may be submitted on the Comment Form and attached to the IEP.

For the initial IEP meeting, team participants must include:

- The child's parent(s);
- Not less than one of the child's regular education teachers if the child is or will be participating in the general education environment (if the child does not have a regular education teacher, a regular education teacher qualified to teach that age child; if the child is less than school age, an individual qualified by the OSDE to teach a nondisabled child of that age);
- Not less than one special education teacher of the child or, if appropriate, at least one special education provider who is qualified in the area of the child's disability;
- An administrator or administrative representative who has knowledge about the LEAs availability of resources;
- A qualified individual who is knowledgeable about the evaluation results and can interpret the instructional implications;
- Other individuals who have knowledge or special expertise (e.g., related services personnel, as appropriate), at the discretion of the parent(s) or the LEA; and
- The child or young adult, as appropriate.

To assist in a smooth transition of services, an invitation to the initial IEP meeting must, at the request of the parent(s), for a child previously served under Part C (SoonerStart), be sent to the Part C service coordinator or other representatives of the Part C system.

58974-OKEd-SpecialEd text.indd 124 2/10/11 11:26 AM

For subsequent IEP meetings, the same team composition applies, except the regular education teacher is not a required participant if the current placement of the child does not include access to the general education environment.

The LEA must take steps to ensure that one or both of the child's parents are present at each IEP meeting. If the parent(s) cannot attend, the LEA must use other methods to ensure opportunity for parent participation, including individual or conference telephone calls.

The regular education teacher must participate in the development, review, and revision of the child's IEP. The regular education teacher must also assist in the determination of appropriate positive behavioral interventions and other strategies for the child, and the determination of supplementary aids and services (based on peer-reviewed research to the extent practicable), program modifications, or supports for school personnel that will be provided for the child.

The regular education teacher who is or may be responsible for implementing a portion of the IEP must serve as a member of the child's IEP team. In circumstances in which a child has more than one regular education teacher who is responsible for implementing portions of the IEP, the LEA may designate which teacher or teachers will serve as IEP team member(s). The IEP team is not required to include more than one regular education teacher of the child.

The IEP team must include a special education provider who has knowledge and special expertise about the child's disability to assist in development of the IEP. The special education teacher who is or will be coordinating and providing the majority of IEP services, or at least one special education teacher of the child, must be in attendance at the meeting. Generally, the special education teacher serving the child will be the person with knowledge and special expertise and will be a participant in the meeting.

For a child whose primary disability is speech or language impairment, the member of the IEP team who serves as the special education teacher or provider would be the speech language pathologist (SLP).

If specific related services are to be discussed, it would be appropriate for the related services personnel to be included as part of the IEP team at that particular meeting or be otherwise involved in developing the IEP.

An administrator or administrative representative of the LEA must be qualified to provide or supervise the provision of special education services. The person selected must have the authority to commit LEA resources, as necessary, and to make decisions about specific special education and related services that the LEA will provide to a particular child. A representative of the LEA must be knowledgeable about the general education curriculum and the availability of the LEA's resources.

Qualified individuals who are knowledgeable about the evaluation results and who can interpret the instructional implications must be present at the IEP meetings for children who have been evaluated and placed in special education. The qualifications of such member(s) of the team will depend on the type of evaluation information considered by the IEP team and the needs of the child.

58974-OKEd-SpecialEd text.indd 125 2/10/11 11:26 AM

Additional Team Participants for Transition

The LEA must invite a young adult with a disability to attend the IEP meeting if a purpose of the meeting will be the consideration of postsecondary goals for the young adult and the transition services needed to assist the young adult in reaching those goals. If the young adult does not attend the meeting, the LEA must take other steps to ensure that the young adult's preferences and interests are considered.

A representative from other agencies, with written consent of the parent(s) or a young adult who has reached the age of majority, that are likely to be responsible for providing or paying for transition services should also be invited to the IEP meeting. If an agency invited to send a representative to the IEP meeting does not do so, the LEA must take other steps to obtain the participation of the other agency in the planning of any transition services.

Preschool Team Composition

Team composition for preschool aged children remains the same as for school aged children if the LEA provides general education preschool services to nondisabled children. If the LEA does not provide general education preschool services to nondisabled children, the LEA could designate an individual who, under State standards, is qualified to serve nondisabled children of the same age. However, a regular education preschool teacher is not required if the preschool aged child will not be participating in the general education environment with nondisabled preschool children. When a preschool child with disabilities is scheduled to enter kindergarten, a regular education teacher must participate as a team member to consider the child's LRE.

Other appropriate team members might be representatives from public or private agencies, related services providers, persons providing clarification and technical assistance to parent(s) and/or the LEA, or others that might contribute to the IEP development. Confidentiality must be considered regarding who is authorized to access education records and whether parent consent will be needed to release or to obtain records.

Although it is necessary to ensure that all direct service personnel who work with the child are informed about and involved in implementing the child's IEP, this does not mean that they must all attend the IEP meeting.

Additional Team Participants for Children in Private Schools/Facilities

If a child attending private school is receiving special education services from an LEA, a representative of the private school or facility must be invited to participate in the development of the IEP.

Participants in IEP Meetings for Children in State Operated Institutions

For children placed in State operated residential institutions and facilities that do not have accredited schools, IEPs must be initiated and conducted by the LEA providing special education and related services, pursuant to written agreements and contracts. Examples of such arrangements include: Oklahoma Youth Center (OYC) under the authority of Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) and the Lloyd E. Rader Center under the Oklahoma Juvenile Authority (OJA). Financial and service responsibilities must also be addressed by written agreement for facilities

58974-OKEd-SpecialEd text.indd 126 2/10/11 11:26 AM

such as J.D. McCarty Center (70 O.S. § 13-104). The LEA providing such services may invite a representative of an LEA who may be involved in transitioning a child to or from that community.

OSB and OSD are State operated residential facilities under the Department of Rehabilitation Services (DRS) that are accredited schools providing special education and related services to those students accepted into their programs. Educational staff at the facilities initiate and conduct IEP meetings for children placed at these facilities by DRS or by court order.

When an LEA initiates referral and placement at the OSB or the OSD, the initial IEP meeting is the responsibility of the LEA. The LEA must ensure that a representative(s) of the facility participates in the development of the IEP. The location of the IEP meeting could be either the LEA or the facility. Subsequent meetings for children who reside at the facility are conducted by the facility. The LEA that referred the child and initiated placement must be invited to attend the meetings conducted by the OSB or the OSD.

When an LEA initiates referral and placement on a day school basis at the OSB or the OSD, the initial IEP meeting is the responsibility of the LEA. Meetings to review and revise IEPs could be initiated by either the LEA or the facility at the discretion of the LEA. If the LEA conducts the meetings, representatives of the facility must be invited. If the OSB or the OSD conducts the meetings, LEA representatives must be invited to participate. Representatives from the district of residence are responsible for the development and overseeing the implementation of the IEP and must be included in all IEP meetings. In the event of a due process complaint or a formal written complaint, the district of residence retains responsibility.

Federal regulations require that LRE be ensured for children in public and private facilities. This will be ensured through written agreements or special implementation procedures. Regardless of reasons for these placements, no child who is capable of education in a regular public school setting may be denied access to an education in that setting. A parent's preference to place a child in a State operated residential program would be a violation of the IDEA if it results in inappropriate LRE placement. However, it is permissible for LEAs to allow parent(s) to choose between two placements that the IEP team has determined meet LRE requirements for the child.

IEP Team Attendance

A member of the IEP team is not required to attend an IEP meeting, in whole or in part, if the parent(s) of a child with a disability and the LEA agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

A member of the IEP team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if the parent(s) and the LEA consent, in writing, to the excusal, and the member submits, in writing, to the parent(s) and the IEP team, input into the development of the IEP prior to the meeting.

58974-OKEd-SpecialEd text.indd 127 2/10/11 11:26 AM

Parent Participation

One or both of the parents should be in attendance at the IEP meeting. If parent(s) are unable or choose not to attend, it is the responsibility of the LEA to ensure that parent(s) are given the opportunity to participate in the development of the IEP. Before initial placement of an eligible child can occur, written parental consent must be obtained.

The parent(s) must receive sufficient notice of IEP meetings, utilizing Notification of Meeting (OSDE Form 6). The notice is considered "prior" if enough time is allowed to make arrangements for participation of parent(s) and additional team members they wish to include. The notice provided to parent(s) must indicate the purpose, time, location, and expected participants at the meeting. For a young adult with a disability, beginning not later than transition age, or younger if determined appropriate by the IEP team, the notice must include that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the young adult and that the LEA will also invite the young adult to attend, as well as identify any other agency that will be invited to attend. Written notice must be provided before proposing to initiate special education placement, which may be achieved through the parent's participation in the development of the initial or subsequent IEPs. Parent(s) must receive a full explanation of their rights at this time and a copy of the IEP. The LEA must document on the IEP that this information has been provided to the parent(s).

If parent(s) choose not to participate in the development of the initial or subsequent IEPs, or are in disagreement with the IEP team's proposed or refused action, Written Notice to Parents (OSDE Form 8) must be provided.

Documentation of the efforts to contact the parent(s) to gain parent participation and attempts to arrange mutually agreed upon meetings should be maintained on the Record of Parent Contact (OSDE Form 2). It is required that a minimum of two different types of contacts are made: one of which is a personal contact (e.g., documented home visits, phone calls), and the other includes copies of correspondence. If neither parent can attend, a meeting may be conducted if the LEA documents parent participation obtained through other means, such as individual or conference telephone calls.

The meetings must be scheduled at a mutually agreed upon time and place, provided that the time and place indicated are reasonably convenient to the parent(s), child, LEA personnel, and others involved. Emphasis is placed on "mutually agreed upon," indicating that an LEA must make a good faith effort to reach an agreement with the parent(s) of a child with a disability regarding the scheduling of IEP meetings. The language of the regulations, however, does not preclude an LEA from considering its own scheduling needs.

The LEA must ensure that the parent(s) understand the proceedings at the IEP meeting. For parent(s) with deafness or whose native language is other than English, the LEA must arrange for an interpreter.

At an IEP meeting, it would be appropriate for LEA staff to come prepared with evaluation findings and proposed recommendations regarding IEP content and special education and related services to be provided. However, the LEA must make clear to the parent(s) from the beginning of the meeting that the services proposed by the LEA are

58974-OKEd-SpecialEd text.indd 128 2/10/11 11:26 AM

only recommendations for review and discussion with the parent(s). If LEA staff bring a draft of the IEP to the IEP meeting, there must be a full discussion with the child's parent(s) before the IEP is finalized.

Parent(s) have the right to bring questions, concerns, and recommendations to an IEP meeting as part of the discussion of the child's needs and services to be addressed by the IEP team. Although parental participation and input is necessary in the development of the IEP, parental preference may not override an IEP team's determination of an appropriate placement and services for a child with a disability. However, it is permissible for the LEA to allow parents to choose between placements that the IEP team has determined to meet the LRE and FAPE requirements for the child.

A copy of the child's IEP must be given to the parent(s) at no cost.

Review of the IEP

The review of the IEP may occur at any time IEP team member(s) consider appropriate. However, a review must occur on or before the anniversary date of the IEP (i.e., at least once a year). The review requires participation of all required team members. Any team member, including a parent, may initiate a review of placement when revision of the IEP is needed.

The educational progress and appropriateness of the placement for each eligible child must be reviewed on at least an annual basis. The review of the IEP must be accomplished with reference to the schedules and procedures for evaluation of the child's progress toward the goals and short-term objectives or benchmarks (for children taking alternate assessments aligned to alternate achievement of the standard) specified in the IEP. The IEP team continues to provide ongoing review of the effectiveness and appropriateness of the child's special education and related services. The team revises the IEP, as appropriate, to address: any lack of expected progress toward the annual goals and in the general education curriculum; information about the child provided to, or by, the parent(s); the child's anticipated needs; or other matters. In addition, the team may address any need for changes in type, frequency, or duration of services and whether the child's placement continues to be the LRE or needs to be changed.

In conducting a meeting to review and, if appropriate, revise a child's IEP, the team must consider the child's needs regarding any of the special factors.

A meeting should occur following reevaluation or consideration of new information concerning the educational program of the child. The purpose of this meeting would be to review the present placement, services, and any necessary change in services in relation to the new information.

Extended School Year (ESY) services are provided to all children with disabilities as determined necessary to provide a FAPE. ESY services must be determined and documented on the IEP. The LEA may not limit ESY services to a particular category of disability or unilaterally limit the type, amount, or duration of services. Special education and related services must be provided beyond the regular instructional year as a necessary part of a FAPE for individual children if the IEP team determined ESY

58974-OKEd-SpecialEd text.indd 129 2/10/11 11:26 AM

services necessary and must be provided at no cost to the parent(s). Such determinations must be made on an individual basis.

> ***34 CFR § 300.325 Private school placements by public agencies.***
> *(a) Developing IEPs.*
> *(1) Before a public agency places a child with a disability in, or refers a child to, a private school or facility, the agency must initiate and conduct a meeting to develop an IEP for the child in accordance with §§ 300.320 and 300.324.*
> *(2) The agency must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.*
> *(b) Reviewing and revising IEPs.*
> *(1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.*
> *(2) If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and an agency representative—*
> *(i) Are involved in any decision about the child's IEP; and*
> *(ii) Agree to any proposed changes in the IEP before those changes are implemented.*
> *(c) Responsibility. Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA.*
>
> *(Authority: 20 U.S.C. 14124(a)(10)(B))*

Before an LEA can place or refer a child with a disability in a private school or facility to fulfill responsibilities for provision of a FAPE, the LEA is responsible for initiating and conducting a meeting to develop an IEP for the child. The LEA must ensure that a representative of the private school attends the IEP meeting and must be documented on the Notification of Meeting (OSDE Form 6). If the representative cannot attend the meeting, individual or conference calls or other means of participation must be used to ensure participation by the private school or facility.

After the child with a disability enters the private school or facility, if the private school or facility initiates and conducts these meetings, the LEA must ensure that the parent(s) and an LEA representative attend the meetings. The parent(s) and the LEA representative must be involved in any decisions about the child's IEP and must be in agreement to any proposed changes in the IEP before these changes are implemented. Although the private school or facility implements the child's IEP, responsibility for compliance with the IDEA remains with the LEA or public agency that placed the child in or referred the child to the private school or facility.

Grading School Performance of Children with Disabilities

It is the responsibility of the IEP team to ensure that each individual child's placement is appropriate to meet individual educational needs. Supplementary aids and services, program modifications, or supports in the general education curriculum must be addressed by the IEP team, as necessary.

Any unique grading methods or criteria required to evaluate an individual child's progress must be determined by the IEP team. Parent(s) should be informed of these methods or

58974-OKEd-SpecialEd text.indd 130 2/10/11 11:26 AM

criteria, how the child is functioning, and what progress is being made (which includes copies of the child's report cards). Any unique grading or progress reporting is to be determined and documented on an individual basis on the IEP.

Federal regulations do not hold LEAs accountable for a child reaching a certain level of achievement. However, the LEA is responsible to ensure that the IEP is appropriate and implemented as written. The IEP should be reasonably calculated for the child to benefit from the program. The IEP team will address how to meet the child's needs that result from the disability for the child to be involved in and progress in the general education curriculum and to meet the other educational needs that result from the disability. In this manner, the IEP should be designed to enable the child to receive passing grades and to advance from grade to grade.

A child in special education may be given a failing grade because of refusal to complete work within the child's capability and/or poor attendance. However, a child should not be failed if the program is inappropriate or if the IEP is not being implemented as written. In the event that the child is not achieving as anticipated, the IEP team must reconvene to review the appropriateness of the placement. Revisions should be addressed by the IEP team, if needed, to ensure an appropriate educational program for the child.

Section 504 of the Rehabilitation Act of 1973 states: "No otherwise qualified handicapped individual in the United States shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

Essentially, a child with a disability is required to have the same opportunities as any nondisabled child. Therefore, maximum grades (e.g., allowing no child with a disability to make a grade higher than a grade of "B") would be discriminatory. The key for a teacher grading a child with a disability is not to award grades on the basis of the disability. In recording grades on a permanent record, there must not be any reference to the child's placement in special education.

An alternative method for grading children involves schoolwide leveling of grade cards and transcripts by levels of achievement for all children. However, it would be discriminatory for the entire population of those children identified as below grade level on report cards and transcripts to be comprised solely of children with disabilities.

Transcripts

A child's transcript must not contain any information that is considered to be discriminatory based on a disability. This would include any reference to special education placements or categories, special services, special education test information, or reference to a disability. Transcripts are essential in determining completion of the secondary program. Credit is determined by completion of course requirements in the general education curriculum or as otherwise specified by the IEP. Course titles documented on transcripts should reflect actual courses taken (e.g., Algebra I, Algebra I Essentials, and Algebra I Concepts).

58974-OKEd-SpecialEd text.indd 131 2/10/11 11:26 AM

Graduation Requirements

The IEP team may address program modifications and modified course requirements to allow appropriate and individualized educational programming for young adults with disabilities under the provisions of the IDEA Part B and Oklahoma State law (70 O.S. § 11-103.6). IEP teams have the flexibility of allowing young adults with disabilities to meet the state minimum requirement for graduation, even if the LEA requires additional credits. In this instance, the young adults would not be exempt from state assessment requirements, including end-of-instruction examinations. Decisions must be made on an individual basis. When IEP teams are making these decisions, team members need to consider the postsecondary goals of the young adult and possible post-school preferences.

Graduation and diploma requirements must be in accordance with current Oklahoma State laws and standards. For additional information, contact the Accreditation Section at the OSDE.

The IEP team will determine a goal for completion of an appropriate secondary education program for every special education young adult, beginning not later than the first IEP to be in effect when the young adult becomes transition age, or younger if determined appropriate by the IEP team. Completion of a secondary education program and graduation with a standard high school diploma may be accomplished by the young adult meeting all graduation requirements or as determined by the IEP team within the scope of the IDEA Part B and Oklahoma State law and standards. The IEP team must be responsible for planning an appropriate educational program for the young adult to benefit from the special education program based on the individual needs of the young adult. The IEP team must develop and write annual goals and short-term objectives or benchmarks (for young adults who are taking alternate assessments aligned to alternate achievement of the standard) related to meeting the young adult's educational needs that result from the disability to progress toward completion of the secondary education program goal(s) determined to be appropriate, including all supplementary aids, services, supports, or necessary modifications required in the general education classroom. The secondary education program goal(s), objectives or benchmarks, and services outlined in the young adult's IEP are to be reviewed at least annually or more often, if needed, and revised, if appropriate, by the IEP team.

A FAPE must be provided for a child with a disability through the age of 21, if necessary, for completion of the secondary education program determined to be appropriate by the IEP team. However, education through the age of 21 for a child with a disability is not required in all circumstances. IEP teams should plan through the course of study and coordinated activities as early as possible during the high school years with an anticipated program completion date.

When a young adult with a disability is expected to complete graduation requirements and receive a standard high school diploma, the IEP team should convene at an appropriate time before graduation to review the IEP, ensuring that graduation requirements will be met in accordance with requirements for the general education curriculum or as otherwise specified in the IEP. Graduation from high school with a standard diploma is considered to be a change of placement, requiring prior written notice. Upon graduation with a standard diploma, eligibility for special education and related services ceases.

58974-OKEd-SpecialEd text.indd 132 2/10/11 11:26 AM

SPECIAL EDUCATION

34 CFR § 300.39 Special education.

(a) General.

(1) Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—

(i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(ii) Instruction in physical education.

(2) Special Education includes each of the following, if the services otherwise meet the requirements of paragraph (a) (1) of this section;

(i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;

(ii) Travel training; and

(iii) Vocational education.

(b) Individual special education terms defined. The terms in this definition are defined as follows:

(1) At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

(2) Physical education means—

(i) The development of—

(A) Physical and motor fitness;

(B) Fundamental motor skills and patterns; and

(C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and

(ii) Includes special physical education, adapted physical education, movement education, and motor development.

(3) Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—

(i) To address the unique needs of the child that result from the child's disability; and

(ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.

(4) Travel training means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to—

(i) Develop an awareness of the environment in which they live; and

(ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

(5) Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

(Authority: 20 U.S.C. 1401(29))

"Special education" means specially designed instruction that is provided at no cost to parents, meeting unique needs of a child with a disability. Special education includes, but is not limited to:

- Specially designed instruction in the classroom (general education classroom with support services, modifications, supplementary aids and services, co-teaching, collaborative teaching, resource or lab services, part-time special education classroom, full-time special education classroom, and special day school).

58974-OKEd-SpecialEd text.indd 133 2/10/11 11:26 AM

- Specially designed instruction in the home, hospital, institution, or other setting.
- For preschool children, early childhood home, service provider location, reverse mainstream, part-time early childhood/part-time early childhood special education, early childhood special education, separate school, or residential facility.
- Speech language pathology services consisting of specially designed instruction which is not delivered as a related service but instead as a special education service delivery.
- Special physical education, adapted physical education, movement education, and motor development.
- Vocational education consisting of educational programs that prepare individuals for paid or unpaid employment or the additional preparation for a career, with modifications, specially designed vocational education, or applied technology education.
- Travel training instruction that enables children to develop awareness of environments and to learn skills necessary to move effectively and safely from place to place.

"Specially designed instruction" means adapting content, methodology, or delivery of services, as appropriate, to meet the needs of an eligible child resulting from the disability. Specially designed instruction includes:

- Consultation by qualified special education personnel.
- Program monitoring by qualified special education personnel to ensure that the individualized education program (IEP) is being properly implemented and that the child is progressing in accordance with the IEP.

RELATED SERVICES

34 CFR § 300.34 Related services.

(a) General. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

(b) Exception; services that apply to children with surgically implanted devices, including cochlear implants.

(1) Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.

(2)Nothing in paragraph (b)(1) of this section—

(i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be necessary for the child to receive FAPE.

(ii) Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, operation of other bodily functions, while the child is transported to and from school or is at school; or

(iii) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in § 300.113(b).

(c) Individual related services terms defined. The terms used in this definition are defined as follows:

58974-OKEd-SpecialEd text.indd 134 2/10/11 11:26 AM

(1) Audiology includes—
(i) Identification of children with hearing loss;
(ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
(iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conversation
(iv) Creation and administration of programs for prevention of hearing loss;
(v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and
(vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.
(2) Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.
(3) Early identification and assessment of disabilities in children means the implementation of a formal plan for identifying a disability as early as possible in a child's life.
(4)Interpreting services includes- -
(i)The following, when used with respect to children who are deaf or hard of hearing: Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication assess real-time translation (CART), C-Print, and TypeWell; and
(ii) Special interpreting services for children who are deaf-blind.
5) Medical services means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.
(6) Occupational therapy—
(i) Means services provided by a qualified occupational therapist; and
(ii) Includes—
(A) Improving, developing or restoring functions impaired or lost through illness, injury, or deprivation;
(B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and
(C) Preventing, through early intervention, initial or further impairment or loss of function.
(7) Orientation and mobility services—
(i) Means services provided to blind or visually impaired children by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and
(ii) Includes teaching children the following, as appropriate:
(A) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);
(B) To use the long cane to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;
(C) To understand and use remaining vision and distance low vision aids; and
(D) Other concepts, techniques, and tools.
(8) Parent counseling and training means
(i) Assisting parents in understanding the special needs of their child;
(ii) Providing parents with information about child development; and
(iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.
9) Physical therapy means services provided by a qualified physical therapist.
(10) Psychological services includes—
(i) Administering psychological and educational tests, and other assessment procedures;
(ii) Interpreting assessment results; (iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;

58974-OKEd-SpecialEd text.indd 135 2/10/11 11:26 AM

(iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
(v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and
(vi) Assisting in developing positive behavioral intervention strategies.
(11) Recreation includes—
(i) Assessment of leisure function;
(ii) Therapeutic recreation services;
(iii) Recreation programs in schools and community agencies; and
(iv) Leisure education.
(12) Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with disabilities by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq.
(13) School health services and school nurse services means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse School health services are services that may be provided by either a qualified school nurse or other qualified person.
(14) Social work services in schools includes—
(i) Preparing a social or developmental history on a child with a disability;
(ii) Group and individual counseling with the child and family;
(iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
(iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
(v) Assisting in developing positive behavioral intervention strategies.
(15) Speech-language pathology services includes—
(i) Identification of children with speech or language impairments;
(ii) Diagnosis and appraisal of specific speech or language impairments;
(iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
(iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and
(v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.
(16) Transportation includes—
(i) Travel to and from school and between schools;
(ii) Travel in and around school buildings; and
(iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

(Authority: 20 U.S.C. 1401(26))

All children with disabilities must have available a free appropriate public education (FAPE) that may include related services required for such children to benefit from special education. Under federal regulations, related services are defined as transportation and such developmental, corrective, and other supportive services as required to assist a child with a disability to benefit from special education. All related services may not be required

58974-OKEd-SpecialEd text.indd 136 2/10/11 11:26 AM

for each individual child but are individually determined. The need for, frequency, and duration of related services must not be determined by the category of disability or by the availability of services. The individualized education program (IEP) team determines whether related services are necessary and to what extent the services are needed for the child to benefit from special education.

The list of related services is not exhaustive and may include other developmental, corrective, or supportive services if they are required to assist a child with a disability to benefit from special education. The coordination of services across agencies and multiple providers, if determined necessary by the IEP team, could facilitate accountability to ensure that a FAPE is implemented in accordance with the IEP and at no cost to the parent. Measurable annual goals, including short-term objectives or benchmarks in the IEP for children participating in an alternate assessment against the alternate achievement standard, must address all of the child's identified needs that the IEP team has determined warrant the provision of special education, related services, or supplementary aids and services, and must enable the team to determine the effectiveness of each of those services. If the IEP team has determined that a child needs related services as a component of a FAPE, the IEP must include measurable annual goals and short-term objectives or benchmarks (for students taking an alternate assessment against alternate achievement of the standard) that address the child's need to develop and/or improve those skills. However, if the IEP includes measurable annual goals, short-term objectives, or benchmarks that appropriately address the child's need for related services, no additional or separate goals, short-term objectives, or benchmarks would be required.

The amount of services to be provided must be stated in the IEP so the level of the local educational agency's (LEA) commitment of resources will be clear to parents and other IEP team members. The amount of time to be committed to each of the various services to be provided must be (1) appropriate to the specific service, and (2) stated in the IEP in a manner that is clear to all who are involved in both the development and implementation of the IEP.

If the child's evaluation indicates the need for a specific related service, the LEA must ensure that a qualified provider of that service either (1) attends the IEP meeting, or (2) provides a written recommendation concerning the nature, frequency, and amount of service to be provided to the child. This written recommendation could be a part of the evaluation report.

The LEA must ensure that all services set forth in the child's IEP are provided consistent with the child's needs as identified in the IEP. The agency may provide each of those services directly through its own staff resources; indirectly, by contracting with another public or private agency; through other arrangements, including written agreements; or as otherwise provided by law. In providing the services, the agency may use whatever State, local, federal, and private sources of support are available for those purposes; but the services must be at no cost to the parents, and the public agency remains responsible for ensuring that the IEP services are provided in a manner that appropriately meets the child's needs as specified in the IEP. The LEA may not allow the failure of another agency to provide or pay for service(s) described in the child's IEP to deny or delay the

58974-OKEd-SpecialEd text.indd 137 2/10/11 11:26 AM

provision of a FAPE to the child. All related services are to be provided by qualified personnel as provided by State personnel qualifications and scope of practice.

Transportation

It is the responsibility of the district of legal residence to provide transportation in accordance with State and federal laws. The need for and type of transportation must be determined on an individual basis by the IEP team. Under State policy and federal regulations, this determination is independent of the type of disability, age of the child (three through 21 years of age), or the distance the child lives from the school where the special education program and related services are being delivered.

In determining whether to include transportation in a child's IEP, and whether the child needs to receive transportation as a related service, it would be appropriate to have at the IEP meeting a person with expertise in that area. In making this determination, the IEP team must consider how the child's disability affects the child's need for transportation, including determining whether the child's disability prevents the child from using the same transportation provided to nondisabled children, or from getting to school in the same manner as nondisabled children. If the child requires transportation to receive benefit from or obtain access to a special education program, the LEA must provide it at no cost to the parent.

Provision of transportation for preschool children with disabilities must be considered on an individual basis by the IEP team. The team must consider transporting a preschool aged child to the site at which the LEA provides special education and related services to the child, if that site is different from the site at which the child receives other preschool or day care services.

When the LEA transports a child with disabilities, all transportation equipment used must meet or exceed minimum standards. The standards listed in *Minimum Specifications for School Buses* meet or exceed Federal Motor Vehicle Safety Standards (contact the OSDE Transportation/ Student Transfers section for further information). Additionally, please refer to the OSDE publication, *Technical Assistance Document: Transportation for Children and Youth with Disabilities.*

The LEA is responsible for the child with disabilities from the time the child leaves the "home curb" until the child returns to the "home curb." The parent or their designee is responsible for "door-to-curb," "curb-to-door," and "street crossing" of the child to the designated loading and unloading point.

Based upon mutual agreement between two participating LEAs, an LEA offering special education classes may extend its transportation services to include the transportation of children qualifying for special education in an adjacent LEA that does not offer special education classes.

The LEA may provide this service directly or contract with parents or some other person to furnish transportation. The exact miles driven and exact cost per mile to be paid by the LEA should be specified in the IEP. This would occur through agreement of the school and the contracted driver.

58974-OKEd-SpecialEd text.indd 138 2/10/11 11:26 AM

The LEA is not required to pay for the cost of transportation for children with disabilities who are unilaterally placed by their parents in state operated residential institutions, if the LEA has offered to make a FAPE available.

For the LEA to be responsible for transportation to and from a public or private residential or day school, the LEA must be involved with the placement of the child and development of the IEP.

Medical Devices

Medical devices that have been surgically implanted (i.e., cochlear implant for a deaf child) are not considered assistive technology (AT). The LEA is not responsible for optimizing the function of the device, mapping, or maintenance of the device. Replacement of the device is not considered a related service.

Project ECCO (Enriching Children's Communication Opportunities)

Project Enriching Children's Communication Opportunities (ECCO) is a statewide family-centered program for children three to six years of age, who are deaf or hearing impaired. Weekly home visits are made by a parent advisor to provide information and training for the family and involve them in natural activities to build interactive communication with the child. The role of the parent advisor is to understand and assess the child's needs, understand the family and their concerns and strengths, and to support parent counseling and training.

Assistive Technology

The IEP team must determine the need for AT services or devices for provision of special education, related services, supports, or supplementary aids and services. Refer to the definitions of AT, AT devices, and AT services under AT in the Right to Education: Free Appropriate Public Education section of this manual. For additional information regarding AT, please refer to the OSDE publication, *Technical Assistance Document: Assistive Technology for Children and Youth with Disabilities.*

58974-OKEd-SpecialEd text.indd 139 2/10/11 11:26 AM

LEAST RESTRICTIVE ENVIRONMENT

34 CFR § 300.114 LRE requirements.
(a) General.
(1) Except as provided in 300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and 300.115 through 300.120.
(2) Each public agency must ensure that—(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutes or other care facilities, are educated with children who are nondisabled; and
(ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactory.
(b) Additional requirement- State funding mechanism.
(1) General.
(i) A state funding mechanism must not result in placements that violate the requirements of paragraph (a) of this section; and
(ii) A state must not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability FAPE according to the unique needs of the child, as described in the child's IEP.
(2) Assurance. If the State does not have policies and procedures to ensure compliance with paragraph (b)(1) of this section, the State must provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that the mechanism does not result in placements that violate that paragraph..

(Authority: 20 U.S.C. 1412 (a)(5))

The purpose of the least restrictive environment (LRE) requirement is to ensure that, to the maximum extent appropriate, children with disabilities receive instruction with children who do not have disabilities. The individualized education program (IEP) team must clearly document, utilizing the Oklahoma State Department of Education (OSDE) Form 7, that a variety of options are considered to determine placement in the LRE to meet the individual child's needs based on the IEP. The selected placement decisions must be individually determined on the basis of each child's abilities and needs, and not solely on factors such as category of disability, availability of special education and related services, configuration of the service delivery system, availability of space, or administrative convenience.

It should be noted that a child need not fail in the general education curriculum before another placement can be considered or require that a child demonstrate achievement of a specific performance level as a prerequisite for placement into a general education curriculum.

The overriding rule in this section is that placement decisions for **all** children with disabilities, including preschool children, must be made on **an individual basis** by the IEP team.

58974-OKEd-SpecialEd text.indd 140 2/10/11 11:26 AM

It must also be noted that the state educational agency (SEA) does not consider placement in determining allocations to districts. However, the local educational agency (LEA) must assure, as part of the *Part I, LEA Implementation Agreement for Special Education in Oklahoma*, that it will educate children with disabilities, to the maximum extent appropriate, with children who are nondisabled, and that it will address the LRE continuum of alternative placements, including the continuum of alternative placements for preschool children aged three through five, as defined for federal child count and data collection purposes. The LEA must also assure that it will compile and maintain a report of caseload and class size for special education teachers and related services personnel employed to serve eligible children on IEPs (see Appendices). The caseload and class size limits per special education teacher or related services personnel must not exceed a level that would prevent effective implementation of IEPs that are reasonably calculated to provide benefit to the child.

Prior to removal from the general education environment, the IEP team must document justification as to why the child's IEP requires removal to the extent determined by the team. The IEP team must document the consideration, implementation, and/or use of supplementary aids and services.

The removal of children with disabilities from the general education environment occurs only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.

The LRE requirements include children in public or private institutions or residential child care facilities. Exceptions to LRE requirements for children with disabilities incarcerated in adult prisons will be as described at 34 CFR § 300.324.

> ***34 CFR § 300.42 Supplementary aids and services.***
> *Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§ 300.114 through 300.116.*
>
> *(Authority: 20 U.S.C. 1401(33))*

To ensure that a continuum of alternative placements are provided in the LRE, the IEP team must make provision for supplementary aids and services and other supports that are provided in the regular education classes, other education-related settings, and in extracurricular and nonacademic settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

Assistive Technology (AT) services may be provided as supplementary aids and services in general education classes or other education related settings if determined necessary by the IEP team.

58974-OKEd-SpecialEd text.indd 141 2/10/11 11:26 AM

CONTINUUM OF ALTERNATIVE PLACEMENTS

34 CFR § 300.115 Continuum of alternative placements.
(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.
(b) The continuum required in paragraph (a) of this section must—
(1) Include the alternative placements listed in the definition of special education under § 300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and
(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

(Authority: 20 U.S.C. 1412(a)(5))

Instruction, supplementary aids, and services must be provided in a variety of settings based upon the individual child's needs. In accordance with the placement decision of the individualized education program (IEP) team, provision must be made for supplementary services (e.g., resource room, service provider location, public/private separate day school facility) in conjunction with general education class placement. Appropriately developed annual goals, benchmarks and short-term objectives for children who are working towards alternate achievement of the standards, and services are to be designed by the IEP team as necessary for the child to benefit from a free appropriate public education (FAPE) and to support the child in general education classroom programming with nondisabled children, to the maximum extent appropriate. The continuum of alternative placements must be available to the extent necessary to implement the IEP for each child with a disability. The IEP team determines the appropriate instructional environment(s) and services necessary to implement the IEP goals, benchmarks, or short-term objectives for children who are working towards alternate achievement of the standards.

Local educational agencies (LEAs) that do not operate programs for nondisabled preschool children are not required to initiate such programs solely to satisfy the requirements regarding placement in the least restrictive environment (LRE). The full continuum of alternative placements, including integrated placement options (e.g., community-based settings, such as Head Start, with typically developing age peers), must be available to preschool children with disabilities.

Continuum of Alternative Placements for Children (aged 6 through 21)

The following placement definitions are based on the federal data reporting requirements (i.e., Child Count) which will allow for consistency when LEAs are conducting child count.

Regular education full-time (Inside the regular class more than 80% of the day)

The child receives special education and related services outside the general education classroom for less than 21% of the school day, and can include children with disabilities placed in (1) general education class with special education and related services provided within general education classes, (2) general education class with special education and related services provided outside general education classes, or (3) general education class with special education services provided in resource room.

58974-OKEd-SpecialEd text.indd 142 2/10/11 11:26 AM

Special class part-time (Inside the regular class 40% to 80% of the day)
The child receives special education and related services outside the general education classroom for at least 21% but no more than 60% of the school day, and can include children with disabilities placed in (1) resource rooms with special education and related services provided within the resource rooms, or (2) resource rooms with part-time instruction in a general education class.

Special class full-time (Inside the regular class less than 40% of the day)
The child receives special education and related services outside the general education classroom for more than 60% of the school day, and can include (1) self-contained special classrooms with part-time instruction in a general education class, or (2) self-contained special classrooms with full-time special education instruction on a regular school campus.

Public/Private Separate Day School Facility
The child receives education in public or private separate day school facilities (including children with disabilities receiving special education and related services, at public expense, for greater than 50% of the school day in public or private separate schools), and can include (1) public and private day schools for children with disabilities, (2) public and private day schools for students with disabilities for a portion of the school day (greater than 50%) and in regular school buildings for the remainder of the school day, or (3) public and private residential facilities if the child does not live in the facility.

Public/Private Residential Facility
The child receives education in a public or private residential facility during the school week (including children with disabilities receiving special education and related services, at public expense, for greater than 50% of the school day in public or private residential facilities), and can include (1) public and private residential schools for students with disabilities, or (2) public and private residential schools for children with disabilities for a portion of the school day (greater than 50%) and in separate day schools or regular school buildings for the remainder of the school day. Do not include students who receive education programs at the facility, but do not live there.

Home Instruction/Hospital Environment
The child receives education (1) through home instruction, or (2) in a hospital program. This does not include children with disabilities whose parents have opted to homeschool them and who receive special education services at the public expense.

Correctional Facility
The child receives education in (1) a short-term detention facility (community-based or residential), or (2) a correctional facility.

Parentally Placed in Private School
The child is enrolled by his/her parent or guardian in regular parochial or other private school and his/her basic education is paid through private resources, although he/she receives special education and related services at public expense from a local educational agency under a service plan. This includes students whose parents chose to homeschool, but who receive special education and related services at the public expense. It does not include children who are placed in private schools by the LEA.

58974-OKEd-SpecialEd text.indd 143 2/10/11 11:26 AM

Continuum of Alternative Placements for Preschool Children (aged three through Kindergarten school age, turning five before September 2)

The educational needs of a preschool aged child who demonstrates delay(s) in domain(s) should determine the placement, location, or services to be provided to meet the child's needs. Placement and services should be individually determined based upon the IEP team's consideration of a child's present levels of performance, abilities, and needs; the IEP team will consider what services and placement are necessary to implement the goals and short-term objectives or benchmarks (for children taking an alternate assessment aligned to alternate achievement of the standard) for the child to benefit from the IEP. Preschool children must be educated in the environments that the children would participate in if nondisabled to the maximum extent appropriate. The IEP team determines the appropriate instructional environment(s) and placement(s) necessary to implement the IEP goals. The placement options may include the following:

Early Childhood Program

This includes a child who attends a program that includes at least 50% nondisabled children. Early childhood programs include, but are not limited to (1) Head Start, (2) kindergarten, (3) reverse mainstream classrooms, (4) preschool classes offered to an eligible pre-kindergarten population by the public school system, and (5) group child care. Attendance at an early childhood program need not be funded by the Individuals with Disabilities Education Act (IDEA) Part B funds. If a child attends an early childhood program, the LEA must specify the amount of time the child receives special education and related services in the early childhood program.

Special Education Program

This includes a child who attends a program that includes less than 50% nondisabled children. If a child attends a special education program, the district must identify the type of program.

Separate Class: Special education and related services are provided in special education classrooms in regular school buildings, trailers, or portables outside regular school buildings.

Separate School: Special education and related services are provided in a separate school (public or private day schools designed specifically for children with disabilities), (i.e., Oklahoma School for the Deaf [OSD] or Oklahoma School for the Blind [OSB]) or a child placed by the LEA in an accredited day school which provides special education services.

Residential Facility: Special education and related services are provided in publicly or privately operated residential schools or residential medical facilities on an inpatient basis.

Home: The child receives some or all of his/her special education services in the primary residence of the child's family or caregivers and does not attend a regular early childhood program or a special education childhood program (note: this includes children who receive special education both at home and in a service provider location). The term "caregiver" includes babysitters.

58974-OKEd-SpecialEd text.indd 144 2/10/11 11:26 AM

Service Provider Location: This includes a child who does not receive any special education services in the home and does not attend an early childhood program or a special education childhood program. This includes speech instruction provided in private clinicians' offices, clinicians' offices located in school buildings, hospital facilities on an outpatient basis, libraries, and other public locations.

Elementary Schools

34 CFR § 300.13 Elementary school.
Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law. State law, (70 O.S. § 1-114), (70 O.S. § 11-103.9), (70 O.S. § 1-106).

(Authority: 20 U.S.C. 1401 (6))

Oklahoma state law states that ". . . *Public elementary schools of Oklahoma must consist of all free schools supported by public taxation and shall include nurseries, kindergartens, elementary, which may include either K-6 or K-8. . .*" Public instruction begins for children who are five-years-old on or before September 2. Prior to a child being five years of age, LEAs are not required to provide public instruction to children. However, Oklahoma does fund four-year-old programs in public schools. It is the choice of each school district to provide a four-year-old program or pre-kindergarten program for their children. Public instruction only refers to regular classroom education and should not be confused with special education or related services.

Placements

34 CFR § 300.116 Placements.
In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency shall ensure that—
(a) The placement decision— (1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
(2) Is made in conformity with the LRE provisions of this subpart, including §§ 300.114–300.118;
(b) The child's placement—
(1) Is determined at least annually;
(2) Is Based on the child's IEP; and
(3) Is as close as possible to the child's home;
(c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;
(d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and
(e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

(Authority: 20 U.S.C. 1412(a)(5))

The child's educational placement must be as close as possible to the child's home and in the school that the child would normally attend if nondisabled, unless the IEP requires some other arrangement. A continuum of alternative placements must be considered and

58974-OKEd-SpecialEd text.indd 145 2/10/11 11:26 AM

the appropriate placement must be provided based on the educational needs of the child, as determined by the IEP, and not based solely on parental request, convenience of the LEA, or availability of programs. Placement options considered and reasons determined not appropriate must be documented on the child's IEP.

Various alternative educational placements may have harmful effects which could interfere with the child's ability to benefit from the program. The IEP team must consider any potential harmful effect (e.g., missed instruction, socialization, community isolation, age-appropriate interactions) on the child or on the quality of services that he or she needs. If potential harmful effects (e.g., significant disruptiveness in the placement) prevent the child's needs from being met in that environment, the team must consider the LRE placement continuum for a more appropriate placement to achieve the goals and short-term objectives or benchmarks (for a child participating in an alternate assessment aligned to alternate achievement of the standard) of that child's IEP.

Supplementary aids and services, modifications, supports, and related services must be made available in the general education classroom. A child with a disability must not be removed from the age-appropriate general education classroom setting solely because of needed modifications in the general education curriculum.

Preschool Placements

Options must be considered carefully when determining placement in the LRE for a preschool aged child, defined as a child aged three to Kindergarten school age (i.e., turning five on or before September 2). Placement must be considered individually, based on the unique needs of the child. The placement must be as close as possible to the child's home and in the school that the child would normally attend if nondisabled unless the IEP requires some other arrangement. For example, when the IEP for a preschool aged child specifies goals, short-term objectives or benchmarks (as necessary), and placement with nondisabled children of that age group, some other arrangement may be required if there is not a program at the local school for nondisabled preschool aged children. Similarly, if the goals and short-term objectives or benchmarks (as necessary) of an IEP could not be effectively met in that location, other arrangements may be required. The LREs for preschool aged children are those early childhood settings designed primarily for children without disabilities. These environments allow children with disabilities to participate in appropriate activities and create opportunities that support children in achieving age-appropriate abilities and skills. Some alternatives in meeting the LRE requirements include, but are not limited to: (1) participation in community-based preschools, such as Head Start, and faith-based preschools; (2) private programs for nondisabled preschool children; (3) preschool classes for children with disabilities in regular elementary schools; (4) LEA operated community/tuition-based preschools; and (5) group child care.

There are a variety of placements that can meet the needs of preschool children with disabilities as required under 34 CFR § 300.115. The public agency responsible for the special education and related services for a child must ensure that the placement is based upon the IEP and meets the unique needs of the child. LEAs that do not operate programs for nondisabled preschool aged children (three to Kindergarten school age,

58974-OKEd-SpecialEd text.indd 146 2/10/11 11:26 AM

turning five before September 2) are not required to initiate such programs solely to satisfy the requirements regarding placement in the LRE. However, each LEA is required to provide appropriate placement options to meet each preschool aged child's (three to Kindergarten school age, turning five before September 2) specific need at his/her IEP meeting. The LEA must determine the costs for which it is responsible in accordance with State and federal laws and requirements. This determination must be made individually based on the special education and related services that are detailed on a child's IEP. The LEA responsible for providing a FAPE to the child is responsible for ensuring that all costs associated with special education and related services contained in the IEP are at no cost to parents whether placement is in a program operated by the LEA, another public agency, or in a private facility, community-based preschools or day care centers. Transportation must be provided if it is a related service documented in the IEP. The LEA is not responsible for services not documented in the IEP; therefore, unless the IEP calls for full-day placement in a community-based preschool, and/or day care, the LEA is not responsible for tuition for the full day and other expenses not related to the IEP.

> ***34 CFR § 300.327 Educational Placements.***
> *Consistent with § 300.501(c), each public agency must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.*
>
> *(Authority: 20 U.S.C. 1414 (e))*

The educational placement of each child with a disability must be based on the IEP. Measurable annual goals, including short-term objectives or benchmarks (for students participating in an alternate assessment aligned to an alternate achievement of the standard), must be identified on the IEP before placement is determined. The child's placement must be reviewed and determined at least annually, or more often as necessary, by the IEP team. The team is to include persons who are knowledgeable about the child, the existing evaluation data, and the placement options.

LEAs will provide parent(s) the opportunity to participate in meetings by notifying the parent(s) of meetings early enough to ensure they will have the opportunity to attend. The Notification of Meeting (Oklahoma State Department of Education [OSDE] Form 6) must indicate the purpose, time, and location of the meeting and who will be in attendance. The LEA must inform the parent(s) of the opportunity to include other individuals who have knowledge or special expertise about the child as participants of the IEP team.

Nonacademic Settings

> ***34 CFR § 300.117 Nonacademic settings.***
> *In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in § 300.107, each public agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.*
>
> *(Authority: 20 U.S.C. 1412(a)(5))*

58974-OKEd-SpecialEd text.indd 147 2/10/11 11:26 AM

LEAs must take steps in such manner as necessary to afford children with disabilities an equal opportunity for participation in nonacademic and extracurricular services and activities when these services are available to children who are not disabled. LEAs must ensure that children with disabilities have the supplementary aids and services determined necessary and appropriate by the IEP team to participate in any extracurricular services and activities. To the maximum extent appropriate, each child must be provided with opportunities to participate in services and activities with peers who are nondisabled. This is especially important for children whose educational needs and IEPs require placement with other children with disabilities during most of each day. Such opportunities for participation are also to be provided for children in residential settings to the extent appropriate.

Nonacademic and extracurricular services and activities may include, but are not limited to: meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, field trips, community work settings, special interest groups or clubs sponsored by the LEA, referrals to other service agencies, and employment of children (including both employment by the LEA and by making outside employment available).

58974-OKEd-SpecialEd text.indd 148 2/10/11 11:26 AM

CHILDREN IN PUBLIC OR PRIVATE INSTITUTIONS

34 CFR § 300.118 Children in public or private institutions.
Except as provided in § 300. 149(d) (regarding agency responsibility for general supervision for some individuals in adult prisons), an SEA must ensure that § 300.114 is effectively implemented, including, if necessary, making arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures).

(Authority: 20 U.S.C. 1412(a)(5))

Public and private institutions that do not operate accredited education programs may contract with local educational agencies (LEAs) to provide accredited education services for children. Effective implementation of least restrictive environment (LRE) in accordance with individualized education programs (IEPs) must be ensured through such contracts, written agreements, and special implementation procedures and written assurances as provided under Oklahoma State law, rules, and the Policies and Procedures for Special Education in Oklahoma. Compliance with LRE is also ensured through analysis of annual data collection and the general supervision process.

The Oklahoma School for the Deaf (OSD) and the Oklahoma School for the Blind (OSB) operated by the Oklahoma Department of Rehabilitation Services (DRS), which offer accredited education programs, must assure compliance with LRE regulations to receive funds under the Individuals with Disabilities Education Act (IDEA), as ensured by the Oklahoma State Department of Education (OSDE), Special Education Services (SES), through the general supervision process.

Exceptions to the general requirements for LRE will be for students with disabilities who are convicted as adults under Oklahoma State law and incarcerated in adult correctional facilities. In these circumstances, the IEP team may modify the student's IEP or placement if it is demonstrated that a bona fide security or compelling penological interest cannot otherwise be accommodated.

34 CFR § 300.119 Technical assistance and training activities.
Each SEA must carry out activities to ensure that teachers and administrators in all public agencies—
(a) Are fully informed about their responsibilities for implementing § 300.114; and
(b) Are provided with technical assistance and training necessary to assist them in this effort.

(Authority: 20 U.S.C. 1412(a)(5))

It is the responsibility of each LEA to provide opportunities for school personnel (including administrators, special education teachers, regular classroom teachers, related service providers, professional bus drivers) to be informed about their responsibilities for implementing the requirements regarding LRE for children with disabilities. Technical assistance and training will assist LEA personnel to effectively coordinate the implementation of IEPs for children with disabilities in the LRE. Technical assistance and training materials are available through the OSDE-SES.

58974-OKEd-SpecialEd text.indd 149 2/10/11 11:26 AM

PARTICIPATION IN ASSESSMENTS

34 CFR § 300.157 Performance goals and indicators.
The State must—
(a) Have in effect established goals for the performance of children with disabilities in the State that—
(1) Promote the purposes of this part, as stated in § 300.1;
(2) Are the same as the State's objectives for progress by children in its definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under section 1111(b)(2)(C) of the ESEA, 20 U.S.C. 6311;
(3) Address graduation rates and dropout rates, as well as such other factors as the State may determine; and
(4) Are consistent, to the extent appropriate, with any other goals and academic standards for children established by the State;
(b) Have in effect established performance indicators the State will use to assess progress toward achieving the goals described in paragraph (a) of this section, including measurable annual objectives for progress by children with disabilities under section 1111(b)(2)(C)(v)(II)(cc) of the ESEA, 20 U.S.C. 6311; and
(c) Annually report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under paragraph (a) of this section, which may include elements of the reports required under section 1111(h) of the ESEA.

(Authority: 20 U.S.C. 1412(a)(15)).

34 CFR § 300.160 Participation in assessments.
(a) General. A State must ensure that all children with disabilities are included in all general State and district-wide assessment programs, including assessments described under section 1111 of the ESEA, 20 U.S.C. 6311, with appropriate accommodations and alternate assessments, if necessary, as indicated in the respective IEPs.
(b) Accommodation guidelines.
(1) A State (or, in the case of a district-wide assessment, an LEA) must develop guidelines for the provision of appropriate accommodations.
(2) The State's (or, in the case of a district-wide assessment, the LEA's) guidelines must –
(i) Identify only those accommodations for each assessment that do not invalidate the score; and
(ii) Instruct IEP Teams to select, for each assessment, only those accommodations that do not invalidate the score.
(c) Alternate assessments.
(1) A State (or, in the case of a district-wide assessment, an LEA) must develop and implement alternate assessments and guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments, even with accommodations, as indicated in their respective IEPs, as provided in paragraph (a) of this section.
(2) For assessing the academic progress of students with disabilities under Title I of the ESEA, the alternate assessments and guidelines in paragraph (c)(1) of this section must provide for alternate assessments that –
(i) Are aligned with the State's challenging academic content standards and challenging student academic achievement standards;
(ii) If the State has adopted modified achievement standards permitted in 34 CFR 200.1(e), measure the achievement of children with disabilities meeting the State's criteria under § 200.1(e)(2) against those standards; and

58974-OKEd-SpecialEd text.indd 150 2/10/11 11:26 AM

(iii) If the State has adopted alternate academic achievement standards permitted in 34 CFR 200.1(d), measure the achievement of children with the most significant cognitive disabilities against those standards.
(d) Explanation to IEP Teams. A State (or in the case of a district-wide assessment, an LEA) must provide IEP Teams with a clear explanation of the differences between assessments based on grade-level academic achievement standards and those based on modified or alternate academic achievement standards, including any effects of State or local policies on the student's education resulting from taking an alternate assessment based on alternate or modified academic achievement standards (such as whether only satisfactory performance on a regular assessment would qualify a student for a regular high school diploma).
(e) Inform parents. A State (or in the case of a district-wide assessment, an LEA) must ensure that parents of students selected to be assessed based on alternate or modified academic achievement standards are informed that their child's achievement will be measured based on alternate or modified academic achievement standards.
(f) Reports. An SEA (or, in the case of a district-wide assessment, an LEA) must make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:
(1) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations (that did not result in an invalid score) in order to participate in those assessments.
(2) The number of children with disabilities, if any, participating in alternate assessments based on grade-level academic achievement standards.
(3) The number of children with disabilities, if any, participating in alternate assessments based on modified academic achievement standards.
(4) The number of children with disabilities, if any, participating in alternate assessments based on alternate academic achievement standards.
(5) Compared with the achievement of all children, including children with disabilities, the performance results of children with disabilities on regular assessments, alternate assessments based on grade-level academic achievement standards, alternate assessments based on modified academic achievement standards, and alternate assessments based on alternate academic achievement standards if –
(i) The number of children participating in those assessments is sufficient to yield statistically reliable information; and
(ii) Reporting that information will not reveal personally identifiable information about an individual student on those assessments.
(g) Universal design. An SEA (or, in the case of a district-wide assessment, an LEA) must, to the extent possible, use universal design principles in developing and administering any assessments under this section.

(Authority: 20 U.S.C. 1412(a)(16))

All children with disabilities must be included in State and districtwide assessment (even children with the most significant cognitive disabilities). Children for whom the regular assessment is not appropriate, even with State-approved accommodations as determined by the individualized education program (IEP) team, must be assessed with an appropriate alternate assessment provided by the Oklahoma School Testing Program (OSTP). The child's IEP team must determine eligibility for an alternate assessment on an annual basis.

The Oklahoma Alternate Assessment Program (OAAP) Portfolio assessment is appropriate for children with the most significant cognitive disabilities. The OAAP portfolio is designed for children who are receiving instruction based on alternate achievement of the standards aligned to *Priority Academic Student Skills (PASS)*, also known as the *Curriculum Access Resource Guide – Alternate* (CARG-A). The portfolio assessment is a collection of student-generated pieces of evidence that exhibit the student's interests,

58974-OKEd-SpecialEd text.indd 151 2/10/11 11:26 AM

range of skills, and academic performance. Teams of teachers score the OAAP portfolio using the same categories of proficiency used for the regular assessment.

The Oklahoma Modified Alternate Assessment Program (OMAAP) assessment is available for children for whom the regular assessment and the portfolio assessment are not appropriate (in accordance with 34 CFR § 300.160). The OMAAP assessment is designed for children who are receiving instruction based on modified achievement of the standards aligned to *PASS* in the grade in which they are enrolled. The OMAAP is a modified achievement expectation that is less difficult than achievement on a regular assessment (and is intended for children with disabilities that have prevented them from attaining grade-level proficiency). However, the OMAAP requires the same rigorous grade-level content knowledge as the regular assessment requires.

If the IEP team determines that the child requires State-approved accommodations, the use of State-approved accommodations must be clearly identified on the child's IEP for each assessment administered. The IEP must include a statement of any State-approved accommodations that are necessary to measure the academic achievement and functional performance of the child on State, districtwide, and national (e.g., National Assessment of Educational Progress [NAEP]) assessments. However, IEP teams should note that children with disabilities are most successful utilizing accommodations on assessments with which they have become familiar prior to the assessment.

If consent is revoked before the administration of the State's assessment, there is no longer a requirement to provide the assessment accommodations that were previously included in the student's IEP. Additionally, the student would not be eligible for an alternate assessment.

The Oklahoma State Department of Education (OSDE), Special Education Services (SES), in accordance with 34 CFR § 300.157, will annually report to the public the participation and performance of children with disabilities on statewide assessments for each local educational agency (LEA) by each type of assessment as part of the *District Data Profiles*.

Finally, the LEA must assure, as part of the *Part I, LEA Implementation Agreement for Special Education in Oklahoma*, that it will include children with disabilities in statewide assessments, with appropriate accommodations (if determined necessary by the child's IEP team) and that children who, even with appropriate accommodations, cannot participate in regular assessments will participate in the State's alternate assessments.

Child Outcome Summary Form

The Child Outcome Summary Form (COSF) is a seven-point rating scale for summarizing information to describe a student's (three – six years old) functioning on each of the following outcomes: 1) social relationships; 2) acquires and uses knowledge and skills; and 3) action to meet needs. The COSF ratings are determined by a team including family members, professionals who work with the child, others familiar with the child, and others familiar with the child's functioning. The ratings should be based on data collected by assessments (formal and informal). The assessments should reflect the whole child and how they function across all settings and situations within their environment.

The COSF must be completed at program entry and at program exit with at least six months between. The COSF is to be completed in present time to reflect the child's current functioning.

58974-OKEd-SpecialEd text.indd 152 2/10/11 11:26 AM

TRANSITION PLANNING AND SERVICES

One of the purposes of the Individuals with Disabilities Education Act (IDEA) is to ensure that all children with disabilities have available to them a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepares them for employment and independent living (34 CFR § 300.1(a)). Specific requirements have been outlined by the IDEA Part B regarding transition planning and services that require an intensified focus on assisting young adults in completing their secondary education and working toward postsecondary goals.

> ***34 CFR § 300.43 Transition services.***
> *(a) Transition services means a coordinated set of activities for a child with a disability that—*
> *(1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;*
> *(2) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes—*
> *(i) Instruction;*
> *(ii) Related services;*
> *(iii) Community experiences;*
> *(iv) The development of employment and other post-school adult living objectives; and*
> *(v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.*
> *(b) Transition services for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education.*
>
> *(Authority: 20 U.S.C. 1401(34))*

Transition services provided to the young adult means a coordinated set of activities that are designed as a results-oriented process, focused on improving the academic and functional achievement of the young adult to promote movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities is based on the individual young adult's needs, and takes into account the young adult's strengths, preferences and interests. Services may include instruction, related services, community experiences, development of employment and other post-school adult living objectives, and acquisition of daily living skills (when appropriate) and a functional vocational evaluation. This means the young adult and the individualized education program (IEP) team need to think about the future and identify potential post-school outcomes, so that transition services can be coordinated to help the young adult move toward those post-school outcomes (refer to 34 CFR § 300.43).

58974-OKEd-SpecialEd text.indd 153 2/10/11 11:26 AM

Content of IEP for Transition Planning and Services

Beginning not later than the first IEP developed during the student's ninth grade year or upon turning 16 years of age, whichever comes first, (or younger if determined appropriate by the IEP team), the IEP must include a statement of the transition services needs of the young adult that focuses on the young adult's course of study. This should be done with consideration for what the young adult wants to do after high school, such as where the young adult wants to live, learn, work, and participate in the community. The young adult's course of study, postsecondary preferences, and interests should be updated annually. This serves as the foundation in planning the course of study. When planning the course of study, the IEP team should consider all options for the young adult's education and consider requirements of programs the young adult might choose. For example, if a young adult is planning on attending college and receiving a scholarship that requires specific courses listed on the transcript, the IEP team must make every effort to ensure courses selected will meet college entrance requirements and/or scholarship requirements.

The statement of transition services needs, focusing on the course of study, should relate directly to the young adult's goals and show how planned studies are linked to those goals. For example, a young adult interested in exploring a career in computer science may have a statement of transition services needs connected to technology course work or advanced placement courses, while another young adult's statement of transition services needs could describe why public bus transportation training is important for enrollment in a career major at a career and technology center. The course of study must include specific course names and not the general core area (e.g., United States History, as opposed to Social Studies). Courses should be specific to each young adult and demonstrate progression through the completion of their secondary education. The IEP (Oklahoma State Department of Education [OSDE] Form 7) provides a page to address the transition services needs, focusing on the course of study.

Beginning at transition age (or younger, if determined appropriate by the IEP team), planning for needed transition services includes helping the young adult and parent(s) identify long-range and post-high school goals. It is also about designing the high school experience to assist the young adult in developing skills (e.g., life skills, employment skills, academic skills), and becoming linked to the resources needed to move toward those goals. For example, for a young adult whose transition goal is job placement, a transition service could be teaching the young adult interviewing skills, how to create a resumé, or job shadowing.

Transition planning is addressed on the Transition Services Plan pages of the IEP through a postsecondary goal, secondary coursework, vocational planning, transfer of rights, and a set of coordinated activities and linkages.

Examples of activities in each of these areas:

- **Instruction -** is typically provided in schools (e.g., academic instruction, including specially designed and general education, vocational/career-related instruction, independent living skills instruction), and may include other agencies such as adult and continuing education, postsecondary education, private schools, or career and technology education.

58974-OKEd-SpecialEd text.indd 154 2/10/11 11:26 AM

- **Related services -** should be transition-focused and may include services, such as audiology, counseling, occupational therapy (OT), physical therapy (PT), speech language therapy, school health, medical diagnostic evaluations for special education purposes, social work, psychological, counseling, parent counseling and training, recreation (including therapeutic recreation), rehabilitation counseling, transportation, orientation and mobility (O & M), and other supportive services that are required for the young adult to benefit from special education. For example, a young adult may receive speech language therapy and apply these skills in a community-based environment, such as the grocery store, public library, or city office, while improving communication skills necessary for adult living.
- **Community experiences -** are provided outside the classroom in community settings, schools, or other agencies. Community experiences may include job shadowing, tours of postsecondary educational settings, residential and community tours, volunteering and community service, community work experiences, independent recreation and leisure, family-supported recreation and leisure, specialized or participation recreation, community-supported recreation programs, local clubs, day programs, shopping, banking, government and citizenship activities (e.g., registering to vote, obtaining a driver's license, accessing government services), and utilizing local public transportation.
- **The development of employment and other post-school adult living objectives -** may include career planning, interest inventories, person-centered planning, self-determination training, self-advocacy skills, self-disclosure, postsecondary education or training, competitive employment without support, competitive employment (with time-limited or long-term support), sheltered community employment, sheltered employment, soft skills (e.g., self-management, responsibility, integrity, honesty, punctuality, sociability, working on a team), and housing.
- **Acquisition of daily living skills -** includes learning about income and resources, money management, self-care training, family and consumer sciences, health-care training, meal preparation, recreation, time management, medical service, transportation, self-advocacy, self-disclosure, locating and accessing service providers, and appropriate socialization skills.
- **Functional vocational evaluation -** includes situational work assessments, work samples, observations, informal assessments (interest inventories), formal assessments, job sampling, anecdotal records, charting results, and checklists which summarize the young adult's present levels of performance and interest in the area of transition.
- **Other -** needs that are specific to the individual may be addressed.

If transition services are provided as special education or related services, goals for the young adult must be included in the body of the IEP, related to education/training, employment, and, as appropriate, independent living skills. If the young adult is taught to alternate achievement of the standards, the IEP must also include short-term objectives or benchmarks for each goal. There must be at least two short-term objectives or benchmarks for each goal. Teachers should consider all of the young adult's needs and steps necessary to achieve the goal when writing short-term objectives and benchmarks.

Coordinated activities include those activities that will enable the young adult to achieve his or her annual transition IEP goals. These activities may or may not require special

58974-OKEd-SpecialEd text.indd 155 2/10/11 11:26 AM

education or related services. Responsible parties may include the local educational agency (LEA) staff, including special education teachers, general education teachers, related service providers, counselors, etc.; other service providers, such as the Department of Rehabilitation Services (DRS), Department of Human Services (DHS), Oklahoma Department of Career and Technology Education (CareerTech), Workforce Investment Act (WIA), Oklahoma Employment Security Commission (OESC), or other community resources; parent(s); and others who are involved in assisting the young adult with transition goals. For example, if a young adult was working toward becoming a welder, some coordinated activities provided by the technology center might include learning job readiness skills (e.g., building a resumé, practicing interviewing skills), competing in contests using his welding skills, job shadowing, and participating in on-the-job training. Additional activities may include practicing vocabulary specific to welding and developing math skills needed for the occupation. These activities could be provided by the special education teacher, general education teacher, and/or parent(s).

Consideration of assistive technology (AT) in transition services planning requires determining if AT is necessary for special education, related services, supplementary aids and services, or whether coordinated linkages need to be addressed with participating agencies.

Students with Disabilities in Adult Prisons

The FAPE and IEP content requirements for young adults with disabilities who are incarcerated as adults in prison/correctional facilities are located at 34 CFR § 300. 324(d)(1) and (2). The IEP transition planning and services requirements do not apply if the young adult's eligibility under the IDEA will end due to age and before the individual is eligible to be released from prison.

IEP Team for Transition Planning and Services

The LEA must invite the young adult to attend any IEP meeting in which transition services are to be discussed. Document the invitation of the young adult on the Notification of Meeting form (OSDE Form 6). Because the IDEA clearly specifies that transition services planning is to be based on the individual young adult's needs, considering the young adult's strengths, preferences, and interests, the young adult should be expected to actively participate in the discussion of his or her future goals and plans during the IEP meeting. The IEP process provides an effective opportunity for young adults with disabilities to practice self-determination and self-advocacy skills which are critical life skills. If the young adult does not attend the IEP meeting, the LEA must take other steps to ensure that the young adult's strengths, preferences, and interests are considered. Other steps taken can be documented in the "Comments" section of the Transition Services Plan or as appropriate within the content of the IEP.

Because of the broad scope of transition services required under the IDEA Part B, it is anticipated that outside agencies will participate with LEAs in providing transition services. The IDEA requires that, for IEP meetings addressing transition services, the LEA must invite a representative of any other agency that is likely to be responsible for providing or paying for transition services. The LEA must identify and invite these agencies to the IEP meeting. LEAs must obtain written parent consent prior to inviting

58974-OKEd-SpecialEd text.indd 156 2/10/11 11:26 AM

other agency representatives to IEP meetings. Parent consent may be obtained prior to each individual meeting; however, the LEA may also obtain parent consent for that agency representative to attend all IEP meetings for one entire school year. If an agency invited to send a representative does not do so, the LEA must take other steps to obtain the participation of that agency in planning transition services. Additional ways to obtain agency input may be over the telephone, in writing, at a separate meeting, or through e-mail correspondence. Regardless of the method, all agencies serving the young adult must provide information that will assist the team in the transition planning process.

Agencies identified as possible transition services providers may include: LEAs; participating youth and adult service agencies, which may include local community service providers (available to the general public); DHS (e.g., DDSD); DRS (e.g., Vocational Rehabilitation Services, Visual Services, and Supported Employment); Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS); Oklahoma State Department of Health (OSDH); CareerTech; Independent Living Centers (ILC); Social Security Administration (SSA); Workforce Oklahoma Centers; and other community service providers such as advocacy organizations and business-education partnerships.

If an agency responsible for providing or paying for transition services as agreed upon in the IEP fails to provide or pay for those services, the public agency responsible for the young adult's education must identify alternative strategies to meet the young adult's needs. This requires that the public agency reconvene an IEP meeting as soon as possible to identify alternative strategies to meet the transition service goals, and to revise the IEP accordingly. Alternative strategies might include the identification of another funding source, referral to another agency, or the public agency's identification of other districtwide or community resources that can be used to meet the young adult's identified needs appropriately, or a combination of these strategies.

The IDEA Part B regulations do not relieve any State agency from the responsibility for paying or providing for transition services to students who meet the eligibility criteria of that agency. However, if an agency other than the public agency does not fulfill its responsibility, it does not relieve the public agency of its responsibility to ensure that a FAPE is available to each student with a disability. The IDEA specifically requires that if an agency other than the LEA fails to provide or pay for a special education or related service (which could include transition services), the LEA must, without delay, provide or pay for the service and may then claim reimbursement from the agency that failed to provide or pay for the service. Interagency agreements, as provided by 34 CFR § 300. 154(a)(b)(1)(i) and (2)(c)(2), between LEAs and other agency providers of transition services assist in coordinating and specifying transition responsibilities.

Parental Involvement in Transition Planning and Services

When transition services are to be discussed during an IEP meeting (beginning no later than transition age), the notice of meeting provided to parent(s) prior to the meeting must indicate that transition services will be considered. The Notification of Meeting (OSDE Form 6) must inform the parent that the LEA will invite the young adult to attend and identify any other agency that will be invited to send a representative to the meeting.

58974-OKEd-SpecialEd text.indd 157 2/10/11 11:26 AM

When the IEP team considers postsecondary goals and transition services for the young adult, the LEA must obtain written consent from the parent(s) (or young adult who has reached the age of majority) for any participating agency responsible for providing or paying for transition services to attend the IEP meeting. Consent for agency participants may be sought on a yearly basis, prior to each IEP meeting, or for the duration of services. Consent must be in writing and retained in the young adult's confidential folder. Receipt of such notice gives parent(s) and families an opportunity to consider and discuss future goals, plans, and services with their young adult prior to the IEP meeting. The LEA may ask the parent(s) to inform the agency of any individuals the parent(s) will be bringing to the IEP meeting. Such cooperation helps ensure a productive, student-centered IEP meeting. In the case of a young adult reaching the age of majority, the Notification of Meeting (OSDE Form 6) will be addressed to the young adult and a copy will be provided to the parent(s).

Transfer of Parental Rights at Age of Majority

> ***34 CFR § 300.520 Transfer of parental rights at age of majority.***
> *(a) General. A State may provide that, when a child with a disability reaches the age of majority under State law that applies to all children (except for a child with a disability who has been determined to be incompetent under State law)—*
> *(1)(i) The public agency must provide any notice required by this part to both the child and the parents; and*
> *(ii) All rights accorded to parents under Part B of the Act transfer to the child;*
> *(2) All rights accorded to parents under Part B of the Act transfer to children who are incarcerated in an adult or juvenile, State or local correctional institution; and*
> *(3) Whenever a State provides for the transfer of rights under this part pursuant to paragraph (a)(1) or (a)(2) of this section, the agency must notify the child and the parents of the transfer of rights.*
> *(b) Special rule. A State must establish procedures for appointing the parent of a child with a disability, or, if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of the child's eligibility under Part B of the Act if, under State law, a child who has reached the age of majority, but has not been determined to be incompetent, can be determined not to have the ability to provide informed consent with respect to the child's educational program.*
>
> *(Authority: 20 U.S.C. 1415(m))*

The LEA must provide any notice required by the IDEA Part B regarding transfer of parental rights to both the young adult and parent(s). Beginning at least one year (aged 17) before the young adult reaches the age of majority (aged 18), a statement must be included on the IEP that the young adult and parent(s) have been informed of all rights under the IDEA Part B that will transfer to the young adult upon reaching the age of majority. All rights afforded to parent(s) under the IDEA Part B transfer to young adults who are incarcerated as adults in correctional facilities. Parents of young adults who have reached the age of majority that are still living at home, supported by parents, and counted on the parents' income tax, have the right to receive copies of any notices given to the young adult, to attend IEP meetings, and to access their young adult's records. However, if a young adult who has reached the age of majority requests in writing that his or her parents do not have access to records, the LEA must comply with that

58974-OKEd-SpecialEd text.indd 158 2/10/11 11:26 AM

request. LEAs should inform parent(s) of their option to seek legal advice if they plan on continuing to make decisions for their young adult upon the young adult reaching the age of majority.

Vocational Education

"Vocational education" means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment or for additional preparation for a career requiring other than a baccalaureate or advanced degree as defined at 34 CFR § 300.39(5).

Each LEA will begin to provide, in an ongoing manner, information, as appropriate, to children with disabilities, beginning at transition age, and their parents regarding opportunities for vocational education which may include:

- High school vocational education courses;
- School-based training;
- Work-based training;
- Work-study programs;
- Technology education; and
- Career and technology center programs.

To assist young adults in making informed decisions about their postsecondary goals, transition assessments (including interest, aptitude and ability) must be utilized. Assessment results must be incorporated into the IEP and considered as one component in making transition decisions. Additional components to consider include the young adult's strengths, preferences, and interests. LEAs must ensure that the transition assessment tool fits the young adult's needs and preferences. A young adult attending higher education may utilize a different assessment than a young adult entering the workforce, a young adult entering a sheltered workshop, or a young adult moving to a group home. The provision of this information, as appropriate, must be documented on the young adult's IEP and provided in a language and form that parent(s) and young adults understand.

Summary of Performance

> ***34 CFR § 300.305 Additional requirements for evaluations and reevaluations.***
> *(e) Evaluations before change in eligibility…*
> *(3) For a child whose eligibility terminates under circumstances described in paragraph (e)(2) of this section, a public agency must provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.*
>
> *(Authority: 20 U.S.C. 1414(c))*

The Summary of Performance (OSDE Form 11) is a tool LEAs provide to students prior to leaving high school. This document is required by federal law for students who are on IEPs and provided special education and related services in K-12 classrooms. LEAs must provide a Student Summary of Performance (SOP) (OSDE Form 11) for all students on an IEP who are going to exceed the age of eligibility or graduate with a standard high school diploma. The purpose of the SOP is to provide each student

58974-OKEd-SpecialEd text.indd 159 2/10/11 11:26 AM

with a summary of his or her academic achievement and functional performance, as well as recommendations to assist the student in meeting postsecondary goal(s).

The SOP must be provided to a student before leaving school; however, there are no requirements for who must actually complete the document.

When completing the SOP, the team must consider pertinent information that will provide an overall picture of the student, such as academic performance, social skills, life skills and skills for employment. Recommendations stated on the SOP must include those that have and will continue to assist the student in achieving postsecondary goals. For example, if a student performs best in a setting with few distractions, this accommodation could be included as a recommendation on the SOP for consideration by higher education institutions or employment. Employers might consider this recommendation and assign the student tasks which he or she can complete individually; whereas, an institution of higher education disability service provider might provide an alternate setting (with limited distractions) for completing assignments or exams.

Upon students graduating with a standard diploma or exceeding the age of eligibility, the provisions under the IDEA end, and access to disability related services would be determined by the provisions under the Americans with Disabilities Act (ADA).

Students may write a letter to send with their SOP to adult service providers, including college or university disability service offices, state office of vocational rehabilitation, technology centers, employers, and independent living centers.

Whether a SOP will be used is a decision to be made by the individual student and/or parent(s). LEAs may assist the student in making this decision by incorporating when and how to use the SOP as a tool for disclosing disability and accessing services needed to achieve postsecondary goals. Students who have higher education as a postsecondary goal may use the SOP as one means of documenting a disability when approaching the disability service provider at an institute of higher education (IHE).

> ***34 CFR § 300.26 Institution of higher education.***
> *Institution of higher education—*
> *(a) Has the meaning given the term in section 101 of the Higher Education Act of 1965, as amended, 20 U.S.C. 1021 et seq. (HEA); and*
> *(b) Also includes any community college receiving funds from the Secretary of the Interior under the Tribally Controlled Community College or University Assistance Act of 1978, 25 U.S.C. 1801, et seq."*
>
> *(Authority: 20 U.S.C. 1401(17))*

An IHE refers to an educational institution that: 1) admits young adults who have graduated with a standard high school diploma, or its equivalent; 2) is legally authorized to provide postsecondary educational programs; 3) provides programs that award a bachelor's degree, or not less than a two-year program for full credit toward such a degree; 4) is a public or nonprofit institution; and 5) is accredited by a nationally recognized accrediting agency or association.

58974-OKEd-SpecialEd text.indd 160 2/10/11 11:26 AM

Additional institutions include: 1) any school that provides not less than a one-year program of training to prepare young adults for gainful employment; and 2) public or nonprofit private educational institutions that admit young adults who are beyond the age of compulsory school attendance in the state.

Other Federal Laws Affecting Transition Planning and Services

As young adults transition into adulthood, they may require services from agencies that are governed by other federal laws. The laws that clarify adult services available through other partner agencies and communities are:

- Carl D. Perkins Career and Technology Education Improvement Act of 2006 (P.L. 109-270);
- Rehabilitation Act of 1973, as Amended in 1992 (P.L. 102-569);
- Workforce Investment Act of 1998 (P.L. 105-220);
- Fair Labor Standards Act (FLSA); and
- ADA of 1990 (P.L. 101-336).

58974-OKEd-SpecialEd text.indd 161 2/10/11 11:26 AM

DISCIPLINE PROCEDURES

34 CFR § 300.530 Authority of school personnel.

(a) Case-by-case determination. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of child conduct.

(b) General. (1) School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under § 300.536).

(2) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under paragraph (d) of this section.

(c) Additional authority. For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to paragraph (e) of this section, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in paragraph (d) of this section.

(d) Services. (1) A child with a disability who is removed from the child's current placement pursuant to paragraphs (c), or (g) of this section must-

(i) Continue to receive educational services, as provided in § 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

(ii) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

(2) The services required by paragraph (d)(1), (d)(3), (d)(4), and (d)(5) of this section may be provided in an interim alternative educational setting.

(3) A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

(4) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement under § 300.536, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed, as provided in § 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

(5) If the removal is a change of placement under § 300.536, the child's IEP Team determines appropriate services under paragraph (d)(1) of this section.

(e) Manifestation determination. (1) Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the child's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine—

58974-OKEd-SpecialEd text.indd 162 2/10/11 11:26 AM

(i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
(ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP.
(2) The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.
(3) If the LEA, the parent, and relevant members of the child's IEP Team determine the condition described in paragraph (e)(1)(ii) of this section was met, the LEA must take immediate steps to remedy those deficiencies.
(f) Determination that behavior was a manifestation. If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must—
(1) Either—
(i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or
(ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and
(2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.
(g) Special circumstances. School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child—
(1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of an SEA or an LEA;
(2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or
(3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA.
(h) Notification. On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision, and provide the parents the procedural safeguards notice described in § 300.504.
(i) Definitions. For purposes of this section, the following definitions apply:
(1) Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).
(2) Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.
(3) Serious bodily injury has the meaning given the term ``serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.
(4) Weapon has the meaning given the term ``dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

(Authority: 20 U.S.C. 1415(k)(1) and (7))

58974-OKEd-SpecialEd text.indd 163 2/10/11 11:26 AM

Disciplinary Removals

The United States Department of Education (USDE), Office of Special Education Programs (OSEP) has established regulations under the Individuals with Disabilities Education Act (IDEA) and the Office for Civil Rights (OCR) has summarized the procedures and requirements under Section 504 of the Rehabilitation Act of 1973 and the *Honig v. Doe*, 108 S.Ct. 592 (1988), decision relating to changes in placement for disciplinary reasons for children with disabilities.

According to the *Honig* decision, if the child exhibits behavior that endangers that child or others, then the school's normal procedures for such situations may be used. The procedures specifically listed in the *Honig* decision are: use of study carrels, timeouts, detention, and restriction of privileges.

If a child's behavior impedes his or her learning or that of others (or can be readily anticipated to be repetitive), the individualized education program (IEP) team, in developing the child's IEP, must consider, as appropriate, strategies to address that behavior. This includes behavior that could violate a school code of conduct. Such strategies include, but are not limited to, the following: functional behavioral assessment, positive behavioral interventions, consultation, psychological services, support services, or reevaluation. A failure to consider appropriate strategies to address this behavior in developing and implementing the child's IEP would constitute a denial of a free appropriate public education (FAPE) to the child. In appropriate circumstances, the IEP team might determine that the child's behavior intervention plan (BIP) includes specific regular or alternative disciplinary measures, such as denial of certain privileges or short suspensions, that would result from particular infractions of school rules in addition to positive behavior intervention supports (PBIS) and strategies. Short suspensions that are being implemented in a manner that denies the child the ability to progress in the educational program would be considered a denial of a FAPE.

If a parent chooses to revoke consent for special education and related services, parents should be informed that their child will be treated as a nondisabled child for disciplinary purposes.

School personnel must consider any unique circumstances on a case-by-case basis when considering a change in placement for a child who violates a code of school conduct. If the child with a disability exhibits misconduct which warrants consideration by the local educational agency (LEA) to remove the child from the current placement under applicable discipline policy, the following procedures must be followed.

Removal for 10 School Days or Less in a School Year

- School personnel may remove a child with a disability who violates a school code of conduct to an appropriate interim alternative educational setting for not more than 10 consecutive school days, and for additional removals of not more than 10 consecutive school days, in the same school year for separate incidents of misconduct.
- A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 days or less in that school year, if it provides services to a child without disabilities who is similarly removed. No prior determination by the IEP team of whether the

58974-OKEd-SpecialEd text.indd 164 2/10/11 11:26 AM

child's misconduct is caused by the disability is required for this type of short-term removal.

- Such removal must be conducted on a case-by-case basis and in accordance with applicable school disciplinary policy and procedure. All due process rights will be afforded any child in this situation including notice and an opportunity for the child to explain his or her view of the situation.
- During a removal of 10 days or less, the LEA and/or parents may initiate a review of the child's IEP to determine whether a change in IEP services and/or placement is appropriate.
- In accordance with Oklahoma State law (70 O.S. § 24-101.3), an out-of-school suspension for more than five days requires the LEA to provide the child with an education plan designed for the eventual reintegration of the child into school. The plan, which must be incorporated into the IEP for removals of more than 10 consecutive school days, as appropriate, must set the procedures for education and must address academic credit for work satisfactorily completed. The plan must also be provided to the child's parent or guardian.
- Days served in an in-school suspension would not count as days suspended out-of-school as long as the child is afforded the opportunity to continue to participate in the general curriculum, although in another setting, to progress toward meeting the goals as set out in the child's IEP, and continues to receive the special education and related services specified in the IEP. Portions of a school day that a child has been suspended out-of-school would count as suspension and would be included in determining whether the child had been removed for more than 10 cumulative school days or subjected to a change of placement under 34 CFR § 300.536.
- A bus suspension would count as a day of suspension only if transportation is a part of the child's IEP. If transportation is part of the child's IEP, a bus suspension would be treated as a suspension under 34 CFR § 300.530 unless the LEA provides the transportation in some other way. This applies because the transportation is necessary for the child to obtain access to the location where all other services will be delivered. If transportation is not a part of the IEP, a bus suspension would not be a suspension under 34 CFR § 300.530. In those cases, the child would have the same obligations to get to and from school as a nondisabled child who had been suspended from the bus. LEAs must consider, however, whether the behavior on the bus is similar to behavior in the classroom that is addressed in the IEP and whether bus behavior should be addressed in the IEP or the BIP for the child.

Removals Which Total More Than 10 School Days in a School Year

- Not later than the date on which the decision to order the removal of a child for 10 consecutive school days or more is made, the parents must be notified of the decision and provided a copy of Parents' Rights in Special Education: Notice of Procedural Safeguards.
- For purposes of removals from the child's current educational placement, a change of placement occurs if the removal is for more than 10 consecutive school days. In addition, a change of placement occurs if the child is subjected to a series of removals that constitute a pattern. The LEA determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. A pattern is determined for a series of removals which total more than 10 school days in a school year for behavior that

58974-OKEd-SpecialEd text.indd 165 2/10/11 11:26 AM

is substantially similar to the child's behavior in previous incidents that resulted in the series of removals, after reviewing factors such as the length of each removal, the total time the child is removed, and the proximity of the removals to one another. The determination is subject to review through due process and judicial proceedings.

- If the removal is a change of placement, the child's IEP team determines what services will be appropriate to enable the child to continue to progress in the general education curriculum and to progress in meeting the goals as set out in the child's IEP. The services required may be provided in an interim alternative educational setting, which will be determined by the child's IEP team.
- After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the LEA must provide services to enable the child to appropriately progress in the general curriculum (in another setting) and appropriately advance toward achieving the goals set out in the child's IEP. School personnel, in consultation with the child's special education teacher, determine which services are necessary in this situation.
- As soon as practicable after developing the functional behavioral assessment plan and completing the assessments required by the plan, the LEA must convene an IEP meeting to develop appropriate behavioral interventions to address that behavior and must implement those interventions.
- If the child previously had a BIP, the IEP team must meet to review and modify the plan and its implementation, as necessary, to address the behavior.
- The LEA may order additional removals of 10 consecutive school days, or less, in the same school year for separate incidents of misconduct as long as those removals do not constitute a change of placement.

34 CFR § 300.531 Determination of setting.
The child's IEP Team determines the interim alternative educational setting for services under § 300.530(c), (d)(5), and (g).

(Authority: 20 U.S.C. 1415(k)(2))

34 CFR § 300.536 Change of placement because of disciplinary removals.
(a) For purposes of removals of a child with a disability from the child's current educational placement under §§ 300.530 through 300.535, a change of placement occurs if—
(1) The removal is for more than 10 consecutive school days; or
(2) The child has been subjected to a series of removals that constitute a pattern—
(i) Because the series of removals total more than 10 school days in a school year;
(ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
(iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.
(b)(1) The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.
(2) This determination is subject to review through due process and judicial proceedings.

(Authority: 20 U.S.C. 1415(k))

58974-OKEd-SpecialEd text.indd 166 2/10/11 11:26 AM

Manifestation Determination

- Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP team must review all relevant information in the child's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability, or if the conduct in question was the direct result of the LEA's failure to implement the IEP.
- If the LEA, the parent, and relevant members of the IEP team make the determination that the behavior was a manifestation of the child's disability, the IEP team must either conduct an FBA unless the LEA had conducted an FBA before the change of placement occurred, and implement a BIP or if a BIP already exists, review the BIP, and modify it, as necessary, and return the child to the placement from which the child was removed, unless the parent and LEA agree to a change of placement as part of the modification of the BIP.
- In implementing this review, it may be determined that the behavior was not a manifestation of the child's disability, only if the LEA, the parent, and relevant members of the child's IEP team first consider all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents.
- Further, it may be determined that the behavior was not a manifestation of the child's disability only if the review determines that the conduct in question was not caused by and did not have a direct and substantial relationship to the child's disability or if the conduct in question was the direct result of the LEA's failure to implement the IEP.
- The manifestation determination review meeting may be conducted at the same IEP meeting that is convened regarding the functional behavioral assessment/intervention plan.
- If, in implementing the manifestation determination review, the LEA identifies deficiencies in the child's IEP or placement, or in their implementation, it must take immediate steps to remedy those deficiencies.
- If the result of the manifestation determination review is that the behavior of the child with a disability was not a manifestation of the child's disability, the relevant disciplinary procedures that apply to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities. The child's IEP team must determine the extent to which services are necessary to enable the child to appropriately progress in the general education curriculum (in another setting) and appropriately advance toward achieving the goals set in the IEP.
- If, in this situation, the LEA initiates disciplinary procedures applicable to all children, the LEA must ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration to the school personnel making the final determination regarding the disciplinary action.
- Except in the case of a change in placement initiated by school personnel due to a child's carrying or possession of a weapon, a child's possession or use of illegal drugs, or the sale or soliciting the sale of a controlled substance, or a child's inflicting serious bodily injury upon another person, (or a change in placement ordered by a hearing officer due to a determination that maintaining the current placement is substantially likely to result in injury to the child or others), if a parent requests a hearing to challenge the manifestation determination review, the child must remain in the interim alternative

58974-OKEd-SpecialEd text.indd 167 2/10/11 11:26 AM

educational setting pending the decision of the hearing officer, or until the expiration of the time period of the change of placement, whichever occurs first, unless the State or LEA and the parents of the child agree otherwise. The Oklahoma State Department of Education (OSDE) must arrange for an expedited hearing if the parent requests a hearing regarding the manifestation determination review or with any decision regarding a change in placement under 34 CFR §§ 300.530 through 300.533, including school-initiated changes in placement for weapons, illegal drug possession, or serious bodily injury. The expedited due process hearing must occur within 20 school days of the date the complaint requesting the hearing is filed. The hearing officer must make a determination within 10 school days after the hearing.

- In reviewing a decision concerning the manifestation determination, the hearing officer must determine whether the party that filed the due process hearing complaint has demonstrated that the child's behavior was not a manifestation of the child's disability in accordance with 34 CFR §300.532(b). In reviewing a decision under 34 CFR § 300.530(f) to place the child in an interim alternative educational setting, the hearing officer must apply the standards in 34 CFR § 300.532(b).

LEA-Initiated Change in Placement Due to Weapons, Drug Possession, or Serious Bodily Injury

School personnel may remove a child with a disability to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child:

- Carries or possesses a weapon at school, on school premises, or to or at a school function;
- Possesses or uses illegal drugs or sells or solicits the sale of a controlled substance at school, on school premises, or to or at a school function; or
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.

As defined at 18 U.S.C. 1365(h)(3), the term "serious bodily injury" means bodily injury that involves:

- A substantial risk of death;
- Extreme physical pain;
- Protracted and obvious disfigurement; or
- Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

The term "serious bodily injury" cannot be altered by states or local school boards.

The child's IEP team must determine the extent to which services are necessary to enable the child to make appropriate progress in the general curriculum (in another setting) and appropriately advance toward achieving the goals set out in the IEP.

Weapon has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of Title 18, United States Code, as follows, "the term dangerous weapon means a weapon, device, instrument, material or substance animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury,

58974-OKEd-SpecialEd text.indd 168 2/10/11 11:26 AM

except that the term does not include a pocket knife with a blade of less than 2 and 1/2 inches in length."

Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)). Illegal drug means a controlled substance, but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional, or that is legally possessed or used under any other authority under that Act, or under any other provision of federal law. This federal legal definition does not include alcohol.

In these situations, the interim alternative educational setting must be determined by the IEP team and must be selected so as to enable the child to continue to progress in the general education curriculum (although in another setting) and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to progress in meeting the goals as set out in the IEP.

In addition, the IEP must include services and modifications to address the behavior that are designed to prevent the behavior from recurring.

34 CFR § 300.532 Appeal.
(a) General. The parent of a child with a disability who disagrees with any decision regarding placement under §§ 300.530 and 300.531, or the manifestation determination under § 300.530(e), or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to §§ 300.507 and 300.508(a) and (b).
(b) Authority of hearing officer. (1) A hearing officer under § 300.511 hears, and makes a determination regarding an appeal under paragraph (a) of this section.
(2) In making the determination under paragraph (b)(1) of this section, the hearing officer may—
(i) Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of § 300.530 or that the child's behavior was a manifestation of the child's disability; or
(ii) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.
(3) The procedures under paragraphs (a) and (b)(1) and (2) of this section may be repeated, if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.
(c) Expedited due process hearing. (1) Whenever a hearing is requested under paragraph (a) of this section, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements of §§ 300.507 and 300.508(a) through (c) and §§ 300.510 through 300.514, except as provided in paragraph (c)(2) through (4) of this section.
(2) The SEA or LEA is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The hearing officer must make a determination within 10 school days after the hearing.
(3) Unless the parents and LEA agree in writing to waive the resolution meeting described in paragraph (c)(3)(i) of this section, or agree to use the mediation process described in § 300.506—

58974-OKEd-SpecialEd text.indd 169 2/10/11 11:26 AM

(i) A resolution meeting must occur within seven days of receiving notice of the due process complaint; and
(ii) The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint.
(4) A State may establish different State-imposed procedural rules for expedited due process hearings conducted under this section than it has established for other due process hearings, but, except for the timelines as modified in paragraph (c)(3) of this section, the State must ensure that the requirements in §§ 300.510 through 300.514 are met.
(5) The decisions on expedited due process hearings are appealable consistent with §300.514.

(Authority: 20 U.S.C. 1415(k)(3) and (4)(B), 1415(f)(1)(A))

34 CFR § 300.533 Placement during appeals.
When an appeal under § 300.532 has been made by either the parent or the LEA, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in § A300.530(c) or (g), whichever occurs first, unless the parent and the SEA or LEA agree otherwise.

(Authority: 20 U.S.C. 1415(k)(4)(A))

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child carries a weapon, on school premises, or to or at a school function; knowingly possess or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function; or has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.

If the parent disagrees with any decision regarding placement or the manifestation determination, or an LEA believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others they may appeal the decision by requesting an expedited hearing.

The hearing officer may return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of the authority of school personnel or that the child's behavior was a manifestation of the child's disability.

The hearing officer may order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

An expedited due process hearing must occur within 20 school days of the date of the complaint requesting the hearing is filed. The hearing officer must make a determination within ten school days after the hearing.

The resolution meeting must occur in seven days of receiving notice of the due process complaint, unless the parent and the lEA agree, in writing, to waive the resolution meeting, or agree to use the mediation process.

58974-OKEd-SpecialEd text.indd 170 2/10/11 11:26 AM

The LEA may ask for this procedure to be repeated if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or others.

> ***34 CFR § 300.535 Referral to and action by law enforcement and judicial authorities.***
> *(a) Rule of construction. Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.*
> *(b) Transmittal of records.*
> *(1) An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.*
> *(2) An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.*
>
> *(Authority: 20 U.S.C. 1415(k)(6))*

Referral to and Action by Law Enforcement and Judicial Authorities

- Federal regulations do not prohibit an agency, including the LEA, from reporting a crime committed by a child with a disability to appropriate authorities or to prevent Oklahoma State law enforcement and judicial authorities from exercising their responsibilities regarding the application of federal and Oklahoma State law to crimes committed by a child with a disability.
- The LEA may invoke the aid of the courts to remove a child whose parents refuse to permit any change in placement through the procedures established by the IDEA. The LEA may seek to demonstrate that such removal should occur because: the use of the due process hearing procedures in accordance with the IDEA would be futile or inadequate, and maintaining the child in the current placement is substantially likely to result in injury to the child or to others.
- An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.
- An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act (FERPA).

Forwarding of Disciplinary Records

Oklahoma State law (70 O.S. § 24-101.4) requires that when the LEA in which a child was formerly enrolled receives a request from the child's current LEA for educational records, the LEA must forward the records within three business days of receipt of the request. The records must include the child's disciplinary records. The forwarding and disclosure of disciplinary records or other educational records to the LEA in which a child seeks or intends to enroll must be in accordance with the annual notification requirements and provisions of the FERPA.

58974-OKEd-SpecialEd text.indd 171 2/10/11 11:26 AM

34 CFR § 300.534 Protections for children not determined eligible for special education and related services.

(a) General. A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this part if the public agency had knowledge (as determined in accordance with paragraph (b) of this section) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

(b) Basis of knowledge. A public agency must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred—

(1) The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;

(2) The parent of the child requested an evaluation of the child pursuant to §§ 300.300 through 300.311; or

(3) The teacher of the child, or other personnel of the LEA, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency.

(c) Exception. A public agency would not be deemed to have knowledge under paragraph (b) of this section if—

(1) The parent of the child—

(i) Has not allowed an evaluation of the child pursuant to §§ 300.300 through 300.311; or

(ii) Has refused services under this part; or

(2) The child has been evaluated in accordance with §§ 300.300 through 300.311 and determined to not be a child with a disability under this part.

(d) Conditions that apply if no basis of knowledge. (1) If a public agency does not have knowledge that a child is a child with a disability (in accordance with paragraphs (b) and (c) of this section) prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engage in comparable behaviors consistent with paragraph (d)(2) of this section.

(2)(i) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under § 300.530, the evaluation must be conducted in an expedited manner.

(ii) Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

(iii) If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency must provide special education and related services in accordance with this part, including the requirements of §§ 300.530 through 300.536 and section 612(a)(1)(A) of the Act.

(Authority: 20 U.S.C. 1415(k)(5))

Protections for Children Not Yet Eligible for Special Education and Related Services

A child who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated any rule or code of conduct of the LEA, including any behavior described in 34 CFR § 300.530, may assert any of the protections provided for in the federal regulations if the LEA had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary

58974-OKEd-SpecialEd text.indd 172 2/10/11 11:26 AM

action occurred. An LEA must be deemed to have knowledge that a child is a child with a disability if—

- The parent of the child has expressed concern in writing to supervisory or administrative personnel of the LEA, or to a teacher of the child, that the child is in need of special education and related services;
- The parent of the child has requested an evaluation of the child pursuant to 34 CFR §§ 300.300 through 300.311 (evaluation and eligibility procedures); or
- The teacher of the child, or other personnel of the LEA, has expressed specific concerns about a pattern of behavior demonstrated by the child directly to the special education director of the LEA or to other supervisory personnel of the LEA.

An LEA would not be deemed to have knowledge under these procedures if, as a result of receiving the information specified in these procedures, the agency conducted an evaluation under 34 CFR §§ 300.300 through 300.311 and determined that the child was not a child with a disability under this part, the parent of the child has not allowed an evaluation of the child pursuant to 34 CFR §§ 300.300 through 300.311, or the parent has refused services under this part.

Conditions That Apply if There is No Basis of Knowledge of Disability

If an LEA does not have knowledge that a child is a child with a disability in accordance with the above procedures, prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as those applied to children without disabilities who engaged in comparable behaviors, consistent with the following limitations:

- If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under 34 CFR § 300.530, the evaluation must be conducted in an expedited manner; and
- Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the LEA and information provided by the parents, the LEA must provide special education and related services in accordance with federal regulations.

58974-OKEd-SpecialEd text.indd 173 2/10/11 11:26 AM

GUIDELINES FOR MINIMIZING THE USE OF PHYSICAL RESTRAINT FOR STUDENTS WITH DISABILITIES IN OKLAHOMA

Physical restraint shall not be used for the purposes of discipline or as a punishment, to force compliance, as a convenience for staff or to prevent property damage.

The use of chemical and/or mechanical restraint is prohibited.

Physical restraint to manage behavior must only be used under the following emergency circumstances and only if these elements exist:

- The student's actions pose an imminent risk of harm to him/herself or others.
- Less restrictive measures appropriate to the behavior exhibited by the child have not effectively de-escalated the risk of injury.
- The physical restraint lasts only as long as necessary to resolve the risk of danger or harm.
- The degree of limitation or restriction of another person's freedom of movement that is applied may not exceed what is necessary to protect the student or other persons from imminent bodily injury.

School personnel who use physical restraint must have training in:

- Conflict de-escalation.
- The crisis cycle and interventions at each stage.
- Possible effects of physical restraint.
- First Aid.
- Cardiopulmonary Resuscitation (CPR).

The trainings shall result in some form of certification or credential, be recurrent with annual updates, and be consistent with nationally recognized training programs. The training must also include methods for monitoring a student's well being during and following a restraint.

Prone restraints (restraints that position a student face down on his or her stomach or face up on the back) or any maneuver that places pressure or weight on the chest, sternum, lungs, diaphragm, neck, throat, or back must not be used. No restraint that prevents a student from speaking or breathing is allowed.

At least one witness who is not involved in the physical restraint should be present.

Parents must be notified immediately following each incident of a physical restraint, and be provided a copy of all documentation.

A building administrator should be informed immediately of any incident of a physical restraint and if unavailable, must be informed as soon as possible following each incident.

Each incident of physical restraint must be documented on OSDE Form #12 and include the following information:

- Name of the student.
- Name of the school personnel involved in the incident.
- Date of the incident and the time the physical restraint started and ended.
- Location of the restraint.

58974-OKEd-SpecialEd text.indd 174 2/10/11 11:26 AM

- A description of the physical restraint.
- A description of the student's activity and behavior immediately preceding the behavior that prompted the use of physical restraint.
- A description of school personnel efforts to de-escalate the situation and alternatives to physical restraint that were attempted.
- Information documenting parent and administrator notification and contact.

A copy of the documentation must be placed in the student's confidential file and provided to the parents.

A documented debriefing meeting shall occur within two school days following each physical restraint incident, and prior to any extended breaks from school. The debriefing meeting should include all individuals involved in the incident, a building administrator, the parents or guardians of the child with a disability, the child (if the child is able to participate), and the witness who was not involved in the physical restraint. See Policies and Procedures for Special Education in Oklahoma, 2007 manual for information regarding means for parent participation.

The debriefing should focus on alternatives to physical restraint and how to avoid future use of physical restraint, including antecedent events that led to the use of the physical restraint.

Relevant Definitions:
Chemical Restraint is defined as a drug or medication used to control behavior or restrict freedom of movement that is not prescribed by a licensed physician for standard treatment of the student's medical condition and administered for that purpose as prescribed (Public Health Service Act).

Imminent risk of harm is defined as the immediate and impending threat of a person causing serious bodily injury to self or others.

Mechanical Restraint is defined as the use of devices as a means of restricting a student's freedom of movement (Public Health Service Act).

Physical restraint is defined as any method of one or more persons limiting or restricting another person's freedom of movement, physical activity, or normal access to his/her body (International Society of Psychiatric and Mental Health Nurses, 1999). It is a means for managing that person's movement, reconstituting behavioral management, and establishing and maintaining safety for the student, other students, and staff.

References:
Council for Children with Behavior Disorders (2009). *Position Summary on the Use of Physical Restraint Procedures in School Settings.*

Council for Children with Behavior Disorders (2009). *Position Summary on the Use of Seclusion in School Settings.*

Kansas State Department of Education Special Education Services. (2008). *Functional Assessment Process*. Topeka, KS: Project STAY – Supporting Teachers and Youth.

School Association for Special Education in DuPage (SASED) Executive Committee (May 2002). *Procedures for Behavioral Interventions for Students with Disabilities*.

58974-OKEd-SpecialEd text.indd 175 2/10/11 11:26 AM

GUIDELINES FOR MINIMIZING THE USE OF SECLUSION FOR STUDENTS WITH DISABILITIES IN OKLAHOMA

Seclusion shall not be used for the purposes of discipline or as a punishment, to force compliance, or as a convenience for staff.

Seclusion should not be used to manage behavior. It may only be used under the following emergency circumstances and only if these elements exist:

- A student's actions pose an imminent risk of harm to him/herself or others.
- Positive behavior intervention strategies and less restrictive measures appropriate to the behavior exhibited by the student and specified in the student's IEP or BIP, are currently being implemented but are not currently de-escalating the risk of injury.
- The seclusion lasts only as long as necessary to resolve the risk of danger or harm or while waiting for the arrival of law enforcement or crisis intervention personnel such as when the student has possessed a weapon or committed a crime.

School personnel may only utilize seclusion procedures if they have training in conflict deescalation, the crisis cycle and interventions at each stage, possible effects of seclusion, appropriate use of seclusion rooms, including escorting a student to a seclusion room, placing a student in a seclusion room, and supervising a student while in seclusion. The training should be recurrent with annual updates and result in some form of certification or credential, and shall be consistent with nationally recognized training programs.

Any student who is placed in seclusion based upon the previously established criteria must be:

- Continuously monitored visually and aurally by a school employee.
- The student must be allowed to go to the restroom upon request.
- The student must be permitted water to drink upon request.
- Immediate action must be taken if the student displays any signs of medical distress.

Parents must be informed immediately following each seclusion incident, and provided a copy of all documentation.

A building administrator should be informed immediately of any incident of seclusion and if unavailable, must be informed as soon as possible following each incident.

At least one witness who is not involved in the seclusion incident should be available.

Each incident of seclusion must be documented on OSDE Form #13 and include the following information:

- Name of the student.
- Name of the school personnel involved in the seclusion incident.
- Date of the incident and the time the seclusion started and ended.Location of the seclusion room.
- A description of the seclusion incident.
- A description of the student's behavior and activity immediately preceding the behavior that prompted the use of seclusion.

58974-OKEd-SpecialEd text.indd 176 2/10/11 11:26 AM

- A description of school personnel efforts to de-escalate the situation and alternatives to seclusion that were attempted.
- Information documenting parent and administrator notification and contact.

A copy of the documentation must be placed in the student's confidential file and provided to the parents.

A documented debriefing meeting shall occur within two school days after each seclusion incident and prior to any extended breaks from school. The debriefing meeting should include all individuals involved in the seclusion incident, a building administrator, the parents or guardians of the student, the student (if the student is able to participate), and the witness who was not involved in the seclusion procedure. The primary purpose of this meeting is to ensure that the use of seclusion is not used as an ongoing procedure for addressing a student's behavioral crisis. See Policies and Procedures for Special Education in Oklahoma, 2007 manual for information regarding means for parent participation.

- The debriefing should focus on alternatives to seclusion and how to avoid future use ofseclusion, including discussion of antecedent events (what happened before theseclusion) that led to the use of seclusion.

Relevant Definitions:
Imminent risk of harm: an immediate and impending threat of a person causing serious bodily injury to self or others.

Seclusion: involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. This includes situations where a door is locked as well as where the door is blocked by other objects or held by staff. Any time a student is involuntarily alone in a room and prevented from leaving should be considered seclusion regardless of the intended purpose or the name applied to this procedure or the name of the place where the student is secluded.

Seclusion room: a room or other confined area in which a student with a disability is placed in isolation from other persons from which the student is prevented from leaving. A seclusion room must meet the following criteria:
- It must be of adequate size permitting the student to sit or lie down.
- It must have adequate lighting.
- It must be equipped with heating, cooling, ventilation, and lighting systems that are comparable to those in other rooms throughout the building where the seclusion room is located.
- It must be free of any objects that pose a potential risk of harm to the student with a disability.
- It must be equipped with a door that locks, only if the lock is equipped with a device that automatically disengages the lock in case of an emergency, such as a fire or severe weather.
- It must allow continuous visual and auditory monitoring of the student with a disability.

58974-OKEd-SpecialEd text.indd 177 2/10/11 11:26 AM

References:

Council for Children with Behavior Disorders (2009). *Position Summary on the Use of Physical Restraint Procedures in School Settings.*

Council for Children with Behavior Disorders (2009). *Position Summary on the Use of Seclusion in School Settings.*

Kansas State Department of Education Special Education Services. (2008). *Functional Assessment Process*. Topeka, KS: Project STAY – Supporting Teachers and Youth.

School Association for Special Education in DuPage (SASED) Executive Committee (May 2002). *Procedures for Behavioral Interventions for Students with Disabilities.*

58974-OKEd-SpecialEd text.indd 178 2/10/11 11:26 AM

HIGHLY QUALIFIED

34 CFR § 300.18 Highly qualified special education teachers.

(a) Requirements for special education teachers teaching core academic subjects. For any public elementary or secondary school special education teacher teaching core academic subjects, the term highly qualified has the meaning given the term in section 9101 of the ESEA and 34 CFR 200.56, except that the requirements for highly qualified also—

(1) Include the requirements described in paragraph (b) of this section; and

(2) Include the option for teachers to meet the requirements of section 9101 of the ESEA by meeting the requirements of paragraphs (c) and (d) of this section.

(b) Requirements for special education teachers in general.

(1) When used with respect to any public elementary school or secondary school special education teacher teaching in a State, highly qualified requires that—

(i) The teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, highly qualified means that the teacher meets the certification or licensing requirements, if

any, set forth in the State's public charter school law;

(ii) The teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

(iii) The teacher holds at least a bachelor's degree.

(2) A teacher will be considered to meet the standard in paragraph (b)(1)(i) of this section if that teacher is participating in an alternative route to special education certification program under which—

(i) The teacher—

(A) Receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teaching;

(B) Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program;

(C) Assumes functions as a teacher only for a specified period of time not to exceed three years; and

(D) Demonstrates satisfactory progress toward full certification as prescribed by the State; and

(ii) The State ensures, through its certification and licensure process, that the provisions in paragraph (b)(2)(i) of this section are met.

(3) Any public elementary school or secondary school special education teacher teaching in a State, who is not teaching a core academic subject, is highly qualified if the teacher meets the requirements in paragraph (b)(1) or the requirements in (b)(1)(iii) and (b)(2) of this section.

(c) Requirements for special education teachers teaching to alternate achievement standards. When used with respect to a special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards established under 34 CFR 200.1(d), highly qualified means the teacher, whether new or not new to the profession, may either—

(1) Meet the applicable requirements of section 9101 of the ESEA and 34 CFR 200.56 for any elementary, middle, or secondary school teacher who is new or not new to the profession; or

(2) Meet the requirements of paragraph (B) or (C) of section 9101(23) of the ESEA as applied to an elementary school teacher, or, in the case of instruction above the elementary level, meet the requirements of paragraph (B) or (C) of section 9101(23) of the ESEA as

58974-OKEd-SpecialEd text.indd 179 2/10/11 11:26 AM

applied to an elementary school teacher and have subject matter knowledge appropriate to the level of instruction being provided and needed to effectively teach to those standards, as determined by the State.

(d) Requirements for special education teachers teaching multiple subjects. Subject to paragraph (e) of this section, when used with respect to a special education teacher who teaches two or more core academic subjects exclusively to children with disabilities, highly qualified means that the teacher may either—

(1) Meet the applicable requirements of section 9101 of the ESEA and 34 CFR 200.56(b) or (c);

(2) In the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher who is not new to the profession under 34 CFR 200.56(c) which may include a single, high objective uniform State standard of evaluation (HOUSSE) covering multiple subjects; or

(3) In the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate, not later than two years after the date of employment, competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher under 34 CFR 200.56(c), which may include a single HOUSSE covering multiple subjects.

(e) Separate HOUSSE standards for special education teachers. Provided that any adaptations of the State's HOUSSE would not establish a lower standard for the content knowledge requirements for special education teachers and meets all the requirements for a HOUSSE for regular education teachers—

(1) A State may develop a separate HOUSSE for special education teachers; and

(2) The standards described in paragraph (e)(1) of this section may include single HOUSSE evaluations that cover multiple subjects.

(f) Rule of construction. Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this part shall be construed to create a right of action on behalf of an individual student or class of students for the failure of a particular SEA or LEA employee to be highly qualified, or to prevent a parent from filing a complaint under §§ 300.151 through 300.153 about staff qualifications with the SEA as provided for under this part.

(g) Applicability of definition to ESEA; and clarification of new special education teacher.

(1) A teacher who is highly qualified under this section is considered highly qualified for purposes of the ESEA.

(2) For purposes of § 300.18(d)(3), a fully certified regular education teacher who subsequently becomes fully certified or licensed as a special education teacher is a new special education teacher when first hired as a special education teacher.

(h) Private school teachers not covered. The requirements in this section do not apply to teachers hired by private elementary schools and secondary schools including private school teachers hired or contracted by LEAs to provide equitable services to parentally-placed private school children with disabilities under § 300.138.

(Authority: 20 U.S.C. 1401(10))

Highly qualified special education teachers

For any elementary or secondary special education teacher teaching core academic subjects, the term highly qualified as defined in Section 9101 of the *Elementary and Secondary Education Act* (ESEA) (also referred to as the *No Child Left Behind Act* [NCLB]) means:

58974-OKEd-SpecialEd text.indd 180 2/10/11 11:26 AM

"HIGHLY QUALIFIED- The term 'highly qualified' —
(A) when used with respect to any public el*ementary school or secondary school teacher teaching in a State, means that —*
(i) the teacher has obtained full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing examination, and holds a license to teach in such State, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law; and
(ii) the teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis;
(B) when used with respect to —
(i) an elementary school teacher who is new to the profession, means that the teacher —
(I) holds at least a bachelor's degree; and
(II) has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum); or
(ii) a middle or secondary school teacher who is new to the profession, means that the teacher holds at least a bachelor's degree and has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by —
(I) passing a rigorous State academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on a State-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); or
(II) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing; and
(C) when used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, means that the teacher holds at least a bachelor's degree and —
(i) has met the applicable standard in clause (i) or (ii) of subparagraph (B), which includes an option for a test; or
(ii) demonstrates competence in all the academic subjects in which the teacher teaches based on a high objective uniform State standard of evaluation that —
(I) is set by the State for both grade appropriate academic subject matter knowledge and teaching skills;
(II) is aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;
(III) provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;
(IV) is applied uniformly to all teachers in the same academic subject and the same grade level throughout the State;
(V) takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject;
(VI) is made available to the public upon request; and
(VII) may involve multiple, objective measures of teacher competency.

58974-OKEd-SpecialEd text.indd 181 2/10/11 11:26 AM

The NCLB Act of 2001 highly qualified (HQ) special education teacher requirements apply only to those teachers who provide direct instruction in a core academic subject and are the teachers of record in early childhood education, elementary education, or a specific core academic subject in middle or high school. Core academic subjects include: early childhood education, elementary education, English, reading, language arts, mathematics, science, foreign languages, civics and government, economics, the arts (art and music), history, and geography.

Special education teachers, who provide only consultation to general education core content teachers in adapting curricula, using behavioral supports and interventions, or selecting appropriate accommodations, do not need to achieve the highly qualified status under the NCLB Act.

If a special education teacher is providing direct instruction in a core academic subject(s) and, therefore, is the teacher of record, the NCLB Act required the teacher to be highly qualified in each core academic subject taught by June 30, 2006. The highly qualified requirement may be accomplished by completing a single-subject high objective uniform state standard of evaluation (HOUSSE) or by passing the specific core subject(s) certification exam.

Special education teachers who are the teacher of record for a single core academic subject area must be appropriately certified in the single subject they teach (mathematics, language arts, science, or social studies). Special education teachers who teach multiple core academic subject areas must be appropriately certified in at least one of the following areas: mathematics, language arts, or science. For additional subjects, you may attempt to build the appropriate subject area Highly Objective Uniform State Standard of Evaluation (HOUSSE). If you are certified in social studies only, you will not be eligible to build a HOUSSE in other areas. Oklahoma's HOUSSE requires extensive content specific coursework and multiple years of course specific teaching experience in Oklahoma.

It is the requirement of Title I of the Elementary and Secondary Education Act (ESEA) that parents be notified when teachers who are not highly qualified teach their children. The school district must notify parents if a special education teacher continues to be the teacher of record in a specific core academic area and do not meet the highly qualified teacher requirements.

Special education teachers and regular education teachers are encouraged to consider the collaborative/co-teaching model as a service delivery option. Co-teaching can allow more individualized instruction in the general education classroom, increase access to the general education curriculum for special education children, and decrease the stigma for children with special needs. Teachers benefit from the professional support and exchange of teaching practices as they collaboratively work together.

Consultative Teaching

- Literature from school psychology and special education on the role of consultation for special educators implies that general education classroom

58974-OKEd-SpecialEd text.indd 182 2/10/11 11:26 AM

teachers have primary instructional responsibility and special educators meet with them on a regular basis to discuss issues related to instruction of certain students and to demonstrate ways to approach student's specific instructional and behavior needs.
- Consultation today is often used as a bridge for students exiting from special education services or for a low-end service delivery.
- Less intense than a co-teaching arrangement.

Collaborative Teaching or Co-Teaching

- Co-teaching implies a partnership in the classroom of a teacher with general education credentials and a special education teacher with special education and/or content credentials. This partnership creates a qualitatively different classroom than one with only a single teacher. A change of instructional intensity is also often noted in descriptions of this type of classroom that is operated by two teachers and meets the instructional needs of **all** students in the classroom.

Consultative teaching and collaborative teaching or co-teaching each has a place and it will depend on student needs and a student's Individualized Education Program (IEP) to determine the **intensity of instruction** needed.

58974-OKEd-SpecialEd text.indd 183 2/10/11 11:26 AM

PERSONNEL QUALIFICATIONS

34 CFR § 300.156 Personnel qualifications.

a) General. The SEA must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.

(b) Related services personnel and paraprofessionals. The qualifications under paragraph (a) of this section must include qualifications for related services personnel and paraprofessionals that—

(1) Are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services; and

(2) Ensure that related services personnel who deliver services in their discipline or profession—

(i) Meet the requirements of paragraph (b)(1) of this section; and

(ii) Have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

(iii) Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services under this part to children with disabilities.

(c) Qualifications for special education teachers. The qualifications described in paragraph (a) of this section must ensure that each person employed as a public school special education teacher n the State who teaches in an elementary school, middle school, or secondary school is highly qualified as a special education teacher by the deadline established in section 1119(a)(2) of the ESEA.

(d) Policy. In implementing this section, a State must adopt a policy that includes a requirement that LEAs in the State take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services under this part to children with disabilities.

(e) Rule of construction. Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this part shall be construed to create a right of action on behalf of an individual student or a class of students for the failure of a particular SEA or LEA employee to be highly qualified, or to prevent a parent from filing a complaint about staff qualifications with the SEA as provided for under this part.

(Authority 20 U.S.C. 1412(a)(14))

In the State of Oklahoma, instructional and related service personnel must hold appropriate certification, licensure, registration, or other comparable requirements as listed in the "Instructional Personnel Qualifications" chart and the "Related Service Personnel Qualifications" chart. Related services must be provided within the training and scope of practice of the related service provider in accordance with Oklahoma State Department of Education (OSDE) standards and as governed by certification or licensure boards where applicable.

A teacher holding categorical certification (e.g., Learning Disabilities, Mentally Handicapped, and Physically Handicapped) is qualified to develop and monitor the implementation of the Individualized Education Program (IEP) for a child identified as having the same disability as the teacher's certification. In order for a teacher with a categorical certification to develop and monitor the IEP of a child who is categorized

58974-OKEd-SpecialEd text.indd 184 2/10/11 11:26 AM

as having Autism, Traumatic Brain Injury (TBI), Other Health Impairment (OHI), or Multiple Disabilities, this teacher must hold special education certification as outlined on the "Instructional Personnel Qualifications" chart and must have completed OSDE approved teacher registry training which meets the established requirements and critical skill areas, and have that registry training added to his/her teaching certificate. Other Health Impairment (OHI) registry training has been discontinued.

Speech language pathology certification is a professional school services certification and is not considered a special education certification for the purpose of registry training. Because these students of the above mentioned disabilities have more than communication and language involvement, it would not be appropriate for a speech language pathologist to be the person to oversee the implementation of educational goals.

In order for a teacher with a categorical certification in a sensory impairment area to assist in developing and monitoring the IEP of a child who is categorized as having Deaf-Blindness, this teacher must hold special education certification as outlined in the "Instructional Personnel Qualifications" chart and must complete the OSDE approved teacher registry training which meet the established requirements and critical skill areas and have that registry training added to his/her teaching certificate. Certification in Deaf/Hard of Hearing and Blind/Visual Impairment continues to be required of the IEP teacher of record who develops and monitors the implementation of IEPs for children (aged three through 21) with sensory impairments. Note: teachers completing registry training in multiple disabilities/deaf-blindness will not be able to add deaf-blindness to their certificates if they do not hold certification in a sensory impairment area (e.g., visual impairment or hearing impairment).

A registry of teachers who have completed teacher registry training is maintained by the OSDE. For accreditation and audit purposes, special education registry training is to be reflected on teaching certificates of special education teachers serving students identified under the above-mentioned special education categories. A teacher must apply to the OSDE, Professional Standards Section, to have special education registries listed on his/her teaching certificate.

A teacher who holds categorical certification and who develops and monitors the implementation of the IEP for a child (aged 3- to 9-years-old) identified under the Developmental Delay category must meet the certification areas as outlined on the "Instructional Personnel Qualifications" chart.

A teacher holding a Mild/Moderate and/or Severe/Profound/Multiple Disabilities certificate is not required to complete teacher registry training to develop and monitor the implementation of the IEP for a child who is categorized as having Autism, TBI, OHI, and Multiple Disabilities. A teacher with certification in Deaf/Hard of Hearing and Blind/Visual Impairment continues to be required as the IEP teacher of record who develops and monitors the implementation of IEPs for children (aged 3-21) with sensory impairments. A teacher holding Mild/Moderate certification will be qualified to develop and monitor the implementation of IEPs for children whose programs and evaluations reflect levels of functioning, goals, objectives, and services in various placements that align with the general education curriculum, regardless of the child's disability category.

58974-OKEd-SpecialEd text.indd 185 2/10/11 11:26 AM

The child's program may also require supports, supplementary aids and services, or modifications. A teacher with certification in Deaf/Hard of Hearing and Blind/Visual Impairment continues to be required as the IEP teacher of record who develops and monitors the implementation of IEPs for children (aged 3 through 21) with sensory impairments.

A teacher holding Severe/Profound/Multiple Disabilities certification will be qualified to develop and monitor the implementation of IEPs for children whose programs and evaluations reflect more significant levels of need, services in various placements, and supports with more focus on life skills, including children instructed by accessing the curriculum through alternate achievement of the standards (i.e., the CARG-A), regardless of the child's disability category. A teacher with certification in Deaf/Hard of Hearing and Blind/Visual Impairment continues to be required as the IEP teacher of record who develops and monitors the implementation of IEPs for children (aged 3-21) with sensory impairments.

Because of the two certification types: 1) categorical and 2) Mild/Moderate or Severe/Profound/Multiple Disabilities, deciding which certification a teacher must hold to develop and monitor the implementation of a child's IEP requires an analysis of the type of program and level of support a child needs. The following are examples of how this type of determination may be made.

> Example: The teacher who develops and monitors the implementation of the IEP for a child who is categorized as having an intellectual disability and whose IEP reflects mild to moderate functioning levels and curriculum needs, must hold a certificate in either Mentally Handicapped or Mild/Moderate. The child may receive services in a variety of settings and by teachers with other certifications in accordance with the placement decision of the IEP team.
>
> Example: The teacher who develops and monitors the implementation of the IEP for a child who is categorized as having multiple disabilities and whose IEP reflects severe to profound functioning levels and curriculum needs, must hold two categorical certifications in special education (e.g., Mentally Handicapped and Physically Handicapped) and have completed the registry training for Multiple Disabilities or hold a Severe/Profound/Multiple Disabilities certificate. The child may receive services in a variety of settings and by teachers with other certifications in accordance with the placement decision of the IEP team.

For further information refer to the chart "Instructional Personnel Qualifications" found in this section.

Speech Therapist

Standards for all personnel working with children with disabilities in the State of Oklahoma meet the highest requirements with the exception of those certified as speech pathologists (therapist) at the bachelor degree level. As part of a plan to meet highest requirements in the State, personnel holding standard certification as speech pathologists

58974-OKEd-SpecialEd text.indd 186 2/10/11 11:26 AM

would be required to meet highest standards (master's level certification in speech language pathology) by the year 2010. A one time extension will be offered for speech therapists holding a standard teaching certificate after the 2010 deadline. The speech therapists must provide written documentation to the OSDE, Professional Standards Section, of the following: 1) documentation of service in public schools as a speech therapist in the last 15 years for a period of at least five years; and 2) documentation of successfully passing the Certification Examination for Oklahoma Educators (CEOE) teaching test in the area of speech pathology.

When this documentation is approved applicants will receive a standard teaching certificate in the area of speech pathology valid through July 1, 2015.

Speech Language Pathologist

A speech language pathologist (SLP) must meet the qualifications set forth in the Speech Pathology and Audiology Licensing Act. An SLP is a person who evaluates, examines, counsels or provides rehabilitative services for persons who have or are suspected of having a speech, voice, language or swallowing disorder and have the appropriate training for the disorder area. An SLP is permitted to perform such basic audiometric screening tests and hearing therapy procedures as consistent with such training. Speech, voice, language or swallowing disorders include, but are not limited to, any and all conditions that impede the normal process of human vocal communication. All SLPs working in public schools must hold appropriate OSDE certification. SLPs may supervise up to two Speech Language Therapist Assistants (SLTA) to assist with responsibilities.

Speech Language Therapist Assistant

An SLTA is a person who evaluates but does not interpret results, examines, and provides rehabilitative services for persons who have or are suspected of having a speech, voice, language or swallowing disorder. An SLTA is permitted to assist the SLP with speech-language and hearing screenings; assist with informal documentation; follow IEPs or IFSPs; document student performance; assist SLP during student assessments; may write, develop, or modify a student's IEP or IFSP.

Speech Language Pathology Assistant

A Speech Language Pathology Assistant (SLPA) must meet the qualifications set forth by the OSDE. An SLPA, beginning May 2012, must hold an associate's degree in Speech Language Pathology. Standards for all personnel working as an SLPA with children with disabilities in the State of Oklahoma must meet the highest requirements. The state offers an Oklahoma Teacher Certification for an SLPA with the following requirements: 1) hold a minimum of an associate's degree or provide equivalent academic coursework and clinical training hours for an SLPA; 2) be employed by an Oklahoma public school; and 3) partner with an OBESPA licensed SLP who has agreed to attend supervision training, and will provide supervision and training to the SLPA.

SLTAs employed from 2010 through 2012 will also be eligible for employment as an SLPA beginning in May 2012.

58974-OKEd-SpecialEd text.indd 187 2/10/11 11:26 AM

Audiologist

An audiologist must meet the qualifications set forth in the Speech Pathology and Audiology Licensing Act. An audiologist is a person who evaluates, examines, counsels or provides rehabilitative services for children, who have or are suspected of having a hearing disorder. An audiologist may also provide consultation regarding noise control and hearing conservation, may conduct tests of vestibular function, and may provide evaluations of environment of equipment including calibration, used in testing auditory function.

Telepractice

It is the position of the American Speech and Hearing Association (ASHA) that telepractice is the application of telecommunications technology to deliver professional services at a distance by linking clinician to client for assessment, intervention and/or consultation. Telepractice may be used to overcome barriers of access to services caused by distance, unavailability of a specialist and/or subspecialist (trained assistant), and impaired mobility. Telepractice offers the potential to extend clinical services to remote, rural, and underserved populations and to culturally and linguistically diverse populations. The use of telepractice does not remove any existing responsibilities in delivering services including adherence to the Code of Ethics, Scope of Practice, State and Federal laws, and ASHA policy documents on professional practices. Therefore, the quality of services delivered via telepractice must be consistent with the quality of services delivered face-to-face. The provision of speech language pathology or audiology services in this state through telephonic, electronic, or other means, regardless of the location of the speech language pathologist and/or audiologist and must require licensure in the state (Oklahoma Board of Examiners for Speech Language Pathology and Audiology [OBESPA]).

Special Education Paraprofessionals

A trained special education paraprofessional, under the supervision of qualified personnel, may be used to assist in the provision of special education and related services to children with disabilities. Special education paraprofessionals are either instructional in nature and/or deliver other direct services (e.g., personal care and support) to children. The special education paraprofessional provides support to a child with a disability in the classroom, other educational settings (e.g., playground, hall, restroom, gymnasium, other specified areas on a school campus, and transportation situations), or in community-based educational settings; assists teachers or other related service personnel in implementing the IEP; assists in the personal care of the child; ensures safety of the child; and provides supports necessary because of physical, health, or behavioral concerns to enable a child to access the educational program. The role of the special education paraprofessional must not be a substitute for appropriate, specially designed instruction or the delivery of related services by qualified personnel for the provision of a free and appropriate public education (FAPE).

A registry of special education paraprofessionals trained to work with children with disabilities is maintained by the OSDE- Special Education Services (SES). To gain registry status, a person must hold a standard high school diploma or General Education Development (GED), satisfactorily complete the required nine modules provided and approved by the OSDE-

58974-OKEd-SpecialEd text.indd 188 2/10/11 11:26 AM

SES, demonstrate competencies, and complete an outside assignment. The special education paraprofessional training is offered exclusively through the Oklahoma State Department of Career and Technology Education (CareerTech) in conjunction and collaboration with the OSDE-SES. The local educational agency (LEA) must be responsible to ensure the special education paraprofessional has also completed First Aid and Cardiopulmonary Resuscitation (CPR) training as well as training in Universal Precautions/Bloodborne Pathogens as a part of the requirements of the outside assignment.

Following satisfactory completion and demonstration of competencies, the special education paraprofessional must maintain current First Aid and CPR training status and must complete an additional six hours of personnel development and Universal Precautions/Bloodborne Pathogens each school year thereafter. Recertification for First Aid, CPR, and Universal Precautions/Bloodborne Pathogens must not be counted to meet the required six hours of continued personnel development. Annual personnel development and documentation is the responsibility of the LEA. LEAs must provide personnel development opportunities relevant to the skills necessary for the special education paraprofessional to perform their job assignments. This training could be included in the local personnel development (PD) plan or through other professional development activities supported by the LEA.

A trained special education paraprofessional must meet the requirements of the OSDE and the Oklahoma Health Care Authority (OHCA) for an LEA to submit Medicaid claims for their billable services. The LEA must maintain documentation of training and qualifications for the special education paraprofessional if they are providing IEP services that will be billed for Medicaid reimbursement. Further inquiries regarding Medicaid should be directed to the OHCA.

Special education paraprofessionals who provide instructional supports and work in Title I schoolwide sites must also adhere to the qualifications in the *No Child Left Behind Act of 2001* (NCLB):

- Pass a local academic assessment, the ParaPro Assessment; or
- Pass a formal state assessment (Oklahoma General Education Test [OGET]); or
- Obtain an associates (or higher) degree; or
- Complete at least two years of study at an institution of higher education (48 semester hours).

The requirements of the NCLB do not apply:

- To special education paraprofessionals whose duties consist solely of language translation (interpreters); or
- To special education paraprofessionals whose duties consist solely of conducting parental involvement activities; or
- To noninstructional personnel, such as those providing only technical support, clerical duties, or personal care services.

Interpreters for Students who are Deaf or Hearing Impaired

In accordance with the provisions and timelines of the Oklahoma Educational Interpreter for the Deaf Act, all interpreters working with children who are deaf or hard of hearing

58974-OKEd-SpecialEd text.indd 189 2/10/11 11:26 AM

must demonstrate preparation or experience which is adequate to serve as an interpreter in the school setting. Interpreters must demonstrate their competency as it relates to the unique needs of the child for whom interpreting services are provided. National and State interpreters' tests will be utilized for determining competency. All educational interpreters employed in public schools must be listed on the Educational Interpreter Registry maintained by the OSDE-SES.

Charts for Instructional Personnel and Related Services Personnel

The charts in the Appendices Section outline the requirements for instructional personnel and related services personnel at the entry level in Oklahoma. These are based on the required entry level academic degree needed for any recognized certification, licensure, or registry established in Oklahoma.

Recruitment and Retention

The OSDE-SES recognizes the challenges faced by LEAs in recruiting and retaining qualified special education personnel and continues to examine strategies to assist LEAs in this process. In an effort to assist LEAs with recruitment, the OSDE-SES provides several tuition reimbursement programs, and provides each LEA with access to <teachoklahoma.com> for posting job vacancies. Additionally, through the State Personnel Development Grant (SPDG), each LEA received a copy of a recruitment public service announcement (PSA) and is encouraged to promote this PSA on its local cable and radio stations, through its local institutions of higher education (IHEs), at school events, and during job fairs. LEAs are encouraged to post vacancies on their own LEA Web sites, advertise in local, regional, state, and national newspapers, utilize resources at colleges and universities, implement future teacher programs in their schools, and host and attend job fairs.

58974-OKEd-SpecialEd text.indd 190 2/10/11 11:26 AM

PERSONNEL DEVELOPMENT

34 CFR § 300.207 Personnel development.
The LEA must ensure that all personnel necessary to carry out Part B of the Act are appropriately and adequately prepared, subject to the requirements of 300.156 (related to personnel qualifications) and section 2122 of the ESEA.

(Authority: 20 U.S.C. 1413 (a)(3))

LEAs must ensure effective implementation of personnel development (PD) at the local educational agency (LEA) level, by outlining their plan in the *Part I, LEA Implementation Agreement for Special Education in Oklahoma,* in accordance with 34 CFR § 300.207.

The LEA must identify local needs of personnel to ensure that they are appropriately and adequately trained to provide services to children with disabilities.

The LEA must develop and implement a plan describing improvement strategies in accordance with PD requirements and based upon the identified local needs which include:

- Enhancing the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of children with disabilities that impedes the learning of children with disabilities and others;
- Acquiring and disseminating to teachers, administrators, school board members, and related services personnel significant knowledge derived from educational research and other sources, and how the LEA must, as appropriate, adopt promising practices, materials, and technology;
- Recruiting, preparing, and retaining qualified personnel, including personnel with disabilities and personnel from groups that are underrepresented in the fields of general education, special education, and related services;
- Integrating the plan to the maximum extent possible with other professional development plans and activities, including plans and activities developed and carried out under other federal and Oklahoma State laws that address personnel recruitment and training; and
- Providing for the joint training of parents and special education, related services, and general education personnel.

The LEA must review, evaluate, and annually update the aforementioned procedures.

58974-OKEd-SpecialEd text.indd 191 2/10/11 11:26 AM

MEDIATION AND INFORMAL DISPUTE RESOLUTION

The Oklahoma State Department of Education (OSDE), Special Education Services (SES), provides technical assistance to parents, professionals, local educational agencies (LEAs), public agencies, and other organizations with responsibilities or interests in the education of children with disabilities. These activities facilitate implementation of special education and related services in compliance with State and federal requirements. Knowledge and awareness of parents' rights and procedural safeguards are also enhanced through these activities. In many instances, clarification of applicable requirements, additional information, and consultation assist LEAs, parents, or other agencies to resolve differences and work together more effectively.

Such assistance by the OSDE does not require the filing of a formal complaint or a request for a due process hearing. Efforts to resolve problems by informal approaches prior to filing complaints and requesting due process hearings are encouraged by the OSDE. However, the formal, written complaint procedures may be pursued by agencies or individuals when these informal efforts have not achieved satisfactory resolution. Parents are not required to access mediation or complaint procedures to request due process hearings as a means of resolving disagreements with LEAs.

34 CFR § 300.506 Mediation.

(a) General. Each public agency must ensure that procedures are established and implemented to allow parties to disputes involving any matter under this part, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process.

(b) Requirements. The procedures must meet the following requirements:

(1) The procedures must ensure that the mediation process—

(i) Is voluntary on the part of the parties;

(ii) Is not used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under Part B of the Act; and

(iii) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(2) A public agency may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party—

(i) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the State established under section 671 or 672 of the Act; and

(ii) Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

(3)(i) The State must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(ii) The SEA must select mediators on a random, rotational, or other impartial basis.

(4) The State must bear the cost of the mediation process, including the costs of meetings described in paragraph (b)(2) of this section.

(5) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.

(6) If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that—

(i) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and

58974-OKEd-SpecialEd text.indd 192 2/10/11 11:26 AM

(ii) Is signed by both the parent and a representative of the agency who has the authority to bind such agency.
(7) A written, signed mediation agreement under this paragraph is enforceable in any State court of competent jurisdiction or in a district court of the United States. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under this part.
(c) Impartiality of mediator.
(1) An individual who serves as a mediator under this part—
(i) May not be an employee of the SEA or the LEA that is involved in the education or care of the child; and
(ii) Must not have a personal or professional interest that conflicts with the person's objectivity.
(2) A person who otherwise qualifies as a mediator is not an employee of an LEA or State agency described under § 300.228 solely because he or she is paid by the agency to serve as a mediator.

(Authority: 20 U.S.C. 1415(e))

Mediation is a process of resolving disputes with the assistance of an outside third party. The process is voluntary on the part of the parent(s) and the LEA, and there is no cost to either party. The OSDE-SES pays the cost of the mediation process. A qualified mediator is selected on a random basis. The mediator then facilitates the communication and problem-solving efforts of participants to achieve resolution. The mediators have experience in mediation and have received additional training in Oklahoma State laws and federal regulations relating to the issues involving the provision of special education and related services. Additionally, mediators may not be an employee of the SEA or the LEA that is involved in the education or care of the child, and must not have a personal or professional interest that conflicts with their objectivity. A person who otherwise qualifies as a mediator is not an employee of an LEA or State agency solely because he or she is paid by the agency to serve as a mediator.

Mediation may be requested by a parent or LEA regarding issues under the Individuals with Disabilities Education Act (IDEA) (e.g., identification, evaluation, services, and programs). The LEA must make mediation available whenever a due process hearing is requested. Mediation must be scheduled in a timely manner and the mediation must be held in a location convenient to all parties. Mediation must not deny or delay a parent's right to a due process hearing.

Any information shared in a mediation session is confidential and must not be disclosed, with the exception of any written mediation agreements that become part of the child's special education records. The parties interested in mediation may be required to sign a confidentiality pledge prior to the commencement of the mediation to ensure that all discussions that occur during mediation remain confidential. If agreement is reached between the parent(s) and the LEA, the parties must execute a legally binding written agreement that sets forth the resolution decided during the mediation meeting. This agreement must state all discussions that occurred during the mediation will remain confidential and must not be used as evidence in any subsequent due process hearing or civil proceeding; and must be signed by both the parent(s) and an authorized representative of the LEA. This written, signed mediation agreement is enforceable in any State court

58974-OKEd-SpecialEd text.indd 193 2/10/11 11:26 AM

or district court of the United States. In addition, each LEA, as part of the *Part I, LEA Implementation Agreement for Special Education in Oklahoma*, must assure that the LEA is in compliance with all Oklahoma State laws and federal regulations regarding the development and implementation of due process resolution sessions and mediation agreements and that the LEA recognizes that if a resolution is reached at a due process resolution session or mediation, the parties must execute a legally binding agreement that is signed by both the parent(s) and a representative of the LEA and is enforceable in a court of law.

A public agency may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the State who would explain the benefits of and encourage the use of, the mediation process to the parents.

Mediation may be requested by either the parent(s) or the LEA, but both parties must agree to the process. The parties involved may or may not have representatives at the mediation; however, those persons attending should be in a position of authority to make decisions. Additional information pertaining to the mediation process or how to request mediation may be obtained by contacting the OSDE-SES. Due process procedures remain available to the parents and the LEA.

> ***34 CFR § 300.31 Parent training and information centers.***
> *Parent training and information center means a center assisted under sections 671 or 672 of the Act.*
>
> *(Authority: 20 U.S.C. 1401 (25))*

"Parent Training and Information Center" (PTI) refers to a nonprofit organization that provides training and information to parents of children with disabilities aged birth through 26. The center must consist of a board of directors, the majority of whom are parents of children with disabilities, individuals with disabilities, and individuals working in the field of special education, related services and early intervention (EI). Each center must provide training and information that meets the needs of parents of children with disabilities living in the area in which the center is located. The center must provide parents of children with disabilities a better understanding of the nature of their child's disability, resources available to assist their child with a disability, information to better participate in the decision-making processes, the development of an Individualized Education Program (IEP), and assisting parents in resolving disputes in the most expeditious and effective way possible. In addition, the center must assist parents and students with disabilities to understand their rights and responsibilities under the IDEA as well as assisting parents in understanding the availability of, and how to effectively use, procedural safeguards, including resolution sessions.

58974-OKEd-SpecialEd text.indd 194 2/10/11 11:26 AM

DUE PROCESS COMPLAINTS AND APPEALS

34 CFR § 300.507 Filing a due process complaint.
(a) General. (1) A parent or a public agency may file a due process complaint on any of the matters described in § 300.503(a)(1) and
(2) (relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child).
(2) The due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint, or, if the State has an explicit time limitation for filing a due process complaint under this part, in the time allowed by that State law, except that the exceptions to the timeline described in § 300.511(f) apply to the timeline in this section.
(b) Information for parents. The public agency must inform the parent of any free or low-cost legal and other relevant services available in the area if—
(1) The parent requests the information; or
(2) The parent or the agency files a due process complaint under this section.

(Authority: 20 U.S.C. 1415(b)(6))

Filing a due process complaint

A parent or local educational agency (LEA) may file a due process complaint on any of the matters relating to the identification, evaluation or educational placement of a child with a disability, or the provision of a free appropriate public education (FAPE) to the child.

The due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint.

The timeline does not apply if the parent was prevented from filing a due process complaint due to:

- Specific misrepresentations by the LEA that it had resolved the problem forming the basis of the due process complaint; or
- The LEA's withholding of information from the parent that was required to be provided by the Individuals with Disabilities Education Act (IDEA) Part B to the parent.

The IDEA Part B requires parental consent for the initial provision of special education and related services and does not permit LEAs to override a parental refusal to consent for the initial provision of special education and related services. The IDEA does not permit LEAs to initiate a due process complaint hearing if a parent refuses consent for the initial provision of special education and related services. However, an LEA may offer mediation and informal means of resolving these issues.

If parents refuse consent for evaluation, the LEA or public agency may continue to pursue an evaluation by utilizing the mediation and due process complaint hearing procedures, except to the extent where Oklahoma State law is inconsistent with this provision related to parental consent. Parental consent for evaluation must not be construed as consent to placement for provision of special education and related services.

58974-OKEd-SpecialEd text.indd 195 2/10/11 11:26 AM

Information for parent(s)

The LEA must inform the parent(s) of any free or low-cost legal and other relevant services available in the area if:

- The parent requests the information; or
- The parent or the LEA files a due process complaint.

Upon request for a due process complaint hearing, the *Guidelines for Parents and School Administrators: Due Process in Special Education* will be sent to the parties by the Oklahoma State Department of Education (OSDE). This manual details each party's rights and responsibilities, and the procedures that must be utilized to conduct the hearing. The timelines concerning a due process hearing will begin when a signed written request, meeting all submission requirements, is received by the OSDE, Special Education Services (SES), from either the parent or the LEA.

34 CFR § 300.508 Due process complaint.

(a) General.

(1) The public agency must have procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which must remain confidential).

(2) The party filing a due process complaint must forward a copy of the due process complaint to the SEA.

(b) Content of complaint. The due process complaint required in paragraph (a)(1) of this section must include—

(1) The name of the child;

(2) The address of the residence of the child;

(3) The name of the school the child is attending;

(4) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the school the child is attending;

(5) A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and

(6) A proposed resolution of the problem to the extent known and available to the party at the time.

(c) Notice required before a hearing on a due process complaint. A party may not have a hearing on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements of paragraph (b) of this section.

(d) Sufficiency of complaint.

(1) The due process complaint required by this section must be deemed sufficient unless the party receiving the due process complaint notifies the hearing officer and the other party in writing, within 15 days of receipt of the due process complaint, that the receiving party believes the due process complaint does not meet the requirements in paragraph (b) of this section.

(2) Within five days of receipt of notification under paragraph

(d)(1) of this section, the hearing officer must make a determination on the face of the due process complaint of whether the due process complaint meets the requirements of paragraph (b) of this section, and must immediately notify the parties in writing of that determination.

(3) A party may amend its due process complaint only if—

(i) The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a meeting held pursuant to § 300.510; or

58974-OKEd-SpecialEd text.indd 196 2/10/11 11:26 AM

(ii) The hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time not later than five days before the due process hearing begins.
(4) If a party files an amended due process complaint, the timelines for the resolution meeting in § 300.510(a) and the time period to resolve in § 300.510(b) begin again with the filing of the amended due process complaint.
(e) LEA response to a due process complaint. (1) If the LEA has not sent a prior written notice under § 300.503 to the parent regarding the subject matter contained in the parent's due process complaint, the LEA must, within 10 days of receiving the due process complaint, send to the parent a response that includes—
(i) An explanation of why the agency proposed or refused to take the action raised in the due process complaint;
(ii) A description of other options that the IEP Team considered and the reasons why those options were rejected;
(iii) A description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and
(iv) A description of the other factors that are relevant to the agency's proposed or refused action.
(2) A response by an LEA under paragraph (e)(1) of this section shall not be construed to preclude the LEA from asserting that the parent's due process complaint was insufficient, where appropriate.
(f) Other party response to a due process complaint. Except as provided in paragraph (e) of this section, the party receiving a due process complaint must, within 10 days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint.

(Authority: 20 U.S.C. 1415(b)(7), 1415(c)(2))

If either the LEA or parent requests a due process complaint hearing, a signed written request must state the child's name, date of birth, the address of the residence of the child, name of the school the child is attending, the established or purported disability, and the specific reason(s) for challenging the identification, evaluation, placement, or appropriateness of the education of the child. In the case of a homeless child or youth, the request must include available contact information for the child, and the name of the school the child is attending.

If the parent(s) requests a due process complaint hearing, or if the attorney representing the child on behalf of the parent(s) requests a due process complaint hearing, a signed written request for a hearing must be presented to the administrator of the LEA. The due process hearing request must include a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem and a proposed resolution of the problem to the extent known and available to the parent(s) at the time. A form for this purpose is available from the OSDE-SES to assist parent(s) in filing a request for a due process complaint hearing.

If the LEA requests the hearing, this request must be provided to the parent(s) in the primary language of the home, or through other means of communication. At the time a hearing is requested by either the parent(s) or the LEA, a copy of the request must be mailed to the OSDE-SES, Attention: Due Process Complaint Hearings, 2500 North Lincoln Boulevard, Room 412, Oklahoma City, Oklahoma 73105-4599.

58974-OKEd-SpecialEd text.indd 197 2/10/11 11:26 AM

The due process complaint is considered sufficient unless the party receiving the due process complaint notifies the hearing officer and the other party in writing, within 15 days of receipt of the due process complaint, that the receiving party believes the due process complaint does not meet the requirements. Within five days of receipt of notification, the hearing officer must make a determination whether the complaint meets the requirements and must immediately notify the parties in writing of that determination.

A party may amend its due process complaint if:

- The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a resolution meeting; or
- The hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time not later than five days before the due process complaint hearing begins.

If a party files an amended due process complaint, the timelines for the resolution meeting begin again with the filing of the amended due process complaint. If the LEA has not sent a prior written notice to the parent regarding the subject matter contained in the parent's due process complaint, within 10 days of receiving the due process complaint, the LEA must send a Written Notice to Parents (OSDE Form 8) to the parent.

> ***34 CFR § 300.510 Resolution process.***
> *(a) Resolution meeting.*
> *(1) Within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of a due process hearing under § 300.511, the LEA must convene a meeting with the parent and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the due process complaint that—*
> *(i) Includes a representative of the public agency who has decision-making authority on behalf of that agency; and*
> *(ii) May not include an attorney of the LEA unless the parent is accompanied by an attorney.*
> *(2) The purpose of the meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the LEA has the opportunity to resolve the dispute that is the basis for the due process complaint.*
> *(3) The meeting described in paragraph (a)(1) and (2) of this section need not be held if—*
> *(i) The parent and the LEA agree in writing to waive the meeting; or*
> *(ii) The parent and the LEA agree to use the mediation process described in § 300.506.*
> *(4) The parent and the LEA determine the relevant members of the IEP Team to attend the meeting.*
> *(b) Resolution period.*
> *(1) If the LEA has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur.*
> *(2) Except as provided in paragraph (c) of this section, the timeline for issuing a final decision under § 300.515 begins at the expiration of this 30-day period.*
> *(3) Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding paragraphs (b)(1) and (2) of this section, the failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.*
> *(4) If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made (and documented using the procedures in*

58974-OKEd-SpecialEd text.indd 198 2/10/11 11:26 AM

§ 300.322(d)), the LEA may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint.
(5) If the LEA fails to hold the resolution meeting specified in paragraph (a) of this section within 15 days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline.
(c) Adjustments to 30-day resolution period. The 45-day timeline for the due process hearing in § 300.515(a) starts the day after one of the following events:
(1) Both parties agree in writing to waive the resolution meeting;
(2) After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible;
(3) If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or public agency withdraws from the mediation process.
(d) Written settlement agreement. If a resolution to the dispute is reached at the meeting described in paragraphs (a)(1) and (2) of this section, the parties must execute a legally binding agreement that is—
(1) Signed by both the parent and a representative of the agency who has the authority to bind the agency; and
(2) Enforceable in any State court of competent jurisdiction or in a district court of the United States, or, by the SEA, if the State has other mechanisms or procedures that permit parties to seek enforcement of resolution agreements, pursuant to § 300.537.
(e) Agreement review period. If the parties execute an agreement pursuant to paragraph (c) of this section, a party may void the agreement within 3 business days of the agreement's execution.

(Authority: 20 U.S.C. 1415(f)(1)(B))

Within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of a due process hearing, the LEA must convene a meeting with the parent and the relevant members of the individualized education program (IEP) team who have specific knowledge of the facts identified in the due process complaint. The meeting must include a representative of the LEA who has decision-making authority and may not include an attorney of the LEA unless the parent is accompanied by an attorney.

The purpose of the meeting is for the parent(s) to discuss the due process complaint and the facts that form the basis of the complaint, so that the LEA has the opportunity to resolve the dispute that is the basis of the complaint.

The meeting described above need not be held if the parent(s) and the LEA agree to use the mediation process.

If the LEA has not resolved the due process complaint to the satisfaction of the parent(s) within 30 days of the receipt of the complaint, the due process hearing may occur. The timeline for issuing a final decision begins at the expiration of this 30-day period.

The failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held. If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made (and documented), the LEA

58974-OKEd-SpecialEd text.indd 199 2/10/11 11:26 AM

may, at the conclusion of the 30-day period, request a hearing officer to dismiss the parent's due process complaint.

If the LEA fails to hold the resolution meeting within 15 days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process complaint hearing timeline.

The 45-day timeline for the due process complaint hearing starts the day after one of the following events:

- Both parties agree in writing to waive the resolution meeting;
- After either the mediation or resolution meeting starts, but before the end of the 30-day period, and the parties agree in writing that no agreement is possible; and
- Both parties have agreed in writing to continue the mediation at the end of the 30-day resolution period, but the parent or LEA later withdraws from the mediation process.

If a resolution is reached at the meeting, the parties must execute a legally binding agreement that is signed by both the parent and a representative of the LEA who has the authority to bind the LEA. The agreement is enforceable in any State court of competent jurisdiction or in a district court of the United States, or by the state educational agency (SEA).

If the parties execute an agreement, a party may void the agreement within three business days of the agreement's execution.

34 CFR § 300.511 Impartial due process hearing.
(a) General. Whenever a due process complaint is received under § 300.507 or § 300.532, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing, consistent with the procedures in §§ 300.507, 300.508, and 300.510.
(b) Agency responsible for conducting the due process hearing. The hearing described in paragraph (a) of this section must be conducted by the SEA or the public agency directly responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the SEA.
(c) Impartial hearing officer. (1) At a minimum, a hearing officer—
(i) Must not be—
(A) An employee of the SEA or the LEA that is involved in the education or care of the child; or
(B) A person having a personal or professional interest that conflicts with the person's objectivity in the hearing;
(ii) Must possess knowledge of, and the ability to understand, the provisions of the Act, Federal and State regulations pertaining to the Act, and legal interpretations of the Act by Federal and State courts;
(iii) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and
(iv) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.
(2) A person who otherwise qualifies to conduct a hearing under paragraph (c)(1) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.
(3) Each public agency must keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

58974-OKEd-SpecialEd text.indd 200 2/10/11 11:26 AM

(d) Subject matter of due process hearings. The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under § 300.508(b), unless the other party agrees otherwise.
(e) Timeline for requesting a hearing. A parent or agency must request an impartial hearing on their due process complaint within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the due process complaint, or if the State has an explicit time limitation for requesting such a due process hearing under this part, in the time allowed by that State law.
(f) Exceptions to the timeline. The timeline described in paragraph
(e) of this section does not apply to a parent if the parent was prevented from filing a due process complaint due to—
(1) Specific misrepresentations by the LEA that it had resolved the problem forming the basis of the due process complaint; or
(2) The LEA's withholding of information from the parent that was required under this part to be provided to the parent.

(Authority: 20 U.S.C. 1415(f)(1)(A), 1415(f)(3)(A)-(D))

When a due process complaint is received, the parent(s) or the LEA involved in the dispute must have an opportunity for an impartial due process complaint hearing, consistent with the procedures in 34 CFR §§ 300.507, 300.508, and 300.510.

A hearing must be conducted by an impartial hearing officer. The term "impartial hearing officer" means the appointment of a trained individual by the OSDE-SES, for the purpose of presiding at the due process complaint hearing. The hearing officer cannot be an employee of a public agency involved in the education or care of the child and cannot be a person who has personal or professional interest that would conflict with his/her objectivity in the hearing process. A person who otherwise qualifies to conduct a hearing under these provisions is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

Either party may challenge the impartiality of the hearing officer in writing. Upon a showing that the appointed hearing officer is biased, or other good cause, a new hearing officer must be assigned by the OSDE. The OSDE maintains a list of qualified hearing officers. When a due process hearing is assigned, the OSDE must provide the name of the hearing officer assigned and their qualifications to all parties involved.

The party requesting the due process complaint hearing may not raise issues at the due process complaint hearing that were not raised in the due process complaint filed, unless the other party agrees otherwise.

58974-OKEd-SpecialEd text.indd 201 2/10/11 11:26 AM

34 CFR § 300.512 Hearing rights.

(a) General. Any party to a hearing conducted pursuant to §§ 300.507 through 300.513 or §§ 300.530 through 300.534, or an appeal conducted pursuant to §300.514, has the right to—

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities, except that whether parties have the right to be represented by non-attorneys at due process hearings is determined by State law;

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;

(4) Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing; and

(5) Obtain written, or, at the option of the parents, electronic findings of fact and decisions.

(b) Additional disclosure of information. (1) At least five business days prior to a hearing conducted pursuant to § 300.511(a), each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

(2) A hearing officer may bar any party that fails to comply with paragraph (b)(1) of this section from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

(c) Parental rights at hearings. Parents involved in hearings must be given the right to—

(1) Have the child who is the subject of the hearing present;

(2) Open the hearing to the public; and

(3) Have the record of the hearing and the findings of fact and decisions described in paragraphs (a)(4) and (a)(5) of this section provided at no cost to parents.

(Authority: 20 U.S.C. 1415(f)(2), 1415(h))

Any party to a due process complaint hearing has the right to:

- Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
- Present evidence and confront, cross-examine, and compel the attendance of witnesses;
- Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;
- Obtain a written, or, at the option of the parent(s), electronic, verbatim record of the hearing; and
- Obtain written, or, at the option of the parent(s), electronic findings of fact and decisions.

At least five business days prior to a hearing, each party must disclose to all other parties all evaluations completed by that date. This disclosure must include recommendations based on the offering party's evaluations that the party intends to use at the hearing. A hearing officer may bar any party that fails to comply with this requirement.

Parents involved in hearings must be given the right to have the child who is the subject of the hearing present, open the hearing to the public, and have the record of the hearing and the findings of fact and decisions provided at no cost.

58974-OKEd-SpecialEd text.indd 202 2/10/11 11:26 AM

34 CFR § 300.513 Hearing decisions.

(a) Decision of hearing officer on the provision of FAPE. (1) Subject to paragraph (a)(2) of this section, a hearing officer's determination of whether a child received FAPE must be based on substantive grounds.

(2) In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies—

(i) Impeded the child's right to a FAPE;

(ii) Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or

(iii) Caused a deprivation of educational benefit.

(3) Nothing in paragraph (a) of this section shall be construed to preclude a hearing officer from ordering an LEA to comply with procedural requirements under §§ 300.500 through 300.536.

(b) Construction clause. Nothing in §§ 300.507 through 300.513 shall be construed to affect the right of a parent to file an appeal of the due process hearing decision with the SEA under § 300.514(b), if a State level appeal is available.

(c) Separate request for a due process hearing. Nothing in §§ 300.500 through 300.536 shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.

(d) Findings and decision to advisory panel and general public. The public agency, after deleting any personally identifiable information, must—

(1) Transmit the findings and decisions referred to in § 300.512(a)(5) to the State advisory panel established under § 300.167; and

(2) Make those findings and decisions available to the public.

(Authority: 20 U.S.C. 1415(f)(3)(E) and (F), 1415(h)(4), 1415(o))

A hearing officer's determination of whether a child received a FAPE must be based on substantive grounds.

In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies impeded the child's right to a FAPE, significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child, or caused a deprivation of educational benefit.

34 CFR § 300.514 Finality of decision; appeal; impartial review.

(a) Finality of hearing decision. A decision made in a hearing conducted pursuant to §§ 300.507 through 300.513 or §§ 300.530 through 300.534 is final, except that any party involved in the hearing may appeal the decision under the provisions of paragraph (b) of this section and § 300.516.

(b) Appeal of decisions; impartial review. (1) If the hearing required by § 300.511 is conducted by a public agency other than the SEA, any party aggrieved by the findings and decision in the hearing may appeal to the SEA.

(2) If there is an appeal, the SEA must conduct an impartial review of the findings and decision appealed. The official conducting the review must—

(i) Examine the entire hearing record;

(ii) Ensure that the procedures at the hearing were consistent with the requirements of due process;

(iii) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in § 300.512 apply;

58974-OKEd-SpecialEd text.indd 203 2/10/11 11:26 AM

(iv) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;
(v) Make an independent decision on completion of the review; and
(vi) Give a copy of the written, or, at the option of the parents, electronic findings of fact and decisions to the parties.
(c) Findings and decision to advisory panel and general public. The SEA, after deleting any personally identifiable information, must—
(1) Transmit the findings and decisions referred to in paragraph (b)(2)(vi) of this section to the State advisory panel established under § 300.167; and
(2) Make those findings and decisions available to the public.
(d) Finality of review decision. The decision made by the reviewing official is final unless a party brings a civil action under § 300.516.

(Authority: 20 U.S.C. 1415(g) and (h)(4), 1415(i)(1)(A), 1415(i)(2))

A decision made in a hearing is final, except that any party involved in the hearing may appeal the decision. Appeals must be initiated by a parent, or by the LEA, and must be received by the OSDE-SES, within 30 calendar days after receipt of the decision. The hearing officer's decision will be reviewed by an impartial appeal officer assigned by the OSDE who meets the qualifications outlined under State and federal regulations.

The appeal officer conducting the review must examine the entire hearing record; ensure that the procedures at the hearing were consistent with the requirements of due process; and, if necessary, seek additional evidence or oral argument, or both, at the discretion of the appeal officer. The appeal officer will provide the parent(s) a written copy of the findings of fact and decision or, at the option of the parent(s), electronic findings of fact and decision.

Within 30 calendar days of the receipt of the appeal request, a final decision will be rendered by the appeal officer. The assigned appeal officer may grant a specific extension of this timeline at the request of either party. Copies of the findings and the decision must be mailed to each of the parties. The decision made by the appeal officer is final, unless a party brings a civil action in accordance with federal regulations.

34 CFR § 300.515 Timelines and convenience of hearings and reviews.
(a) The public agency must ensure that not later than 45 days after the expiration of the 30 day period under § 300.510(b), or the adjusted time periods described in § 300.510(c)—
(1) A final decision is reached in the hearing; and
(2) A copy of the decision is mailed to each of the parties.
(b) The SEA shall ensure that not later than 30 days after the receipt of a request for a review—
(1) A final decision is reached in the review; and
(2) A copy of the decision is mailed to each of the parties.
(c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party.
(d) Each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved.

(Authority: 20 U.S.C. 1415)

58974-OKEd-SpecialEd text.indd 204 2/10/11 11:26 AM

The OSDE must ensure, no later than 45 days after the expiration of the 30 day resolution period, a final decision is reached and a copy of the decision is mailed to each party. The hearing officer may grant a specific extension of this timeline at the request of either party. The decision made by the impartial hearing officer must include findings of fact and must state that the decision is binding upon the parent(s) or the child (if over the age of majority) and upon the LEA, subject to procedures for administrative or judicial appeal. The parent(s) can obtain a written or, at the option of the parent(s), electronic, verbatim record of the hearing; and obtain written or, at the option of the parent(s), electronic findings of fact and decision. A statement of the procedures to be used for appealing such decision must be included in the decision. If an appeal is requested, it must be made in writing to the OSDE-SES.

> ***34 CFR § 300.516 Civil action.***
> *(a) General. Any party aggrieved by the findings and decision made under §§ 300.507 through 300.513 or §§ 300.530 through 300.534 who does not have the right to an appeal under § 300.514(b), and any party aggrieved by the findings and decision under § 300.514(b), has the right to bring a civil action with respect to the due process complaint notice requesting a due process hearing under § 300.507 or §§ 300.530 through 300.532. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.*
> *(b) Time limitation. The party bringing the action shall have 90 days from the date of the decision of the hearing officer or, if applicable, the decision of the State review official, to file a civil action, or, if the State has an explicit time limitation for bringing civil actions under Part B of the Act, in the time allowed by that State law.*
> *(c) Additional requirements. In any action brought under paragraph (a) of this section, the court—*
> *(1) Receives the records of the administrative proceedings;*
> *(2) Hears additional evidence at the request of a party; and*
> *(3) Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.*
> *(d) Jurisdiction of district courts. The district courts of the United States have jurisdiction of actions brought under section 615 of the Act without regard to the amount in controversy.*
> *(e) Rule of construction. Nothing in this part restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the Act, the procedures under §§ 300.507 and 300.514 must be exhausted to the same extent as would be required had the action been brought under section 615 of the Act.*
>
> *(Authority: 20 U.S.C. 1415(i)(2) and (3)(A), 1415(l))*

Civil action may be initiated by either a parent or LEA aggrieved by the decision upon completion of the review of the appeal officer. A civil action may be filed in either State or federal court. The party initiating the action has 90 days from the date of the decision of the hearing officer or, if applicable, the decision of the State review official, to file a civil action.

58974-OKEd-SpecialEd text.indd 205 2/10/11 11:26 AM

34 CFR § 300.517 Attorneys' fees.

(a) In general.

(1) In any action or proceeding brought under section 615 of the Act, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to—

(i) The prevailing party who is the parent of a child with a disability;

(ii) To a prevailing party who is an SEA or LEA against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or

(iii) To a prevailing SEA or LEA against the attorney of a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

(2) Nothing in this subsection shall be construed to affect section 327 of the District of Columbia Appropriations Act, 2005.

(b) Prohibition on use of funds.

(1) Funds under Part B of the Act may not be used to pay attorneys' fees or costs of a party related to any action or proceeding under section 615 of the Act and subpart E of this part.

(2) Paragraph (b)(1) of this section does not preclude a public agency from using funds under Part B of the Act for conducting an action or proceeding under section 615 of the Act.

(c) Award of fees. A court awards reasonable attorneys' fees under section 615(i)(3) of the Act consistent with the following:

(1) Fees awarded under section 615(i)(3) of the Act must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph.

(2)(i) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under section 615 of the Act for services performed subsequent to the time of a written offer of settlement to a parent if—

(A) The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins;

(B) The offer is not accepted within 10 days; and

(C) The court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

(ii) Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless the meeting is convened as a result of an administrative proceeding or judicial action, or at the discretion of the State, for a mediation described in § 300.506.

(iii) A meeting conducted pursuant to § 300.510 shall not be considered—

(A) A meeting convened as a result of an administrative hearing or judicial action; or

(B) An administrative hearing or judicial action for purposes of this section.

(3) Notwithstanding paragraph (c)(2) of this section, an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

(4) Except as provided in paragraph (c)(5) of this section, the court reduces, accordingly, the amount of the attorneys' fees awarded under section 615 of the Act, if the court finds that—

(i) The parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

(ii) The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;

58974-OKEd-SpecialEd text.indd 206 2/10/11 11:26 AM

(iii) The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or
(iv) The attorney representing the parent did not provide to the LEA the appropriate information in the due process request notice in accordance with § 300.508.
(5) The provisions of paragraph (c)(4) of this section do not apply in any action or proceeding if the court finds that the State or local agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of the Act.

(Authority: 20 U.S.C. 1415(i)(3)(B)-(G))

In any action or proceeding brought under this section of the IDEA Part B, the court, in its discretion, may award reasonable attorneys' fees as part of the cost to the parents of a child or youth with disabilities who is the prevailing party or to the prevailing LEA if the attorney of a parent files a complaint that is frivolous, unreasonable, or without foundation, or who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation. Additionally, a prevailing LEA may be awarded attorneys' fees if the parent's request for a due process complaint hearing was presented for any improper purpose.

Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under this section for services performed subsequent to the time of a written offer of settlement to a parent, if:

- The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of administrative proceedings, at any time more than ten days before the proceeding begins;
- The offer is not accepted within ten days; and
- The court or administrative hearing officer finds that the relief finally obtained by the parent(s) is not more favorable to the parents than the offer of settlement.

Attorneys' fees may not be awarded relating to any meeting of the IEP team unless such meeting is convened as a result of an administrative proceeding or judicial action. Reimbursement of attorneys' fees must not be permitted for services rendered regarding a mediation conducted in accordance with CFR § 300.506 prior to filing a due process hearing under 34 CFR §§ 300.507 through 300.518. An award of attorneys' fees and related costs may be made to a parent who is a prevailing party and who was substantially justified in rejecting the settlement offer.

The court may reduce, accordingly, the amount of the attorneys' fees awarded, whenever the court finds that:

- The parent(s), during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;
- The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;
- The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or
- The attorney representing the parent(s) did not provide to the LEA the appropriate information in the due process complaint in accordance with the IDEA.

58974-OKEd-SpecialEd text.indd 207 2/10/11 11:26 AM

The provisions for reduction of attorneys' fees must not apply in any action or proceeding if the court finds that the State or LEA unreasonably protracted the final resolution of the action or proceeding, or there was a violation of this section of the IDEA.

> ***34 CFR § 300.518 Child's status during proceedings.***
> *(a) Except as provided in § 300.533, during the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing under § 300.507, unless the State or local agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement.*
> *(b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.*
> *(c) If the complaint involves an application for initial services under this part from a child who is transitioning from Part C of the Act to Part B and is no longer eligible for Part C services because the child has turned three, the public agency is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services under § 300.300(b), then the public agency must provide those special education and related services that are not in dispute between the parent and the public agency.*
> *(d) If the hearing officer in a due process hearing conducted by the SEA or a State review official in an administrative appeal agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the State and the parents for purposes of paragraph (a) of this section.*
>
> *(Authority: 20 U.S.C. 1415(j))*

During the pendency of the hearing, the child must remain in the current educational placement until the final due process complaint hearing and appeal decision has been issued, unless the parent(s) of the child and LEA agree otherwise. Educational placement may be changed by agreement of both parties (parent and LEA). Although the placement may not be changed, this does not preclude the LEA from using its normal procedures for dealing with children who are endangering themselves or others.

If the hearing involves an application for initial admission to public school, the child, with the consent of the parent(s), must be placed in the public school program until the completion of all the proceedings. If the due process complaint involves an application for initial services from a child who is transitioning from Part C of the Act to Part B and is no longer eligible for Part C services because the child has turned age three, the LEA is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services, then the LEA must provide those special education and related services that are not in dispute between the parent(s) and the LEA.

If the decision of a hearing officer in a due process complaint hearing conducted by the OSDE or an appeal officer agrees with the child's parent(s) that a change of placement is appropriate, that placement must be treated as an agreement between the State or LEA and the parent(s) for purposes of the child's status during the proceedings.

58974-OKEd-SpecialEd text.indd 208 2/10/11 11:26 AM

COMPLAINT PROCEDURES

34 CFR § 300.151 Adoption of State complaint procedures.
(a) General. Each SEA shall adopt written procedures for—
(1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements of § 300.153 by—
(i) Providing for the filing of a complaint with the SEA; and
(ii) At the SEA's discretion, providing for the filing of a complaint with a public agency and the right to have the SEA review the public agency's decision on the complaint; and
(2) Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the State's procedures under §§ 300.151–300.153.
(b) Remedies for denial of appropriate services. In resolving a complaint in which the SEA has found a failure to provide appropriate services, an SEA, pursuant to its general supervisory authority under Part B of the Act, must address –
(1) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and
(2) Appropriate future provision of services for all children with disabilities.

(Authority: 20 U.S.C. 1221e – 3)

The Oklahoma State Department of Education (OSDE) has available a formal complaint management system for filing and resolving specific complaints regarding alleged violations of the requirements under Part B of the Individuals with Disabilities Education Act (IDEA). Local educational agencies (LEAs) must also have procedures for filing and for resolution of complaints. Complainants who file with the LEA have the right to request an OSDE review of the LEA's decision.

Parents and other interested individuals must be informed by the OSDE and LEAs about the complaint procedures, due process complaint hearings, mediation, and other forms of assistance to ensure compliance and to resolve disputes.

If it is found through a complaint that the LEA failed to provide appropriate services to a child with a disability, the resolution addresses both how to remediate the denial of services (which can include an award of compensatory services, monetary reimbursement, or other corrective action appropriate to the needs of the child) and how to provide appropriate services for children with disabilities.

34 CFR § 300.152 Minimum State complaint procedures.
(a) Time limit; minimum procedures. Each SEA shall include in its complaint procedures a time limit of 60 days after a complaint is filed under § 300.153 to—
(1) Carry out an independent on-site investigation, if the SEA determines that an investigation is necessary;
(2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
(3) Provide the public agency with the opportunity to respond to the complaint, including, at a minimum – (1) At the discretion of the public agency, a proposal to resolve the complaint; and
(II) An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with § 300.506;

58974-OKEd-SpecialEd text.indd 209 2/10/11 11:26 AM

(4) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this part; and
(5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains—
(i) Findings of fact and conclusions; and
(ii) The reasons for the SEA's final decision.
(b) Time extension; final decision; implementation. The SEA's procedures described in paragraph (a) of this section also must—
(1) Permit an extension of the time limit under paragraph (a) of this section only if –
(i) exceptional circumstances exist with respect to a particular complaint; or
(ii) The parent (or individual or organization, if mediation or other alternative means of dispute resolution is available to the individual or organization under State procedures) and the public agency involved agree to extend the time to engage in mediation pursuant to paragraph (a)(3)(ii) of the section, or to engage in other alternative means of dispute resolution, if available in the State; and
(2) Include procedures for effective implementation of the SEA's final decision, if needed, including—
(i) Technical assistance activities;
(ii) Negotiations; and
(iii) Corrective actions to achieve compliance.
(c) Complaints filed under this section, and due process hearings under §§ 300.507 and 300.530–300.532. (1) If a written complaint is received that is also the subject of a due process hearing under § 300.507 or §§ 300.530–300.532, or contains multiple issues, of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing, until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described in paragraphs (a) and (b) of this section.
(2) If an issue is raised in a complaint filed under this section has previously been decided in a due process hearing involving the same parties—
(i) The due process hearing decision is binding on that issue; and
(ii) The SEA must inform the complainant to that effect.
(3) A complaint alleging a public agency's failure to implement a due process hearing decision must be resolved by the SEA.

(*Authority: 20 U.S.C. 1221e – 3)*

The OSDE and LEAs must utilize the following complaint procedures:

Complaint letter is received, complaint is logged in; when sufficiency of complaint is determined, the complaint is assigned to a complaint investigator.

The Oklahoma State Department of Education (OSDE), Special Education Services (SES), will dismiss a complaint without an investigation if:

- It includes no allegations of the Individuals with Disabilities Education Act (IDEA) violations;
- It includes no timely allegations of IDEA violations; or
- It includes no facts to support the IDEA violations.

If it is determined that any issues are not supported by sufficient facts, the OSDE-SES will inform the complainant that insufficient facts have been provided and that it will

58974-OKEd-SpecialEd text.indd 210 2/10/11 11:26 AM

investigate only the allegations that include supporting facts. If the complainant desires the OSDE-SES to investigate the unsupported allegations, a new complaint that includes the sufficient facts to support the allegations may be filed.

The parent or other person filing the complaint must forward a copy of the complaint to the public agency at the same time the complaint is filed with the OSDE-SES.

A complaint investigation must be completed within 60 days of OSDE-SES determining the sufficiency of the complaint request. An extension may be granted when exceptional circumstances warrant a delay.

The local educational agency (LEA) is issued a form letter which includes the date the LEA should respond to the OSDE-SES (15 school days from the date complaint is received).

The complainant is issued a form letter which includes the date the complainant should submit additional information to the OSDE-SES (25 days from the date the complaint is received).

The complaint investigator contacts the complainant and the LEA by telephone. Informing each one that he/she will be conducting the complaint investigation and is the contact person for matters regarding the complaint.

Responsibilities of the complaint investigator:
- Develop a Complaint Investigation Plan;
- Clarify issues to be investigated;
- Determine the applicable legal standard(s);
- Conduct an on-site investigation if necessary;
- Conduct interviews;
- Analyze the LEA's response and the complainant's submission of information; and
- Make complaint determinations.

A complaint report is written to the complainant with a copy provided to the LEA. The written decision includes each allegation(s), findings of fact, conclusions and reasons for the final decision; and, if required corrective action(s) are required.

Corrective Action Plans are monitored by the OSDE-SES until all requirements are completed.

The complainant and the LEA receive a form letter stating that the required corrective action(s) have been completed and the complaint is closed.

The complaint can only be cancelled by the receipt of written notification from the complainant.

If the complaint is specific to an individual child and the complainant is not the child's parent, the procedures for confidentiality will be implemented. The child's parents will be

58974-OKEd-SpecialEd text.indd 211 2/10/11 11:26 AM

contacted and notified in writing of the complaint. If the parent agrees for the OSDE-SES to continue the complaint procedures, the OSDE-SES will implement the procedures. If the parent determines a complaint is not warranted and does not provide permission to continue the procedures, the OSDE-SES will obtain written verification of this decision from the child's parent and notify the complainant that the alleged complaint has been resolved.

There is no appeal from the findings and decisions in an administrative complaint investigation. However, parents and school districts still have the right to request a due process hearing over any matter related to the identification, evaluation, or educational placement of a student or the provision of Free and Appropriate Public Education (FAPE) to the student. The complainant may also file a request for a due process hearing regarding issues that have been addressed in a state complaint.

The complaint process does allow parties the opportunity to request that specific errors in a letter of findings be corrected. The party has to notify the OSDE-SES in writing within ten days. The request must contain:

- The page on which the errors appears;
- An explanation of why the specific finding or conclusion is an error;
- A statement of how the error affects the conclusions in the report; and
- Any documentation that supports the contention that an error was made.

The party submitting a request for correction must simultaneously send the request to the other party subject to the complaint.

If the OSDE-SES determines that an error occurred and that correcting the error changes the result of a decision, it will issue an amended report.

Formal complaints received by either the OSDE or LEAs will be acknowledged in writing. Copies of this written acknowledgement will be mailed to the involved parties.

Telephone calls and/or other contacts must be made to determine the circumstances and facts pertaining to the complaint. The parties involved may be requested to submit documentation, such as copies of student records or other written verification of actions. Through these inquiries, the context and nature of the complaint will be more clearly defined.

The complainant will be given the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

Activities to assist resolution of the complaint may include technical assistance, consultation, mediation conferences, negotiations, corrective actions, or other recommended interventions. In many instances, early resolution of the complaint may be accomplished through the voluntary participation and agreement of the parties in IEP meetings and/or mediation conferences, negotiations, or other remedies.

If further information or review is deemed necessary by the OSDE, an on-site investigation may be conducted. The on-site investigation might include activities such as reviewing

58974-OKEd-SpecialEd text.indd 212 2/10/11 11:26 AM

records, observation of program implementation, and conducting interviews with staff and/or parent(s).

After facts are gathered, the OSDE or LEA will report the findings in writing. The findings of fact and conclusions will address whether the complaint of alleged violations under Part B of the IDEA is substantiated, and the written decision will include instructions for correcting any substantiated violations.

Investigation and resolution of complaints filed with the OSDE or the LEA must be completed within 60 calendar days from receipt of the formal written complaint. Extensions of timelines may be granted only if exceptional circumstances exist regarding a specific complaint, or the parent and the LEA agree to extend the time to engage in mediation.

When a due process complaint hearing request and a complaint have been filed simultaneously on the same issues, or a complaint has previously been decided in a due process complaint hearing, the OSDE must hold in abeyance the complaint investigation pertaining to the issues of the current or previous due process complaint hearing. The due process complaint hearing decision must prevail over complaint investigation of the issue.

> ***34 CFR § 300.153 Filing a complaint.***
> *(a) An organization or individual may file a signed written complaint under the procedures described in §§ 300.151 through 300.152.*
> *(b) The complaint must include—*
> *(1) A statement that a public agency has violated a requirement of Part B of the Act or of this part;*
> *(2) The facts on which the statement is based;*
> *(3) The signature and contact information for the complainant; and*
> *(4) If alleging violations with respect to a specific child—*
> *(i) The name and address of the residence of the child;*
> *(ii) The name of the school the child is attending;*
> *(iii) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the school the child is attending;*
> *(iv) A description of the nature of the problem of the child, including facts relating to the problem; and*
> *(v) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.*
> *(c) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with § 300.151.*
> *(d) The party filing the complaint must forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files the complaint with the SEA.*
>
> *(Authority: 20 U.S.C. 1221e – 3)*

Complaints must be written and include: (a) a statement that the LEA or other responsible public agency has violated a requirement under Part B of the IDEA; (b) the facts on which the statement is based; and (c) the signature of the person(s) filing the complaint.

58974-OKEd-SpecialEd text.indd 213 2/10/11 11:26 AM

Complaints pertaining to a specific child with a disability must include the child's name, date of birth, and current educational status.

Complaints must allege that a violation occurred not more than one year prior to the date the complaint is received by the LEA or the OSDE.

Complaints filed with LEAs should be addressed to the superintendent or administrator of the LEA.

Complaints filed at the State level or requests for review of local level decisions should be addressed to: Complaints, Special Education Services, Oklahoma State Department of Education, 2500 North Lincoln Boulevard, Room 412, Oklahoma City, Oklahoma 73105-4599. Copies of complaints filed with the OSDE should also be mailed at the same time to the LEA administrator.

> ***34 CFR § 300.177 States' sovereign immunity and positive efforts to employ and advance qualified individuals with disabilities.***
> *(a) States' sovereign immunity.*
> *(1) A State that accepts funds under this part waives its immunity under the 11th amendment of the Constitution of the United States from suit in Federal court for a violation of this part.*
> *(2) In a suit against a State for a violation of this part, remedies (including remedies both at law and in equity) are available for such a violation in the suit against any public entity other than a State.*
> *(3) Paragraphs (a)(1) and (a)(2) of this section apply with respect to violations that occur in whole or part after the date of enactment of the Education of the Handicapped Act Amendments of 1990.*
> *(b) Positive efforts to employ and advance qualified individuals with disabilities. Each recipient of assistance under Part B of the Act must make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted under Part B of the Act.*
>
> *(Authority: 20 U.S.C. 1403, 1405)*

Any state that accepts federal funds under the IDEA waives its immunity from suits of allegations of noncompliance under the IDEA. All remedies under §§ 300.151 through 300.153 and §§ 300.506 through 300.518 are available for parties alleging such violations.

Each recipient of assistance under Part B of the Act must make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted under Part B of the Act.

58974-OKEd-SpecialEd text.indd 214 2/10/11 11:26 AM

COMPLIANCE PROCESS

34 CFR § 300.149 SEA responsibility for general supervision.
(a) The SEA is responsible for ensuring—
(1) That the requirements of this part are carried out; and
(2) That each educational program for children with disabilities administered within the State, including each program administered by any other State or local agency but not including elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior)—
(i) Is under the general supervision of the persons responsible for educational programs for children with disabilities in the SEA; and
(ii) Meets the educational standards of the SEA (including the requirements of this part).
(3) In carrying out this part with respect to homeless children, the requirements of subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et. esq.) are met.
(b) The State must have in effect policies and procedures to ensure that it complies with the monitoring and enforcement requirements in §§ 300.600 through 300.602 and §§ 300.606 through 300.608.
(c) Part B of the Act does not limit the responsibility of agencies other than educational agencies for providing or paying some or all of the costs of FAPE to children with disabilities in the State.
(d) Notwithstanding paragraph (a) of this section, the Governor (or another individual pursuant to State law) may assign to any public agency in the State the responsibility of ensuring that the requirements of Part B of the Act are met with respect to students with disabilities who are convicted as adults under State law and incarcerated in adult prisons.

(Authority: 20 U.S.C. 1412(a)(11; 1416))

34 CFR § 300.119 Technical assistance and training activities.
Each SEA must carry out activities to ensure that teachers and administrators in all public agencies—
(a) Are fully informed about their responsibilities for implementing § 300.114; and
(b) Are provided with technical assistance and training necessary to assist them in this effort.

(Authority: 20 U.S.C. 1412(a)(5))

34 CFR § 300.120 Monitoring activities.
(a) The SEA must carry out activities to ensure that § 300.114 is implemented by each public agency.
(b) If there is evidence that a public agency makes placements that are inconsistent with § 300.114, the SEA must—
(1) Review the public agency's justification for its actions; and
(2) Assist in planning and implementing any necessary corrective action.

(Authority: 20 U.S.C. 1412(a)(5))

The Oklahoma State Department of Education (OSDE), Special Education Services (SES) maintains the responsibility for general supervision of compliance with federal and State requirements for providing special education and related services to children with disabilities in accordance with the Individuals with Disabilities Education Act (IDEA). The OSDE-SES will focus on improving educational results and functional outcomes for all children with disabilities and ensuring that public agencies meet the program requirements under the IDEA Part B, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities as stated in 34 CFR § 300.600. This includes implementing the

58974-OKEd-SpecialEd text.indd 215 2/10/11 11:26 AM

section for homeless children covered under the McKinney-Vento Homeless Assistance Act (see also the Data Section).The OSDE-SES will provide activities (i.e., technical assistance, statewide dissemination of information, training, and guidance) to ensure that teachers, related service personnel, and administrators in all local educational agencies (LEAs) are fully informed about their responsibilities for implementing a free appropriate public education (FAPE). If there is evidence that an LEA makes placements that are inconsistent with the least restrictive environment (LRE) requirements, the OSDE-SES will review the LEA's justification for its actions and assist in planning and implementing any necessary improvements.

The OSDE-SES utilizes several types of monitoring, which may include, but are not limited to, (1) comprehensive compliance reviews of all areas under the IDEA Part B (including finance), (2) concern-specific compliance reviews of any area(s) under the IDEA Part B (including finance), (3) desk audit compliance reviews of performance and compliance towards indicators identified in the *Oklahoma State Performance Plan* (SPP) and other State-identified priority areas, and (4) focused monitoring (FM) compliance reviews of priority areas selected by a FM Stakeholder Group.

Comprehensive compliance reviews consist of an on-site visit to the LEA that includes a review of all special education and related services provided by the LEA. This review may include, but is not limited to: a review of children's records, a review of administrative records, staff interviews, parent interviews, and tracking of children. This type of monitoring also consists of a financial component that includes a review of the LEA's Part II Finance Application and any expenditure reports (claims) submitted by the LEA for appropriateness under Part B of the IDEA.

Concern-specific compliance reviews may consist of an on-site visit to the LEA that includes a review of special education and related services within a specific area(s) of concern. This type of monitoring directs attention towards a specific area. Concern areas may include, but are not limited to: services for children with disabilities, accommodations and modifications, parent participation, or discipline procedures.

Desk audit compliance reviews do not consist of an on-site visit to the LEA. The OSDE-SES conducts this type of monitoring utilizing data that is submitted to the OSDE-SES. This review is conducted on 1/6 of the LEAs annually. The LEAs are randomly selected. The review includes a comparison of district-reported information to the performance and compliance targets identified in the SPP.

FM reviews include a process that purposefully selects priority areas to examine for compliance/results while not specifically examining other areas for compliance to maximize resources, emphasize important variables, and increase the probability of improved results. Each year a stakeholder group selects two monitoring priority areas from the indicators identified in the SPP. For each priority area, the lowest ranking LEA in each of the six enrollment clusters (and a randomly selected LEA) will receive an on-site visit.

The OSDE-SES may, at any time, determine that a compliance review of the LEA is warranted to verify progress and data due to complaints or concerns under the IDEA Part B.

Noncompliance with State and federal regulations may result in: disapproval of applications for funds, withholding of funds, repayment of misspent or misapplied federal funds, suspension or loss of accreditation, and/or other sanctions as determined appropriate by the OSDE.

58974-OKEd-SpecialEd text.indd 216 2/10/11 11:26 AM

MONITORING, TECHNICAL ASSISTANCE, AND ENFORCEMENT

34 CFR § 300.600 State monitoring and enforcement.

(a) The State must –

(1)Monitor the implementation of this part;

(2)Make determinations annually about the performance of each LEA using the categories in §300.603 (b)(1);

(3) Enforce this part, consistent with §300.604, using appropriate enforcement mechanisms, which must include, if applicable, the enforcement mechanisms identified in § 300.604 (a)(1)(technical assistance),

(a)(3) (conditions on funding of an L+EA),

(b)(2) (i) (a corrective action plan or improvement plan), (b)(2)(v) (withholding funds, in whole or in part, by the SEA),and (c)(2)(withholding funds, in whole or in part, by the SEA); and

(4)Report annually on the performance of the State and of each LEA under this part, as provided in § 300.602(b)(1)(i)(A)and (b)(2).

(b) The primary focus of the State's monitoring activities must be on –

(1) Improving educational results and functional outcomes for all children with disabilities; and

(2) Ensuring that public agencies meet the program requirements under Part B of the Act, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

(c) As a part of its responsibilities under paragraph (a) of this section, the State must use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas identified in paragraph (d) of this section, and the indicators established by the Secretary for the State performance plans.

(d) The State must monitor the LEAs located in the State, using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

(1) Provision of FAPE in the least restrictive environment.

(2) State exercise of general supervision, including child find, effective monitoring, and the use of resolution sessions, mediation, and a system of transition services as defined in § 300.43 and in 20 U.S.C. 1437(a)(9).

(3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

(e) In exercising its monitoring responsibilities under paragraph (d) of this section, the State must ensure that when it identifies noncompliance with the requirements of this part by LEAs, the noncompliance is corrected as soon as possible, and in no case later than one year after the State's identification of the noncompliance.

(Authority: 20 U.S.C. 1416(a)).

In accordance with the Individuals with Disabilities Education Act (IDEA), the Oklahoma State Department of Education (OSDE), Special Education Services (SES), must employ general supervision activities that include monitoring of local educational agencies (LEAs) with a particular emphasis on improving educational results and functional outcomes for all children with disabilities while ensuring that LEAs meet the requirements of the IDEA Part B. To do this, the OSDE-SES utilizes several types of monitoring which may include, but are not limited to, (1) Focused Monitoring (FM) compliance reviews of priority areas selected by a FM Stakeholder Group, (2) comprehensive compliance

58974-OKEd-SpecialEd text.indd 217 2/10/11 11:26 AM

reviews of all areas under the IDEA Part B (including finances), (3) desk audit compliance reviews of performance and compliance towards indicators identified in the *Oklahoma State Performance Plan* and other state-identified priority areas, and (4) concern-specific compliance reviews of any area(s) under the IDEA Part B (including finances).

General supervision of LEAs includes quantitative and qualitative indicators according to the targets identified in the *Oklahoma State Performance Plan*. These indicators measure compliance and performance in the areas of a free appropriate public education (FAPE) in the least restrictive environment (LRE), child find (including disproportionate representation by race/ethnicity that is the result of inappropriate identification), dispute resolution, and transition services.

The OSDE-SES will utilize a group of stakeholders in developing a process for making annual determinations on the performance of LEAs. This process will include consideration of: an LEA's performance on all State Performance Plan (SPP) compliance indicators; whether an LEA submitted valid and reliable data for each indicator; LEA-specific audit findings; and any uncorrected noncompliance from any source. The State reserves the right to review any other relevant data pertaining to LEA performance.

Each SEA and each LEA within that State will be placed into one of four determination categories:
- Meets requirements;
- Needs assistance;
- Needs intervention; or
- Needs substantial intervention.

If States are unable to correct noncompliance within one year of identification the State may be required to enter into a compliance agreement with the United State Department of Education (USDE) under section 457 of GEPA, if the USDE deems a Compliance Agreement is appropriate.

Special Education Forms Utilized

If the LEA uses only OSDE forms (may include computerized forms which do not vary in substantive content or procedural requirements and safeguards from OSDE forms), then no additional approval is needed. If the LEA does not use OSDE forms, and uses its own paper or computerized forms, the LEA must ensure that all State and federal requirements are met. In this case, the LEA must receive approval from the OSDE-SES prior to utilizing its alternate forms.

> ***34 CFR § 300.601 State performance plans and data collection.***
> *(a) General. Not later than December 3, 2005, each State must have in place a performance plan that evaluates the State's efforts to implement the requirements and purposes of Part B of the Act, and describes how the State will improve such implementation.*
> *(1) Each State must submit the State's performance plan to the Secretary for approval in accordance with the approval process described in section 616(c) of the Act.*
> *(2) Each State must review its State performance plan at least once every six years, and submit any amendments to the Secretary.*

58974-OKEd-SpecialEd text.indd 218 2/10/11 11:26 AM

(3) As part of the State performance plan, each State must establish measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in § 300.600(d).
(b) Data collection.
(1) Each State must collect valid and reliable information as needed to report annually to the Secretary on the indicators established by the Secretary for the State performance plans.
(2) If the Secretary permits States to collect data on specific indicators through State monitoring or sampling, and the State collects the data through State monitoring or sampling, the State must collect data on those indicators for each LEA at least once during the period of the State performance plan.
(3) Nothing in Part B of the Act shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under Part B of the Act.

(Authority: 20 U.S.C. 1416(b)).

The 2004 reauthorization of the IDEA required the OSDE-SES to submit (by December 2, 2005) a performance plan that evaluates the state's efforts to implement the requirements and purposes of Part B of the IDEA. To do this, the OSDE-SES submitted the *Oklahoma State Performance Plan (SPP)* that established measurable and rigorous targets for each of the 20 indicators identified by the United States Department of Education (USDE), Office of Special Education Programs (OSEP), including:

- Graduation rates;
- Dropout rates;
- Participation and proficiency on statewide assessments;
- Suspensions/expulsions;
- School-age LRE;
- Preschool LRE;
- Preschool outcomes;
- Parent involvement;
- Disproportionate Representation by race/ethnicity in the identification of children with disabilities;
- Disproportionate Representation by race/ethnicity in the identification of children with disabilities for specific primary disability categories;
- Evaluation/eligibility timelines;
- Early childhood transition (from Part C to Part B);
- Secondary transition;
- Post-school outcomes;
- General supervision;
- Formal written complaint timelines;
- Due process hearing request timelines;
- Mediation agreements;
- Due process resolution session agreements; and
- Timeliness and accuracy of state reported data.

Because the focus of the SPP is on improved educational results and functional outcomes for all children with disabilities and ensuring that the state meets the program requirements under the IDEA Part B, the SPP must include targets for each performance indicator

58974-OKEd-SpecialEd text.indd 219 2/10/11 11:26 AM

that are specific, measurable, achievable (yet challenging), relevant, and timely. These targets must be set by the OSDE-SES with broad stakeholder input. Targets for each compliance indicator have been set by the USDE-OSEP (at 100 percent compliance).

The OSDE-SES is required to review its SPP at least once every six years; however, the OSDE-SES must report to the USDE-OSEP and the public regarding the state's performance on these indicators annually through the *Oklahoma Annual Performance Report* (APR).

> ***34 CFR § 300.602 State use of targets and reporting.***
> *(a) General. Each State must use the targets established in the State's performance plan under § 300.601 and the priority areas described in § 300.600(d) to analyze the performance of each LEA.*
> *(b) Public reporting and privacy –*
> *(1) Public report.*
> *(i) Subject to paragraph (b)(1)(ii) of this section, the State must –*
> *(A) Report annually to the public on the performance of each LEA located in the State on the targets in the State's performance plan as soon as practicable but no later than 120 days following the State's submission of its annual performance report to the Secretary under paragraph (b)(2) of this section ; and*
> *(B) Make each of the following items available through public means: the State's performance plan §300.601 (a); annual performance reports, under paragraph*
> *(b)(2) of this section; and the State's annual reports on the performance of each LEA located in the State, under paragraph (b)(1)(i)(A) of this section. In doing so, the State must, at a minimum, post the plan and reports on the SEA's Web site, and distribute the plan and reports to the media and through public agencies.*
> *(ii) If the State, in meeting the requirements of paragraph (b)(1)(i) of this section, collects performance data through State monitoring or sampling, the State must include in its report the most recently available performance data on each LEA, and the date the data were obtained.*
> *(2) State performance report. The State must report annually to the Secretary on the performance of the State under the State's performance plan.*
> *(3) Privacy. The State must not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children, or where the available data*
> *are insufficient to yield statistically reliable information.*
>
> *(Authority: 20 U.S.C. 1416(b)(2)(C)).*

In addition to reporting to the public on the compliance and performance of the State on each of the 20 indicators in the SPP (which is available on the OSDE Web site and under the Oklahoma Open Records Act, 51 O.S. § 24 A.1 et. seq.), the OSDE-SES must annually report to the public on the compliance and performance of each LEA located in the State to the targets set in the SPP. That is, each year, the OSDE-SES will report to the public information collected by the OSDE-SES including, but not limited to:

- Graduation rates;
- Dropout rates;
- Participation and proficiency on statewide assessments;
- Suspensions/expulsions;
- School age LRE;

58974-OKEd-SpecialEd text.indd 220 2/10/11 11:26 AM

- Preschool LRE;
- Preschool outcomes;
- Parent involvement;
- Disproportionate Representation by race/ethnicity in the identification of children with disabilities;
- Disproportionate Representation by race/ethnicity in the identification of children with disabilities for specific primary disability categories;
- Evaluation/eligibility timelines;
- Early childhood transition (from Part C to Part B);
- Secondary transition; and
- Post-school outcomes.

The OSDE-SES will not publicly report information that may be personally identifiable or insufficient to yield statistically reliable results (that is, samples less than 10 children).

States submit their APRs to the Secretary on February 1 of each year. States are required to post reports on the performance of LEAs that were issued prior to December 1, 2008. If a State collects data for specific indicators through monitoring or sampling, it must collect and report LEA performance data on those indicators for each LEA at least once during the period of the SPP.

The State will make the following available to the public:
- SPP;
- APR; and
- The State's annual reports of the performance of each LEA located in the State.

This information, at a minimum, must be posted on the SEA's Web site, and distribute them to the media and through public agencies. The SEA is required to publicly report on the performance of each LEA in the State on the targets in the SPP as soon as practicable but no later than 120 days

34 CFR § 300.603 Secretary's review and determination regarding State performance.
(a) Review. The Secretary annually reviews the State's performance report submitted pursuant to § 300.602(b)(2).
(b) Determination –
(1) General. Based on the information provided by the State in the State's annual performance report, information obtained through monitoring visits, and any other public information made available, the Secretary determines if the State –
(i) Meets the requirements and purposes of Part B of the Act;
(ii) Needs assistance in implementing the requirements of Part B of the Act;
(iii) Needs intervention in implementing the requirements of Part B of the Act; or
(iv) Needs substantial intervention in implementing the requirements of Part B of the Act.
(2) Notice and opportunity for a hearing.
(i) For determinations made under paragraphs (b)(1)(iii) and (b)(1)(iv) of this section, the Secretary provides reasonable notice and an opportunity for a hearing on those determinations.

58974-OKEd-SpecialEd text.indd 221 2/10/11 11:26 AM

(ii) The hearing described in paragraph (b)(2) of this section consists of an opportunity to meet with the Assistant Secretary for Special Education and Rehabilitative Services to demonstrate why the Department should not make the determination described in paragraph (b)(1) of this section.

(Authority: 20 U.S.C. 1416(d)).

34 CFR § 300.604 Enforcement.

(a) Needs assistance. If the Secretary determines, for two consecutive years, that a State needs assistance under § 300.603(b)(1)(ii) in implementing the requirements of Part B of the Act, the Secretary takes one or more of the following actions:

(1) Advises the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally funded nonprofit agencies, and requires the State to work with appropriate entities. Such technical assistance may include –

(i) The provision of advice by experts to address the areas in which the State needs assistance, including explicit plans for addressing the area of concern within a specified period of time;

(ii) Assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;

(iii) Designating and using distinguished superintendents, principals, special education administrators, special education teachers, and other teachers to provide advice, technical assistance, and support; and

(iv) Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational services agencies, national centers of technical assistance supported under Part D of the Act, and private providers of scientifically based technical assistance.

(2) Directs the use of State-level funds under section 611(e) of the Act on the area or areas in which the State needs assistance.

(3) Identifies the State as a high-risk grantee and imposes special conditions on the State's grant under Part B of the Act.

(b) Needs intervention. If the Secretary determines, for three or more consecutive years, that a State needs intervention under § 300.603(b)(1)(iii) in implementing the requirements of Part B of the Act, the following shall apply:

(1) The Secretary may take any of the actions described in paragraph (a) of this section.

(2) The Secretary takes one or more of the following actions:

(i) Requires the State to prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within one year.

(ii) Requires the State to enter into a compliance agreement under section 457 of the General Education Provisions Act, as amended, 20 U.S.C. 1221 et seq. (GEPA), if the Secretary has reason to believe that the State cannot correct the problem within one year.

(iii) For each year of the determination, withholds not less than 20 percent and not more than 50 percent of the State's funds under section 611(e) of the Act, until the Secretary determines the State has sufficiently addressed the areas in which the State needs intervention.

(iv) Seeks to recover funds under section 452 of GEPA.

(v) Withholds, in whole or in part, any further payments to the State under Part B of the Act.

(vi) Refers the matter for appropriate enforcement action, which may include referral to the Department of Justice.

(c) Needs substantial intervention. Notwithstanding paragraph (a) or (b) of this section, at any time that the Secretary determines that a State needs substantial intervention in implementing the requirements of Part B of the Act or that there is a substantial failure

58974-OKEd-SpecialEd text.indd 222 2/10/11 11:26 AM

to comply with any condition of an SEA's or LEA's eligibility under Part B of the Act, the Secretary takes one or more of the following actions:
(1) Recovers funds under section 452 of GEPA.
(2) Withholds, in whole or in part, any further payments to the State under Part B of the Act.
(3) Refers the case to the Office of Inspector General at the Department of Education.
(4) Refers the matter for appropriate enforcement action, which may include referral to the Department of Justice.
(d) Report to Congress. The Secretary reports to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate within 30 days of taking enforcement action pursuant to paragraph (a), (b), or (c) of this section, on the specific action taken and the reasons why enforcement action was taken.

(Authority: 20 U.S.C. 1416(e)(1)-(e)(3), (e)(5))

34 CFR § 300.605 Withholding funds.
(a) Opportunity for hearing. Prior to withholding any funds under Part B of the Act, the Secretary provides reasonable notice and an opportunity for a hearing to the SEA involved, pursuant to the procedures in §§ 300.180 through 300.183.
(b) Suspension. Pending the outcome of any hearing to withhold payments under paragraph (a) of this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate funds under Part B of the Act, or both, after the recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate funds under Part B of the Act should not be suspended.
(c) Nature of withholding.
(1) If the Secretary determines that it is appropriate to withhold further payments under § 300.604(b)(2) or (c)(2), the Secretary may determine –
(i) That the withholding will be limited to programs or projects, or portions of programs or projects, that affected the Secretary's determination under § 300.603(b)(1); or
(ii) That the SEA must not make any further payments under Part B of the Act to specified State agencies or LEA that caused or were involved in the Secretary's determination under § 300.603(b)(1).
(2) Until the Secretary is satisfied that the condition that caused the initial withholding has been substantially rectified –
(i) Payments to the State under Part B of the Act must be withheld in whole or in part; and
(ii) Payments by the SEA under Part B of the Act must be limited to State agencies and LEAs whose actions did not cause or were not involved in the Secretary's determination under § 300.603(b)(1), as the case may be.

(Authority: 20 U.S.C. 1416(e)(4), (e)(6).

34 CFR § 300.606 Public attention.
Whenever a State receives notice that the Secretary is proposing to take, or is taking, an enforcement action pursuant to § 300.604, the State must, by means of a public notice, take such actions as may be necessary to notify the public within the State of the pendency of an action pursuant to § 300.604, including, at a minimum, by posting the notice on the SEA's Web site and distributing the notice to the media and through public agencies.

(Authority: 20 U.S.C. 1416(e)(7))

When a State is notified that the Secretary is proposing to take action in accordance with §300.604, the State must make public pending action. This must include at a minimum

58974-OKEd-SpecialEd text.indd 223 2/10/11 11:26 AM

posting the information via the SEA's Web site and providing the information to the media and through public agencies.

> ***34 CFR § 300.608 State enforcement.***
> *(a) If an SEA determines that an LEA is not meeting the requirements of Part B of the Act, including the targets in the State's performance plan, the SEA must prohibit the LEA from reducing the LEA's maintenance of effort under § 300.203 for any fiscal year.*
> *(b) Nothing in this subpart shall be construed to restrict a State from utilizing any other authority available to it to monitor and enforce the requirements of Part B of the Act.*
>
> *(Authority: 20 U.S.C. 1416(f); 20 U.S.C. 1412(a)(11))*
>
> ***34 CFR § 300.609 Rule of construction.***
> *Nothing in this subpart shall be construed to restrict the Secretary from utilizing any authority under GEPA, including the provisions in 34 CFR parts 76, 77, 80, and 81 to monitor and enforce the requirements of the Act, including the imposition of special conditions under 34 CFR 80.12.*
>
> *(Authority: 20 U.S.C. 1416(g))*

Each year, following the submission of the APR, the USDE-OSEP will make determinations for each state's compliance and performance using information available through the APR, monitoring visits, single audit reports, and other public information. Each state will be placed into one of four determination categories:

- Meets requirements;
- Needs assistance;
- Needs intervention; or
- Needs substantial intervention.

The USDE-OSEP has identified sanctions associated with determinations that do not meet the requirements of the IDEA Part B that may include, but are not limited to, additional technical assistance and redirection or withholding of federal payments. The OSDE-SES is required to make public the State's determination. Following the receipt of the State's determination, the OSDE-SES must make determinations (using the same four categories) for each LEA. LEAs that receive determinations that do not meet the requirements of the IDEA Part B may receive sanctions that include, but are not limited to additional technical assistance and redirection or withholding of federal payments. If the OSDE-SES determines that it is necessary to withhold funds provided to an LEA on the basis of a determination, the LEA will be given the opportunity to request a hearing with the OSDE to show cause why payments to the LEA should not be suspended.

58974-OKEd-SpecialEd text.indd 224 2/10/11 11:26 AM

DATA

34 CFR § 300.641 Annual report of children served—information required in the report.
(a) For purposes of the annual report required by section 618 of the Act and 300.640, the State and the Secretary of the Interior must count and report the number of children with disabilities receiving special education and related services on any date between October 1 and December 1 of each year;
(b) For the purpose of this reporting provision, a child's age is the child's actual age on the date of the child count:
(c) The SEA may not report a child under more than one disability category.
(d) If a child with a disability has more than one disability, the SEA must report that child in accordance with the following procedure:
(1) If a child has only two disabilities and those disabilities are deafness and blindness, and the child is not reported as having a developmental delay, that child must be reported under the category "deaf-blindness."
(2) A child who has more than one disability and is not reported as having deaf-blindness or as having a developmental delay must be reported under the category "multiple disabilities."

(Authority: 20 U.S.C. 1418(a), (b))

34 CFR § 300.642 Data reporting.
(a) Protection of personally identifiable data. The data described in section 618(a) of the Act and in 300.641 must be publicly reported by each State in a manner that does not result in the disclosure of data identifiable to individual children.
(b) Sampling. The Secretary may permit States and the Secretary of the Interior to obtain data in section 618(a) of the Act through sampling.

(Authority: 20 U.S.C. 1418(b))

34 CFR § 300.643 Annual report of children served—certification.
The SEA must include in its report a certification signed by an authorized official of the agency that the information provided under § 300. 640 is an accurate and unduplicated count of children with disabilities receiving special education and related services on the dates in question.

(Authority: 20 U.S.C. 1418(a)(3))

34 CFR § 300.644 Annual report of children served—criteria for counting children.
The SEA may include in its report children with disabilities who are enrolled in a school or program that is operated or supported by a public agency, and that—
(a) Provides them with both special education and related services that meet State standards;
(b) Provides them only with special education, if a related service is not required, that meets State standards; or
(c) In the case of children with disabilities enrolled by their parents in private schools, counts those children who are eligible under the Act and receive special education or related services or both that meet State standards under §§ 300.132 through 300.144.

(Authority: 20 U.S.C. 1418(a))

58974-OKEd-SpecialEd text.indd 225 2/10/11 11:26 AM

Child Count

Each year the local educational agency (LEA) must conduct a count of all children with disabilities who are receiving special education and related services and who have an individualized education program (IEP) in effect on October 1 (Child Count). The Child Count must be submitted annually to the Oklahoma State Department of Education (OSDE), Special Education Services (SES). An authorized official of the LEA must certify that the count is accurate and unduplicated as defined in 34 CFR §§ 300.641, 300.642, 300.644, and 300.644.

Each LEA must maintain a master list of all children with disabilities (aged 3 through 21) who are legal residents of the LEA or are provided special education services pursuant to Oklahoma State law for residency and transfers, including the Education Open Transfer Act (70 O.S. §§ 1-113, 18-110, and 8-101 et seq.). The list must include the child's last name, the child's first name, age, primary disability category, and the present educational placement. LEAs should note that for the purposes of Child Count and reporting to the OSDE-SES, the primary disability category for children with more than one disability resulting in educational needs should be multiple disabilities (if the child is not categorized as deaf-blind or developmentally delayed). All Child Count records, including master lists, must be maintained for a **minimum of 5 years** (70 O.S. §§ 5-122 and 22-108). Children who are not three on October 1 will be counted on Child Count for Part C of the Individuals with Disabilities Education Act (IDEA) and may not be included on Part B Child Count.

Data/Annual Performance Report

The Data/APR required under the IDEA is filed by the LEA in conjunction with the *Part II, LEA Application for Special Education Funds in Oklahoma*. The Data/Annual Performance Report (APR) must be received and approved by the OSDE-SES before the IDEA Flow-Through funds are released.

The Data/APR requires information in the following areas, which include, but are not limited to: number and type of personnel, additional personnel needed, children with disabilities exiting the special education system, suspension and expulsion rates for children with disabilities, timeliness of evaluations, eligibility determinations, timeliness of reevaluations, timelines of transition from Part C to Part B, Extended School Year (ESY) services, and early intervening services (EIS).

Significant Disproportionality

> ***34 CFR § 300.170 Suspension and expulsion rates.***
> *(a) General. The SEA must examine data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities—*
> *(1) Among LEAs in the State; or*
> *(2) Compared to the rates for nondisabled children within those agencies.*
> *(b) Review and revision of policies. If the discrepancies described in paragraph (a) of this section are occurring, the SEA must review and, if appropriate, revise (or requires the affected State agency or LEA to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of behavioral interventions*

58974-OKEd-SpecialEd text.indd 226 2/10/11 11:26 AM

and supports, and procedural safeguards, to ensure that these policies, procedures, and practices comply with the Act.

(Authority: 20 U.S.C. 1412(a)(22))

Information regarding suspension and expulsion rates is collected through the Data/APR. The OSDE-SES, will examine the data to determine if significant discrepancies are occurring with regard to the long-term suspension of children with disabilities. Data regarding suspension rates of children with disabilities will be compared among LEAs and will be compared to suspension rates for nondisabled children within each LEA, as well as, by race/ethnicities for children with disabilities. Any LEA found to have a significant disproportionality will be required to review and, if appropriate, revise policies, practices, and procedures used in the identification or placement process.

Any policy revisions by the LEA must be publicly reported. If an LEA is found to be significantly disproportionate for two consecutive years, the LEA will also be required to set aside 15% of Part B Flow-Through Funds for EIS.

34 CFR § 300.173 Overidentification and disproportionality.
The State must have in effect, consistent with the purposes of this part and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in § 300.8.

(Authority: 20 U.S.C. 1412(a)(24))

34 CFR § 300.646 Disproportionality.
(a) General. Each State that receives assistance under Part B of the Act, and the Secretary of the Interior, must provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the LEAs of the State with respect to—
(1) The identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3) of the Act;
(2) The placement in particular educational settings of these children; and
(3) The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.
(b) Review and revision of policies, practices, and procedures. In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of these children, in accordance with paragraph (a) of this section, the State or the Secretary of the Interior must—
(1) Provide for the review and, if appropriate revision of the policies, procedures, and practices used in the identification or placement to ensure that the policies, procedures, and practices comply with the requirements of the Act.
(2) Require any LEA identified under paragraph (a) of this section to reserve the maximum amount of funds under section 613(f) of the Act to provide comprehensive coordinated early intervening services to serve children in the LEA, particularly, but not exclusively, children in those groups that were significantly overidentified under paragraph (a) of this section; and

58974-OKEd-SpecialEd text.indd 227 2/10/11 11:26 AM

(3) Require the LEA to publicly report on the revision of policies, practices, and procedures described under paragraph (b)(1) of this section.

(Authority: 20 U.S.C. 1418(d))

Annual child count information is collected by district, disability category, placement, and race/ethnicity. The OSDE-SES will examine the data to determine if any disproportionality by race or ethnicity is occurring with regard to the identification, placement, or discipline of students with disabilities. Any LEA found to have a significant disproportionality will be required to review and, if appropriate, revise policies, practices, and procedures used in the identification or placement process. Any policy revisions by the LEA must be publicly reported. If an LEA is found to be significantly disproportionate for 2 consecutive years, the LEA will also be required to set aside 15 percent (15%) of Part B Flow-Through funds for EIS.

58974-OKEd-SpecialEd text.indd 228 2/10/11 11:26 AM

FUNDING

Each local educational agency (LEA) receiving federal Individuals with Disabilities Education Act (IDEA) Part B funds must expend those funds in accordance with the federal regulations which appear in the *Special Education Funding Manual for IDEA Part B*. The *Special Education Funding Manual for IDEA Part B* is a technical assistance document for use by LEAs in implementing the funding requirements of the IDEA Part B. Within the *Part II, IDEA Part B LEA Application for Federal Special Education Funds*, each LEA receiving funds must assure that those funds are used only to pay the excess costs of providing special education and related services to children with disabilities. Each LEA must also assure that the funds are used to supplement, not supplant, State and local funds. All employees paid with federal funds must maintain time and effort reports.

34 CFR § 300.200 Condition of assistance.
An LEA is eligible for assistance under Part B of the Act for a fiscal year if the agency submits a plan that provides assurances to the SEA that the LEA meets each of the conditions in§§ 300.201 through 300.213.

(Authority: 20 U.S.C. 1413(a))

34 CFR § 300.201 Consistency with State policies.
The LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures established under§§ 300.101 through 300.163, and §§ 300.165 through 300.174.

(Authority: 20 U.S.C. 1413(a)(1))

34 CFR § 300.220 Exception for prior local plans.
(a) General. If an LEA or a State agency described in § 300.228 has on file with the SEA policies and procedures that demonstrate that the LEA or State agency meets any requirement of § 300.200, including any policies and procedures filed under Part B of the Act as in effect before December 3, 2004, the SEA must consider the LEA or State agency to have met that requirement for purposes of receiving assistance under Part B of the Act.
(b) Modification made by an LEA or a State agency. Subject to paragraph (c) of this section, policies and procedures submitted by an LEA or a State agency in accordance with this subpart remain in effect until the LEA or State agency submits to the SEA the modifications that the LEA or State agency determines are necessary.
(c) Modifications required by the SEA. The SEA may require an LEA or a State agency to modify its policies and procedures, but only to the extent necessary to ensure the LEA's or State agency's compliance with Part B of the Act or State law, if—
(1) After December 3, 2004, the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the applicable provisions of the Act (or the regulations developed to carry out the Act) are amended;
(2) There is a new interpretation of an applicable provision of the Act by Federal or State courts; or
(3) There is an official finding of noncompliance with Federal or State law or regulations.

(Authority: 20 U.S.C. 1413(b))

58974-OKEd-SpecialEd text.indd 229 2/10/11 11:26 AM

The *Part I, LEA Implementation Agreement for Special Education in Oklahoma,* contains specific assurances, policies, and procedures that are consistent with State and federal law and regulations and assist LEAs in demonstrating compliance with the IDEA Part B provisions. The LEA's agreement and any necessary amendments must comply with State statutes and federal regulations. In addition, any official amendments by LEAs regarding evaluations and eligibility determinations (child find) must be on file with the state educational agency (SEA) for approval.

> ***34 CFR § 300.207 Personnel development.***
> *The LEA must ensure that all personnel necessary to carry out Part B of the Act are appropriately and adequately prepared, subject to the requirements of § 300.156 (related to personnel qualifications) and section 2122 of the ESEA.*
>
> *(Authority: 20 U.S.C. 1413(a)(3))*

The *Part I, LEA Implementation Agreement for Special Education in Oklahoma* includes an assurance that the personnel employed by the LEA meet the qualifications required by 34 CFR § 300.156 and Section 2122 of the Elementary and Secondary Education Act (ESEA). It also includes information regarding the LEA's plan for personnel development and assurances of compliance with the General Education Provisions Act (GEPA).

Maintenance of Effort/Excess Costs Requirement

> ***34 CFR § 300.16 Excess costs.***
> *"Excess costs" means those costs that are in excess of the average annual per-student expenditure in an LEA during the preceding year for an elementary school or secondary school, as may be appropriate, and that must be computed after deducting –*
> *(a) Amounts received –*
> *(1) Under Part B of the Act;*
> *(2) Under Part A of title I of the ESEA; and*
> *(3) Under Parts A and Part B of title III of the ESEA and;*
> *(b) Any State of local funds expended for programs that would qualify for assistance under any of the parts described in paragraph (a) of this section, but excluding any amounts for capital outlay or debt service. (See Appendix A to part 300 for an example of how excess costs must be calculated.)*
>
> *(Authority: 20 U.S.C. 1401(8))*
>
> ***34 CFR § 300.202 Use of amounts.***
> *(a) General. Amounts provided to the LEA under Part B of the Act—-*
> *(1) Must be expended in accordance with the applicable provisions of this part;*
> *(2) Must be used only to pay the excess costs of providing special education and related services to children with disabilities, consistent with paragraph (b) of this section; and*
> *(3) Must be used to supplement State, local, and other Federal funds and not to supplant those funds.*
> *(b) Excess cost requirement.*
> *(1) General.*
> *(i) The excess cost requirement prevents an LEA from using funds provided under Part B of the Act to pay for all of the costs directly attributable to the education of a child with a disability, subject to paragraph (b)(1)(ii) of this section.*

58974-OKEd-SpecialEd text.indd 230 2/10/11 11:26 AM

(ii) The excess cost requirement does not prevent an LEA from using Part B funds to pay for all of the costs directly attributable to the education of a child with a disability in any of the ages 3, 4, 5, 18, 19, 20, or 21, if no local or State funds are available for nondisabled children of these ages. However, the LEA must comply with the nonsupplanting and other requirements of this part in providing the education and services for these children.
(2)(i) An LEA meets the excess cost requirement if it has spent at least a minimum average amount for the education of its children with disabilities before funds under Part B of the Act are used.
(2)(ii) The amount described in paragraph (b)(2)(i) of this section is determined in accordance with the definition of excess costs in § 300.16. That amount may not include capital outlay or debt service.
(3) If two or more LEAs jointly establish eligibility in accordance with § 300.223, the minimum average amount is the average of the combined minimum average amounts determined in accordance with the definition of excess costs in § 300.16 in those agencies for elementary or secondary school students, as the case may be.

(Authority: 20 U.S.C. 1413(a)(2)(A))

Each LEA receiving federal IDEA Part B funds must expend those funds in accordance with the federal regulations that appear in the *Special Education Funding Manual for IDEA Part B*. The *Special Education Funding Manual for the IDEA Part B* is a technical assistance document for use by LEAs in implementing the funding requirements of the IDEA Part B. Within the *Part II, IDEA Part B LEA Application for Federal Special Education Funds*, each LEA receiving funds must assure that those funds are used only to pay the excess costs of providing special education and related services to children with disabilities. Each LEA must also assure that funds are used to supplement, not supplant, State and local funds.

34 CFR § 300.203 Maintenance of effort.
(a) General. Except as provided in §§300.204 and 300.205, funds provided to an LEA under Part B of the Act may not be used to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal year.
(b) Standard.
(1) Except as provided in paragraph (b)(2) of this section, the SEA must determine that an LEA complies with paragraph (a) of this section for purposes of establishing the LEA's eligibility for an award for a fiscal year if the LEA budgets, for the education of children with disabilities, at least the same total or per-capita amount from either of the following sources as the LEA spent for that purpose from the same source for the most recent prior year for which information is available:
(i) Local funds only.
(ii) The combination of State and local funds.
(2) An LEA that relies on paragraph (b)(1)(i) of this section for any fiscal year must ensure that the amount of local funds it budgets for the education of children with disabilities in that year is at least the same, either in total or percapita, as the amount it spent for that purpose in the most recent fiscal year for which information is available, and the standard in paragraph (b)(1)(i) of this section was used to establish its compliance with this section.
(3) The SEA may not consider any expenditures made from funds provided by the Federal Government for which the SEA is required to account to the Federal Government or for which the LEA is required to account to the Federal Government directly or through the

58974-OKEd-SpecialEd text.indd 231 2/10/11 11:26 AM

SEA in determining an LEA's compliance with the requirement in paragraph (a) of this section.

(Authority: 20 U.S.C. 1413(a)(2)(A))

LEAs receiving the IDEA Part B funds must comply with all federal regulations regarding Maintenance of Effort (MOE). Each LEA's application must provide assurance that the LEA uses funds provided under Part B of the IDEA to supplement and, to the extent practicable, to increase the level of State and local funds expended for the education of children with disabilities, and in no case to supplant those State and local funds. Assurance statements from LEAs are a component of the application approval process, with verification through the Oklahoma Cost Accounting System (OCAS). In addition, LEAs will be required to submit an assurance regarding MOE with each expenditure report submitted to the OSDE-SES for reimbursement.

34 CFR § 300.204 Exception to maintenance of effort.
Notwithstanding the restriction in 300.203(a), an LEA may reduce the level of expenditures by the LEA under Part B of the Act below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the following:
(a) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel.
(b) A decrease in the enrollment of children with disabilities.
(c) The termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child—
(1) Has left the jurisdiction of the agency;
(2) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or
(3) No longer needs the program of special education.
(d) The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.
(e) The assumption of cost by the high cost fund operated by the SEA under § 300.704(c).

(Authority: 20 U.S.C. 1413(a)(2)(B))

In the Spring of the subsequent fiscal year, OCAS will compare the MOE for special education from State and local funds to the previous fiscal year. Each LEA that fails to meet MOE will receive a written notice from the SEA requesting the submission of any documentation of exceptions to MOE that would allow the LEA to reduce the State and local expenditures, in accordance with 34 CFR §300.204.

Following the submission of documentation regarding these exceptions, the SEA will review the status of each LEA for failure to meet MOE. If the LEA does not meet MOE, the SEA will reduce the LEA's State funding in the amount not met, as a sanction for the noncompliance.

34 CFR § 300.205 Adjustment to local fiscal efforts in certain fiscal years.
(a) Amounts in excess. Notwithstanding § 300.202(a)(2) and (b) and § 300.203(a), and except as provided in paragraph (d) of this section and § 300.230(e)(2), for any fiscal year for which the allocation received by an LEA under § 300.705 exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures

58974-OKEd-SpecialEd text.indd 232 2/10/11 11:26 AM

otherwise required by § 300.203(a) by not more than 50 percent of the amount of that excess.
(b) Use of amounts to carry out activities under ESEA. If an LEA exercises the authority under paragraph (a) of this section, the LEA must use an amount of local funds equal to the reduction in expenditures under paragraph (a) of this section to carry out activities that could be supported with funds under the ESEA regardless of whether the LEA is using funds under the ESEA for those activities.
(c) State prohibition. Notwithstanding paragraph (a) of this section, if an SEA determines that an LEA is unable to establish and maintain programs of FAPE that meet the requirements of section 613(a) of the Act and this part or the SEA has taken action against the LEA under section 616 of the Act and subpart F of these regulations, the SEA must prohibit the LEA from reducing the level of expenditures under paragraph (a) of this section for that fiscal year.
(d) Special rule. The amount of funds expended by an LEA for early intervening services under § 300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under paragraph (a) of this section.

(Authority: 20 U.S.C. 1413(a)(2)(C))

LEAs are allowed to reduce the level of State and local expenditures for special education and related services by 50% of the increase in the IDEA Part B funds from the prior year's allocation. However, LEAs that have not met MOE or have received a determination of less than "Meets Requirements" will not be allowed to reduce MOE (even if the LEA has received an increase in the IDEA Part B funding). In addition, funds expended by an LEA for early intervening services (EIS) will not count towards the 50% of an increase in the IDEA Part B funds.

Schoolwide Programs under Title I

34 CFR § 300.206 Schoolwide programs under title I of the ESEA.
(a) General. Notwithstanding the provisions of §§ 300.202 and 300.203 or any other provisions of Part B of the Act, an LEA may use funds received under Part B of the Act for any fiscal year to carry out a schoolwide program under section 1114 of the ESEA, except that the amount used in any schoolwide program may not exceed—
(1)(i) The amount received by the LEA under Part B for that fiscal year; divided by
(ii) The number of children with disabilities in the jurisdiction of the LEA; and multiplied by
(2) The number of children with disabilities participating in the schoolwide program.
(b) Funding conditions. The funds described in paragraph (a) of this section are subject to the following conditions:
(1) The funds must be considered as Federal Part B funds for purposes of the calculations required by § 300.202(a)(2) and (a)(3).
(2) The funds may be used without regard to the requirements of§ 300.202(a)(1).
(c) Meeting other Part B requirements. Except as provided in paragraph (b) of this section, all other requirements of Part B of the Act must be met by an LEA using Part B funds in accordance with paragraph (a) of this section, including ensuring that children with disabilities in schoolwide program schools—
(1) Receive services in accordance with a properly developed IEP; and
(2) Are afforded all of the rights and services guaranteed to children with disabilities under the Act.

(Authority: 20 U.S.C. 1413(a)(2)(D))

Additional information regarding schoolwide programs under Title I of the ESEA may be found in the *Special Education Funding Manual for IDEA Part B*. Coordinated services are

58974-OKEd-SpecialEd text.indd 233 2/10/11 11:26 AM

relevant considerations in addressing methods of ensuring services for a free appropriate public education (FAPE) (see 34 CFR § 300.101, *Free appropriate public education*).

Permissive Use of Funds

> ***34 CFR § 300.208 Permissive use of funds.***
> *(a) Uses. Notwithstanding §§ 300.202, 300.203(a) and 300.162(b), funds provided to an LEA under Part B of the Act may be used for the following activities:*
> *(1) Services and aids that also benefit nondisabled children. For the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a child with a disability in accordance with the IEP of the child, even if one or more nondisabled children benefit from these services.*
> *(2) Early intervening services. To develop and implement coordinated, early intervening educational services in accordance with § 300.226.*
> *(3) High cost special education and related services. To establish and implement cost or risk sharing funds, consortia, or cooperatives for the LEA itself, or for LEAs working in a consortium of which the LEA is a part, to pay for the high cost special education and related services.*
> *(b) Administrative case management. An LEA may use funds received under Part B of the Act to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP of children with disabilities, that is needed for the implementation of those case management activities.*
>
> *(Authority: 20 U.S.C. 1413(a)(4))*

It is permissible under the IDEA to use Part B funds to provide special education and related services to children with disabilities (even if those services also benefit nondisabled children) as well as administrative supports of these services. It is also permissible to use up to 15% of Part B Flow-Through funds (for children aged 6 through 21) to provide coordinated EIS to children who need additional support to succeed in general education curriculum, but who have not yet been referred for special education services. Additional information regarding permissive use of funds may be found in the *Special Education Funding Manual for IDEA Part B*.

LEA Eligibility for IDEA Funds

> ***34 CFR § 300.221 Notification of LEA or State agency in case of ineligibility.***
> *If the SEA determines that an LEA or State agency is not eligible under Part B of the Act, then the SEA must —*
> *(a) Notify the LEA or State agency of that determination; and*
> *(b) Provide the LEA or State agency with reasonable notice and an opportunity for a hearing.*
>
> *(Authority: 20 U.S.C. 1413(c))*
>
> ***34 CFR § 300.222 LEA and State agency compliance.***
> *(a) General. If the SEA, after reasonable notice and an opportunity for a hearing, finds that an LEA or State agency that has been determined to be eligible under this subpart is failing to comply with any requirement described in §§ 300.201 through 300.213, the SEA must reduce or must not provide any further payments to the LEA or State agency until the SEA is satisfied that the LEA or State agency is complying with that requirement.*

58974-OKEd-SpecialEd text.indd 234 2/10/11 11:26 AM

(b) Notice requirement. Any State agency or LEA in receipt of a notice described in paragraph (a) of this section must, by means of public notice, take the measures necessary to bring the pendency of an action pursuant to this section to the attention of the public within the jurisdiction of the agency.
(c) Consideration. In carrying out its responsibilities under this section, each SEA must consider any decision resulting from a hearing under §§ 300.511 through 300.533 that is adverse to the LEA or State agency involved in the decision.

(Authority: 20 U.S.C. 1413(d))

34 CFR § 300.223 Joint establishment of eligibility.
(a) General. An SEA may require an LEA to establish its eligibility jointly with another LEA if the SEA determines that the LEA will be ineligible under this subpart because the agency will not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.
(b) Charter school exception. An SEA may not require a charter school that is an LEA to jointly establish its eligibility under paragraph (a) of this section unless the charter school is explicitly permitted to do so under the State's charter school statute.
(c) Amount of payments. If an SEA requires the joint establishment of eligibility under paragraph (a) of this section, the total amount of funds made available to the affected LEAs must be equal to the sum of the payments that each LEA would have received under § 300.705 if the agencies were eligible for those payments.

(Authority: 20 U.S.C. 1413(e)(1) and (2))

34 CFR § 300.224 Requirements for establishing eligibility.
(a) Requirements for LEAs in general. LEAs that establish joint eligibility under this section must—
(1) Adopt policies and procedures that are consistent with the State's policies and procedures under §§ 300.101 through 300.163, and §§ 300.165 through 300.174; and
(2) Be jointly responsible for implementing programs that receive assistance under Part B of the Act.
(b) Requirements for educational services agencies in general. If an educational service agency is required by State law to carry out programs under Part B of the Act, the joint responsibilities given to LEAs under Part B of the Act—
(1) Do not apply to the administration and disbursement of any payments received by that educational service agency; and
(2) Must be carried out only by that educational service agency.
(c) Additional requirement. Notwithstanding any other provision of §§ 300.223 through 300.224, an educational service agency must provide for the education of children with disabilities in the least restrictive environment, as required by § 300.112.

(Authority: 20 U.S.C. 1413(e)(3) and (4))

The United States Department of Education (USDE), Office of Special Education Programs (OSEP), provides funds to the Oklahoma State Department of Education (OSDE), Special Education Services (SES), through the IDEA Part B for special education and related services. A portion of these funds are awarded to LEAs via noncompetitive applications. Funding is based on the LEA's 1999 count of children with disabilities served, the total enrollment (including public and private schools) of the LEA (which accounts for 85% of the non-base allocation), and the poverty level (defined as the free and reduced lunch count) of the LEA (which accounts for 15% of the non-base

58974-OKEd-SpecialEd text.indd 235 2/10/11 11:26 AM

allocation). To receive funding under the IDEA, the LEA must be of sufficient size and scope to effectively meet the educational needs of children with disabilities and meet excess cost and MOE requirements. For additional information regarding the special education funding formula for allocations to LEAs, see 34 CFR § 300.705. Complete application information for special education funds under the IDEA are published and disseminated to LEAs and public agencies in the *Special Education Funding Manual for IDEA Part B*.

Early Intervening Services (EIS)

> ***34 CFR § 300.226 Early intervening services.***
> *(a) General. An LEA may not use more than 15 percent of the amount the LEA receives under Part B of the Act for any fiscal year, less any amount reduced by the LEA pursuant to § 300.205, if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on kindergarten through grade three) who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in the general education environment. (See Appendix D for examples of how § 300.205(d), regarding local maintenance of effort, and § 300.226(a) affect one another).*
> *(b) Activities. In implementing coordinated, early intervening services under this section, an LEA may carry out activities that include –*
> *(1) Professional development (which may be provided by entities other than LEAs) for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and*
> *(2) Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.*
> *(c) Construction. Nothing in this section shall be construed to either limit or create a right to FAPE under Part B of the Act or to delay appropriate evaluation of a child suspected of having a disability.*
> *(d). Reporting. Each LEA that develops and maintains coordinated, early intervening services under this section must annually report to the SEA on –*
> *(1) The number of children served under this section who received early intervening services; and*
> *(2) The number of children served under this section who received early intervening services and subsequently receive special education and related services under Part B of the Act during the proceeding two year period.*
> *(e) Coordination with ESEA. Funds made available to carry out this section may be used to carry out coordinated, early intervening services aligned with activities funded by, and carried out under the ESEA if those funds are used to supplement, and not supplant, funds made available under the ESEA for the activities and services assisted under this section.*
>
> *(Authority: 20 U.S.C. 1413(f))*

The IDEA provides LEAs with the flexibility to set aside up to 15% of their IDEA Part B funds to develop and implement coordinated EIS for children who are not currently identified as needing special education or related services, but who need additional academic and/or behavioral supports to succeed in the general education environment (see also 34 CFR § 300.711). To implement EIS, LEAs may implement activities that include (1) professional

58974-OKEd-SpecialEd text.indd 236 2/10/11 11:26 AM

development (which may be provided by entities other than LEAs) for teachers and other staff to enable them to deliver scientifically based academic and behavioral interventions; and (2) providing educational and behavioral evaluations, services, and supports. Because these funds are to be spent on children not yet referred to special education services, these funds must remain under the jurisdiction of the LEA receiving the IDEA Part B funds, and must not be joined together with another LEA through an LEA Cooperative or Interlocal Cooperative agreement. Additional information regarding permissive use of EIS funds may be found in the *Special Education Funding Manual for IDEA Part B*.

In accordance with 34 CFR § 300.646, the OSDE-SES annually calculates the risk of identification and placement for each race/ethnicity statewide and for each LEA. The IDEA requires that LEAs identified as significantly disproportionate for two consecutive years be required to set aside (and spend) the maximum amount allowed for EIS in the areas of overrepresentation (see the Data section for more information). If the LEA required to set aside funds for EIS fails to spend the funds, the LEA will have one additional year to carryover the funds for this purpose. If the LEA fails to spend the funds after one year of carryover, the LEA will be cited for noncompliance and will lose the unexpended funds.

High Need Children with Disabilities

34 CFR § 300.704 State-level activities.
(c) Local educational agency high cost fund.
(1) In general—
(i) For the purpose of assisting LEAs (including a charter school that is an LEA or a consortium of LEAs) in addressing the needs of high need children with disabilities, each State has the option to reserve for each fiscal year 10 percent of the amount of funds the State reserves for other State-level activities under paragraph (b)(1) of this section—
(A) To finance and make disbursements from the high cost fund to LEAs in accordance with paragraph (c) of this section during the first and succeeding fiscal years of the high cost fund; and
(B) To support innovative and effective ways of cost sharing by the State, by an LEA, or among a consortium of LEAs, as determined by the State in coordination with representatives from LEAs, subject to paragraph (c)(2)(ii) of this section.
(ii) For purposes of paragraph (c) of this section, local educational agency includes a charter school that is an LEA, or a consortium of LEAs.
(2)(i) A State must not use any of the funds the State reserves pursuant to paragraph (c)(1)(i) of this section, which are solely for disbursement to LEAs, for costs associated with establishing, supporting, and otherwise administering the fund. The State may use funds the State reserves under paragraph (a) of this section for those administrative costs.
(ii) A State must not use more than 5 percent of the funds the State reserves pursuant to paragraph (c)(1)(i) of this section for each fiscal year to support innovative and effective ways of cost sharing among consortia of LEAs.
(3)(i) The SEA must develop, not later than 90 days after the State reserves funds under paragraph (c)(1)(i) of this section, annually review, and amend as necessary, a State plan for the high cost fund. Such State plan must—
(A) Establish, in consultation and coordination with representatives from LEAs, a definition of a high need child with a disability that, at a minimum—
(1) Addresses the financial impact a high need child with a disability has on the budget of the child's LEA; and

58974-OKEd-SpecialEd text.indd 237 2/10/11 11:26 AM

(2) Ensures that the cost of the high need child with a disability is greater than 3 times the average per pupil expenditure (as defined in section 9101 of the ESEA) in that State;
(B) Establish eligibility criteria for the participation of an LEA that, at a minimum, take into account the number and percentage of high need children with disabilities served by an LEA;
(C) Establish criteria to ensure that placements supported by the fund are consistent with the requirements of §§ 300.114 through 300.118;
(D) Develop a funding mechanism that provides distributions each fiscal year to LEAs that meet the criteria developed by the State under paragraph(c)(3)(i)(B) of this section;
(E) Establish an annual schedule by which the SEA must make its distributions from the high cost fund each fiscal year; and
(F) If the State elects to reserve funds for supporting innovative and effective ways of cost sharing under paragraph (c)(1)(i)(B) of this section, describe how these funds will be used.
(ii) The State must make its final State plan available to the public not less than 30 days before the beginning of the school year, including dissemination of such information on the State Web site.
(4)(i) Each SEA must make all annual disbursements from the high cost fund established under paragraph (c)(1)(i) of this section in accordance with the State plan published pursuant to paragraph(c)(3) of this section.
(ii) The costs associated with educating a high need child with a disability, as defined under paragraph (c)(3)(i)(A) of this section, are only those costs associated with providing direct special education and related services to the child that are identified in that child's IEP, including the cost of room and board for a residential placement determined necessary, consistent with § 300.114, to implement a child's IEP.
(iii) The funds in the high cost fund remain under the control of the State until disbursed to an LEA to support a specific child who qualifies under the State plan for the high cost funds or distributed to LEAs, consistent with paragraph (c)(9) of this section.
(5) The disbursements under paragraph (c)(4) of this section must not be used to support legal fees, court costs, or other costs associated with a cause of action brought on behalf of a child with a disability to ensure FAPE for such child.
(6) Nothing in paragraph (c) of this section—
(i) Limits or conditions the right of a child with a disability who is assisted under Part B of the Act to receive FAPE pursuant to section 612(a)(1) of the Act in the least restrictive environment pursuant to section 612(a)(5) of the Act; or
(ii) Authorizes an SEA or LEA to establish a limit on what may be spent on the education of a child with a disability.
(7) Notwithstanding the provisions of paragraphs (c)(1) through (6) of this section, a State may use funds reserved pursuant to paragraph (c)(1)(i) of this section for implementing a placement neutral cost sharing and reimbursement program of high need, low incidence, catastrophic, or extraordinary aid to LEAs that provides services to high need children based on eligibility criteria for such programs that were created not later than January 1, 2004, and are currently in operation, if such program serves children that meet the requirement of the definition of a high need child with a disability as described in paragraph (c)(3)(i)(A) of this section.
(8) Disbursements provided under paragraph (c) of this section must not be used to pay costs that otherwise would be reimbursed as medical assistance for a child with a disability under the State Medicaid program under Title XIX of the Social Security Act.
(9) Funds reserved under paragraph (c)(1)(i) of this section from the appropriation for any fiscal year, but not expended pursuant to paragraph (c)(4) of this section before the beginning of their last year of availability for obligation, must be allocated to LEAs in the same manner as other funds from the appropriation for that fiscal year are allocated to LEAs under § 300.705 during their final year of availability.

(Authority: 20 U.S.C. 1411(e))

58974-OKEd-SpecialEd text.indd 238 2/10/11 11:26 AM

The OSDE-SES, in collaboration with a group of stakeholders, developed an application process to reimburse LEAs for the excessive costs of high need children with disabilities. The process involves two tiers of reimbursement:

- **Tier 1** includes funding for out-of-state residential placements (see also information regarding residential placements in the Right to Education: FAPE section). **Tier 1 is currently closed.**
- **Tier 2** includes funding for all other high need children with disabilities with excessive costs to the LEA. To qualify for Tier 2 funding, (1) the expenses for the high need child must be at least three times the average per pupil expenditure in Oklahoma, and (2) the total cost of all high need children in the LEA must be at least 10% of the LEA's prior-year Flow-Through allocation.

Provision of Information

> ***34 CFR § 300.211 Information for SEA.***
> *The LEA must provide the SEA with information necessary to enable the SEA to carry out its duties under Part B of the Act, including, with respect to §§ 300.157 and 300.160, information relating to the performance of children with disabilities participating in programs carried out under Part B of the Act.*
>
> *(Authority: 20 U.S.C. 1413(a)(7))*
>
> ***34 CFR § 300.212 Public information.***
> *The LEA must make available to parents of children with disabilities and to the general public all documents relating to the eligibility of the agency under Part B of the Act.*
>
> *(Authority: 20 U.S.C. 1413(a)(8))*
>
> ***34 CFR § 300.213 Records regarding migratory children with disabilities.***
> *The LEA must cooperate in the Secretary's efforts under section 1308 of the ESEA to ensure the linkage of records pertaining to migratory children with disabilities for the purpose of electronically exchanging, among the States, health and educational information regarding those children.*
>
> *(Authority: 20 U.S.C. 1413(a)(9))*

Each LEA must make available, upon request, information needed by the SEA to meet the requirements of the IDEA. In addition, each LEA must, upon request, provide information to the public regarding the eligibility of the LEA for the IDEA Part B funds.

The LEA must also cooperate in any efforts to aid in the transfer of records for migratory children. The LEA must assure, as part of the *Part I, LEA Implementation Agreement for Special Education in Oklahoma*, that it will make available to parents of children with disabilities and to the general public all documents relating to the eligibility of the agency under the IDEA Part B.

> ***34 CFR § 300.705 Subgrants to LEAs.***
> *(a) Subgrants required. Each State that receives a grant under section 611 of the Act for any fiscal year must distribute any funds the State does not reserve under § 300.704 to LEAs (including public charter schools that operate as LEAs) in the State that have established their eligibility under section 613 of the Act for use in accordance with Part B of the Act.*

58974-OKEd-SpecialEd text.indd 239 2/10/11 11:26 AM

(b) Allocations to LEAs. For each fiscal year for which funds are allocated to States under § 300.703, each State shall allocate funds as follows:
(1) Base payments. The State first must award each LEA described in paragraph
(a) of this section the amount the LEA would have received under section 611 of the Act for fiscal year 1999, if the State had distributed 75 percent of its grant for that year under section 611(d) of the Act, as that section was then in effect.
(2) Base payment adjustments. For any fiscal year after 1999—
(i) If a new LEA is created, the State must divide the base allocation determined under paragraph (b)(1) of this section for the LEAs that would have been responsible for serving children with disabilities now being served by the new LEA, among the new LEA and affected LEAs based on the relative numbers of children with disabilities ages 3 through 21, or ages 6 through 21 if a State has had its payment reduced under § 300.703(b), currently provided special education by each of the LEAs;
(ii) If one or more LEAs are combined into a single new LEA, the State must combine the base allocations of the merged LEAs; and
(iii) If, for two or more LEAs, geographic boundaries or administrative responsibility for providing services to children with disabilities ages 3 through 21 change, the base allocations of affected LEAs must be redistributed among affected LEAs based on the relative numbers of children with disabilities ages 3 through 21, or ages 6 through 21 if a State has had its payment reduced under § 300.703(b), currently provided special education by each affected LEA.
(3) Allocation of remaining funds. After making allocations under paragraph
(b)(1) of this section, as adjusted by paragraph (b)(2) of this section, the State must—
(i) Allocate 85 percent of any remaining funds to those LEAs on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the LEA's jurisdiction; and
(ii) Allocate 15 percent of those remaining funds to those LEAs in accordance with their relative numbers of children living in poverty, as determined by the SEA.
(c) Reallocation of funds. If an SEA determines that an LEA is adequately providing FAPE to all children with disabilities residing in the area served by that agency with State and local funds, the SEA may reallocate any portion of the funds under this part that are not needed by that LEA to provide FAPE to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other LEAs.

(Authority: 20 U.S.C. 1411(f))

34 CFR § 300.815 Subgrants to LEAs.
Each State that receives a grant under section 619 of the Act for any fiscal year must distribute all of the grant funds the State does not reserve under § 300.812 to LEAs (including public charter schools that operate as LEAs) in the State that have established their eligibility under section 613 of the Act. Effective with funds that become available on July 1, 2009, each State must distribute funds to eligible LEAs that are responsible for providing education to children aged three through five years, including public charter schools that operate as LEAs, even if the LEA is not serving any preschool children with disabilities.

(Authority: 20 U.S.C. 149(g)(1))

34 CFR § 300.816 Allocations to LEAs.
(a) Base payments. The State must first award each LEA described in § 300.815 the amount that agency would have received under section 619 of the Act for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as such section was then in effect.

58974-OKEd-SpecialEd text.indd 240 2/10/11 11:26 AM

(b) Base payment adjustments. For fiscal year 1998 and beyond—
(1) If a new LEA is created, the State must divide the base allocation determined under paragraph (a) of this section for the LEAs that would have been responsible for serving children with disabilities now being served by the new LEA, among the new LEA and affected LEAs based on the relative numbers of children with disabilities ages three through five currently provided special education by each of the LEAs;
(2) If one or more LEAs are combined into a single new LEA, the State must combine the base allocations of the merged LEAs;
(3) If for two or more LEAs, geographic boundaries or administrative responsibility for providing services to children with disabilities ages three through five changes, the base allocations of affected LEAs must be redistributed among affected LEAs based on the relative numbers of children with disabilities ages three through five currently provided special education by each affected LEA; and
(4) If an LEA received a base payment of zero in its first year of operation, the SEA must adjust the base payment for the first fiscal year after the first annual child count in which the LEA reports that it is serving any children with disabilities aged three through five years. The State must divide the base allocation determined under paragraph (a) of this section for the LEAs that would have been responsible for serving children with disabilities aged three through five years now being served by the LEA, among the LEA and affected LEAs based on the relative numbers of children with disabilities aged three through five years currently provided special education by each of the LEAs. This requirement takes effect with funds that become available on July 1, 2009.
(c) Allocation of remaining funds. After making allocations under paragraph (a) of this section, the State must—
(1) Allocate 85 percent of any remaining funds to those LEAs on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the LEA's jurisdiction; and
(2) Allocate 15 percent of those remaining funds to those LEAs in accordance with their relative numbers of children living in poverty, as determined by the SEA.
(d) Use of best data. For the purpose of making grants under this section, States must apply on a uniform basis across all LEAs the best data that are available to them on the numbers of children enrolled in public and private elementary and secondary schools and the numbers of children living in poverty.

(Authority: 20 U.S.C. 1419(g)(1))

34 CFR § 300.817 Reallocation of LEA funds.
(a) If an SEA determines that an LEA is adequately providing FAPE to all children with disabilities aged three through five years residing in the area served by the LEA with State and local funds, the SEA may reallocate any portion of the funds under section 619 of the Act that are not needed by that LEA to provide FAPE, to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities aged three through five years residing in the areas served by those other LEAs. The SEA may also retain those funds for use at the State level to the extent the State has not reserved the maximum amount of funds it is permitted to reserve for State-level activities pursuant to § 300.812.
(b) After an SEA distributes section 619 funds to an eligible LEA that is not serving any children with disabilities aged three through five years, as provided in § 300.815, the SEA must determine, within a reasonable period of time prior to the end of the carryover period in 34 CFR 76.709, whether the LEA has obligated the funds. The SEA may reallocate any of those funds not obligated by the LEA to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities aged three through five years residing in the areas served by those other LEAs. The SEA may also

58974-OKEd-SpecialEd text.indd 241 2/10/11 11:26 AM

retain those funds for use at the State level to the extent the State has not reserved the maximum amount of funds it is permitted to reserve for State-level activities pursuant to § 300.812.

(Authority: 20 U.S.C. 1419(g)(2))

Sections 300.705(a) and 300.815 have been amended to require States to make subgrants under sections 611 and 619 of the Act to eligible LEAs, including public charter schools that operate as LEAs in accordance with State charter law, even if the LEA is not serving any children with disabilities. This requirement takes effect with funds that become available on July 1, 2009.

LEAs are eligible for assistance under Part B of the Act for a fiscal year if the LEA submits a plan that provides assurances to the SEA that the LEA meets each of the conditions in section 613(a) of the Act. LEAs may use Part B funds for direct services for children with disabilities, including services for children with disabilities who subsequently enroll or are identified during the school year, or for other permissible activities, such as child find activities, professional development, and coordinated early intervening services in accordance with §300.226.

Base Payment Adjustments

Sections 300.705(b)(2)(iv) and 300.816(b)(4) provide that if an LEA received a base payment of zero in its first year of operation, the SEA must adjust the base payment for the first fiscal year after the first annual child count in which the LEA reports that it is serving any children with disabilities. This requirement takes effect with funds that become available on July 1, 2009.

Reallocation of LEA Funds

Sections 300.705(c) and 300.817 have been amended to provide that after an SEA distributes funds under Part B to an eligible LEA that is not serving any children with disabilities, the SEA must determine, within a reasonable time period prior to the end of the carryover period in 34 CFR §76.709, whether the LEA has obligated the funds. The SEA may reallocate any funds not obligated by the LEA to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other LEAs. The SEA may also retain those funds for use at the State level to the extent that the State has not reserved the maximum amount of funds it is permitted to reserve for State level activities.

To the extent that a State has not reserved the maximum amount of section 611 funds available for other State-level activities, the State may use section 611 funds not obligated by the LEA for any activities permitted under §300.704(b)(3) and (4) including, but not limited to, support and direct service activities such as technical assistance, professional development and training, and assisting LEAs in providing positive behavioral interventions and supports. If a State has opted to finance a high-cost fund under §300.704(c) and has not reserved the maximum amount of section 611 funds available for the fund, the States may use section 611 funds not obligated by the LEA for the LEA high-cost fund consistent with §300.704(c).

58974-OKEd-SpecialEd text.indd 242 2/10/11 11:26 AM

CHILDREN IN PRIVATE SCHOOLS

Children with Disabilities in Private Schools Placed or Referred by Public Agencies

34 CFR § 300.145 Applicability of §§ 300.146 through 300.147.
Sections 300.146 through 300.147 apply only to children with disabilities who are or have been placed in or referred to a private school or facility by a public agency as a means of providing special education and related services.

(Authority: 20 U.S.C. 1412(a)(10)(B))

34 CFR § 300.146 Responsibility of SEA.
Each SEA must ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency—
(a) Is provided special education and related services—
(1) In conformance with an IEP that meets the requirements of §§ 300.320 through 300.325; and
(2) At no cost to the parents;
(b) Is provided an education that meets the standards that apply to education provided by the SEA and LEAs including the requirements of this part, except for §§ 300.18 and 300.156(c); and
(c) Has all of the rights of a child with a disability who is served by a public agency.

(Authority: 20 U.S.C. 1412(a)(10)(B))

34 CFR § 300.147 Implementation by SEA.
In implementing § 300.146, the SEA must—
(a) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;
(b) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a child with a disability; and
(c) Provide an opportunity for those private schools and facilities to participate in the development and revision of State standards that apply to them.

(Authority: 20 U.S.C. 1412(a)(10)(B))

Under the Individuals with Disabilities Education Act (IDEA) provisions, children with disabilities who are placed by public agencies in private schools, as a means of fulfilling the obligation for a free appropriate public education (FAPE), retain all the rights of children with disabilities who are served in public schools and agencies. Such placements are to be determined by an individualized education program (IEP) team decision and documented on the child's IEP as the child's educational placement. The special education and related services provided must be in conformity with an IEP that meets the requirements of 34 CFR §§ 300.321 through 300.325, and also must be at no cost to the parent(s) and meet the standards of the Oklahoma State Department of Education (OSDE), the local educational agency (LEA), and applicable State and federal laws or regulations.

All OSDE general supervision of LEAs must apply to children with disabilities placed in private schools by an IEP team decision. This must be accomplished through the

58974-OKEd-SpecialEd text.indd 243 2/10/11 11:26 AM

compliance process, data collection, and reporting requirements for LEAs. Standards of the OSDE and the LEA that are applicable will be provided by the LEA to any private school in which a child with a disability is placed by the LEA for the purposes of special education under the IDEA. Standards of the OSDE, including requirements for public and private schools, must be developed with opportunity for input of all interested persons, agencies, and organizations.

Children with Disabilities Enrolled By Their Parents in Private Schools When FAPE is at Issue

34 CFR § 300.148 Placement of children by parents when FAPE is at issue.

(a) General. This part does not require an LEA to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made FAPE available to the child and the parents elected to place the child in a private school or facility. However, the public agency shall include that child in the population whose needs are addressed consistent with §§ 300.131 through 300.144.

(b) Disagreements about FAPE. Disagreements between a parent and a public agency regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to the due process procedures of §§ 300.504 through 300.520.

(c) Reimbursement for private school placement. If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private preschool, elementary school, or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the SEA and LEAs.

(d) Limitation on reimbursement. The cost of reimbursement described in paragraph (c) of this section may be reduced or denied—

(1) If—

(i) At the most recent IEP Team meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP team that they were rejecting the placement proposed by the public agency to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

(ii) At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in paragraph (d)(1)(i) of this section;

(2) If, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in § 300.503(a)(1), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or

(3) Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

(e) Exception. Notwithstanding the notice requirement in paragraph (d)(1) of this section, the cost of reimbursement –

(1) Must not be reduced or denied for failure to provide the notice if—

(i) The school prevented the parent from providing the notice;

(-ii) The parents had not received notice, pursuant to § 300.504, of the notice requirement in paragraph (d)(1) of this section; or

(iii) Compliance with paragraph (d)(1) of this section would likely result in physical harm to the child; and

58974-OKEd-SpecialEd text.indd 244 2/10/11 11:26 AM

(2) May, in the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if –
(i) The parents are not literate or cannot write in English; or
(ii) Compliance with paragraph (d)(1) of this section would likely result in serious emotional harm to the child.

(Authority: 20 U.S.C. 1412(a)(10)(C))

If the LEA has made a FAPE available to the child, and the parents elect to place the child in a private school or facility, the LEA is not required to pay for the cost of education, including special education and related services. However, if parents disagree that a FAPE has not been offered and have questions regarding the financial responsibility of the LEA, parents may file a due process complaint hearing request, in accordance with 34 CFR §§ 300.504 through 300.520.

Parents' claims for reimbursement of private placements must be made through written notice or an IEP meeting, in accordance with 34 CFR § 300.148, before the child is removed from the public school placement. At this time, the LEA must provide a copy of the *Parents Rights in Special Education: Notice of Procedural Safeguards* to the parents, and must make the information available through translation/interpreters as needed or through oral means if the parents are not literate or cannot read and/or write in English.

Disagreements regarding a FAPE and the question of financial responsibility of the LEA are subject to due process complaint hearings (34 CFR §§ 300.507 through 300.518). A court or hearing officer may find that an LEA did not make a FAPE available to an eligible child with a disability and may require reimbursement for the cost of the enrollment. The cost of reimbursement, if there is a finding that the LEA had not made a FAPE available to the child in a timely manner prior to enrollment in a private school placement and if the private placement is appropriate, is subject to the limitations and exceptions of 34 CFR § 300.148. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the state educational agency (SEA) and LEAs. Reimbursement may be reduced or denied by courts or hearing officers if the LEA had notified the parents of the intent to conduct a reasonable and appropriate evaluation, but the parents did not make the child available.

Children with Disabilities Enrolled by Their Parents in Private Schools

34 CFR § 300.130 Definition of parentally-placed private school children with disabilities.
Parentally-placed private school children with disabilities means children with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in § 300.13 or secondary school in § 300.36, other than children with disabilities covered under §§ 300.145 through 300.147.

(Authority: 20 U.S.C. 1412(a)(10)(A))

These provisions apply to children with disabilities who are enrolled in private schools or facilities by their parents, other than those circumstances where a FAPE is the issue as described at 34 CFR § 300.148. Although LEAs are still responsible for child find activities to ensure that homeschooled children with disabilities are located, identified, and evaluated,

58974-OKEd-SpecialEd text.indd 245 2/10/11 11:26 AM

and that a FAPE is available if their parents choose to enroll them in public schools. LEAs are neither required nor prohibited by federal or Oklahoma State law to treat homeschooled children as children enrolled in private schools (because the decision to homeschool a child is a decision to refuse the right to a FAPE, and thus, special education and related services at the expense of the LEA).

> ***34 CFR § 300.131 Child find for parentally-placed private school children with disabilities.***
> *(a) General. Each LEA must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, in accordance with paragraphs (b) through (e) of this section, and §§ 300.111 and 300.201.*
> *(b) Child find design. The child find process must be designed to ensure —*
> *(1) The equitable participation of parentally-placed private school children; and*
> *(2) An accurate count of those children.*
> *(c) Activities. In carrying out the requirements of this section, the LEA, or if applicable, the SEA, must undertake activities similar to the activities undertaken for the agency's public school children.*
> *(d) Cost. The cost of carrying out child find requirements in this section, including individual evaluations, may not be considered in determining if an LEA has met its obligation under § 300.133.*
> *(e) Completion period. The child find process must be completed in a time period comparable to that for students attending public schools in the LEA consistent with § 300.301.*
> *(f) Out-of-State children. Each LEA in which private, including religious, elementary schools and secondary schools are located must, in carrying out the child find requirements in this section, include parentally-placed private school children who reside in a State other than the State in which the private schools that they attend are located.*
>
> *(Authority: 20 U.S.C. 1412(a)(10)(A)(ii))*

Although children with disabilities enrolled by their parents in private schools do not have the same rights to a FAPE in these circumstances, the LEA in which the private school is located is required to participate in the child find process in the same manner as for children enrolled in public schools within the LEA. The LEA must collect information regarding the number of children enrolled by their parents in private schools who are eligible for special education and related services. In addition, the costs of the child find process cannot be considered in the calculation of proportionate expenditures under 34 CFR § 300.133.

> ***34 CFR § 300.132 Provision of services for parentally-placed private school children with disabilities—basic requirement.***
> *(a) General. To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary and secondary schools located in the school district served by the LEA, provision is made for the participation of those children in the program assisted or carried out under Part B of the Act by providing them with special education and related services including direct services determined in accordance with § 300.137, unless the Secretary has arranged for services to those children under the by-pass provisions in §§ 300.190 through 300.198.*
> *(b) Services plan for parentally-placed private school children with disabilities. In accordance with paragraph (a) of this section and §§ 300.137 through 300.139, a services plan must be developed and implemented for each private school child with a disability*

58974-OKEd-SpecialEd text.indd 246 2/10/11 11:26 AM

who has been designated by the LEA in which the private school is located to receive special education and related services under this part.
(c) Record keeping. Each LEA must maintain in its records, and provide to the SEA, the following information related to parentally-placed private school children covered under §§ 300.130 through 300.144:
(1) The number of children evaluated;
(2) The number of children determined to be children with disabilities; and
(3) The number of children served.

(Authority: 20 U.S.C. 1412(a)(10)(A(i))

The LEA must make provision for participation of parentally-placed private school children with disabilities in special education and related services, in accordance with 34 CFR §§ 300.133 through 300.144. The LEA in which the private school is located is required to participate in the child find process in the same manner as for children enrolled in public schools within the LEA. The LEA must also provide a "proportionate share" of resources for services for children with disabilities parentally-placed in private schools who are eligible for Part B services. However, the LEA must develop a services plan for each parentally-placed private school child with a disability enrolled in a private school within the LEA, as provided by Oklahoma State law, who is designated by the LEA (after thorough consultation with the private school) to receive special education and related services as described under the provisions of 34 CFR §§ 300.137 through 300.139.

In accordance with 34 CFR §§ 300.130, 300.13, and 300.36, as well as the School Laws of Oklahoma, children aged three through five are entitled to all child find activities performed by the LEA in which they reside. However, because Oklahoma State law does not recognize private preschools under the definition of elementary and secondary schools, equitable participation (i.e., consultation and development of services plans) is not required for parentally-placed children in private preschools.

34 CFR § 300.133 Expenditures.
(a) Formula. To meet the requirement of § 300.132(a), each LEA must spend the following on providing special education and related services (including direct services) to parentally-placed private school children with disabilities:
(1) For children aged 3 through 21, an amount that is the same proportion of the LEA's total subgrant under section 611(f) of the Act as the number of private school children with disabilities aged 3 through 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged 3 through 21.
(2)(i) For children aged three through five, an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the number of parentally-placed private school children with disabilities aged three through five who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged three through five.
(ii) As described in paragraph (a)(2)(i) of this section, children aged three through five are considered to be parentally-placed private school children with disabilities enrolled in by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school in § 300.13.
(3) If an LEA has not expended for equitable services all of the funds described in paragraphs (a)(1) and (a)(2) of this section by the end of the fiscal year for which Congress

58974-OKEd-SpecialEd text.indd 247 2/10/11 11:26 AM

appropriated the funds, the LEA must obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school children with disabilities during a carry-over period of one additional year.
(b) Calculating proportionate amount. In calculating the proportionate amount of Federal funds to be provided for parentally-placed private school children with disabilities, the LEA, after timely and meaningful consultation with representatives of private schools under § 300.134, must conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending private schools located in the LEA. (See Appendix B for an example of how proportionate share is calculated).
(c) Annual count of the number of parentally-placed private school children with disabilities.
(1) Each LEA must—
(i) After timely and meaningful consultation with representatives of parentally-placed private school (consistent with § 300.134), determine the number of parentally-placed private school children with disabilities attending private schools located in the LEA; and
(ii) Ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year.
(2) The count must be used to determine the amount that the LEA must spend on providing special education and related services to parentally-placed private school children with disabilities in the next subsequent fiscal year.
(d) Supplement, not supplant. State and local funds may supplement and in no case supplant the proportionate amount of Federal fund required to be expended for parentally-placed private school children with disabilities under this part.

(Authority: 20 U.S.C. 1412(a)(10)(A))

Each LEA must continue to provide child find, evaluation, and identification for children parentally-placed in private schools, but the expenditures for these activities may not be counted toward the LEA's obligations to annually expend a proportionate share of the LEA's total Flow-Through subgrant award of the IDEA Part B funds. The amount must be proportionate to the number of parentally-placed private school children with disabilities eligible for Part B services to the total number of children with disabilities in the LEA's public schools who are eligible for services. These proportionate expenditures are to be made for the participation of private school children with disabilities through services plans. Additional information regarding the calculation of these proportionate expenditures appears in the *Special Education Funding Manual for IDEA, Part B.*

To establish the proportionate share of the IDEA Part B funds, LEAs must consult with representatives of parentally-placed private school children in conducting the annual child count of the number of private school children with disabilities who are eligible for services. The count must be taken at the same time as the annual federal child count (October 1). The information must be reported to the SEA as part of the *Part II, LEA Application for Special Education Funds in Oklahoma* and must be used to determine the amount the LEA must spend on special education and related services for parentally-placed private school children with disabilities in the next subsequent fiscal year. It is permissible for an LEA to expend a larger amount than the proportionate share of funds to provide these services, consistent with Oklahoma State law and local policy. However, if the LEA fails to spend the proportionate amount of funds set aside for children with disabilities parentally-placed in private schools, the LEA will have one additional year to carryover the funds for this purpose. If the LEA fails to spend the proportionate share of funds after one year of carryover, the LEA will be cited for noncompliance and will lose the unexpended funds.

58974-OKEd-SpecialEd text.indd 248 2/10/11 11:26 AM

34 CFR § 300.134 Consultation.

To ensure timely and meaningful consultation, an LEA, or, if appropriate, an SEA must consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

(a) Child find. The child find process, including –

(1) How parentally-placed private school children suspected of having a disability can participate equitably; and

(2) How parents, teachers, and private school officials will be informed of the process.

(b) Proportionate share of funds. The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under § 300.133(b), including the determination of how the proportionate share of those funds was calculated.

(c) Consultation process. The consultation process among the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.

(d) Provision of special education and related services. How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of -

(1) The types of services, including direct services and alternate service delivery mechanisms; and

(2) How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and

(3) How and when those decisions will be made;

(e) Written explanation by LEA regarding services. How, if the LEA disagrees with the views of the private school officials on the provision of services or the types of services (whether provided directly or through a contract), the LEA will provide to the private school officials a written explanation of the reasons why the LEA chose not to provide services directly or through a contract.

(Authority: 20 U.S.C. 1412(a)(10)(A)(iii))

LEAs in which private schools are located are obligated to engage in a timely and meaningful consultation process with private school officials and representatives of parents of parentally-placed private school children with disabilities. The consultation process should include a discussion of the child find process (including how parentally-placed private school children suspected of having a disability can participate equitably as well as how private school officials, teachers, and parents will be informed of this process), and the types of services that the LEA will provide to parentally-placed private school children with disabilities (including how, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities). The consultation process should also include information regarding the proportionate share of funds that are required to be spent on parentally-placed private school children with disabilities, how services will be apportioned based on the availability of those funds, and how, if the LEA disagrees with the views of the private school officials on the provision of services or the types of services, the LEA will provide the private school with an official written explanation of the reasons why the LEA chose not to provide the services (either directly or through a contract).

58974-OKEd-SpecialEd text.indd 249 2/10/11 11:26 AM

34 CFR § 300.135 Written affirmation.
(a) When timely and meaningful consultation, as required by § 300.134 has occurred, the LEA must obtain a written affirmation signed by the representatives of the participating private schools.
(b) If the representatives do not provide the affirmation within a reasonable period of time, the LEA must forward the documentation of the consultation process to the SEA.

(Authority: 20 U.S.C. 1412(a)(10)(A)(iv))

Once the LEA has invited private schools located within the LEA's district to participate in a timely, meaningful consultation process and the consultation process is complete, the LEA must obtain a written agreement signed by the representatives of the private schools who have agreed to participate. If the LEA does not get written affirmation from or the private school does not participate in the consultation process, the LEA must forward the documentation to the SEA.

34 CFR § 300.136 Compliance.
(a) General. A private school official has the right to submit a complaint to the SEA that the LEA–
(1) Did not engage in consultation that was meaningful and timely; or
(2) Did not give due consideration to the views of the private school official.
(b) Procedure.
(1) If the private school official wishes to submit a complaint, the official must provide to the SEA the basis of the noncompliance by the LEA with the applicable private school provisions in this part; and
(2) The LEA must forward the appropriate documentation to the SEA.
(3)(i) If the private school official is dissatisfied with the decision of the SEA, the official may submit a complaint to the Secretary by providing the information on noncompliance described in paragraph (b)(1) of this section; and
(ii) The SEA must forward the appropriate documentation to the Secretary.

(Authority: 20 U.S.C. 1412(a)(10)(A)(v))

A private school official has the right to submit to the OSDE-SES a formal written complaint that the LEA did not engage in consultation that was meaningful and timely or did not give due consideration to the views of the private school official. If after submitting a formal written complaint to the OSDE-SES, the private school official is dissatisfied with the decision of the OSDE-SES, the private school official may submit the information to the United States Department of Education (USDE), Office of Special Education Programs (OSEP).

34 CFR § 300.137 Equitable services determined.
(a) No individual right to special education and related services. No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.
(b) Decisions.
(1) Decisions about the services that will be provided to parentally-placed private school children with disabilities under §§ 300.130 through 300.144, must be made in accordance with paragraph (c) of this section and 300.1343(c).
(2) The LEA must make the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities.

58974-OKEd-SpecialEd text.indd 250 2/10/11 11:26 AM

(c) Services plan for each child served under §§ 300.130 through 300.144. If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from an LEA, the LEA must—
(1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with § 300.138(b); and
(2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls.

(Authority: 20 U.S.C. 1412(a)(10)(A))

Parentally-placed private school children with disabilities do not have the same rights to special education and related services or to receive all of the same services that the child would receive if enrolled in the public school. Decisions about the services to be provided include: which children will receive the services under services plans; what services will be provided; how and where the services will be provided; and how the services will be evaluated. LEAs must consult with representatives of private school children with disabilities in a timely and meaningful manner prior to making these decisions and give them a genuine opportunity to express their views regarding the services to be provided. The LEA must initiate and conduct meetings to develop, review, and revise a services plan for each parentally-placed private school child with a disability who will be served under these provisions. Representatives of the private school must be invited to attend the meeting and, if unable to attend, must be provided with other methods to participate (e.g., conference telephone calls, videoconference).

34 CFR § 300.37 Services plan.
Services plan means a written statement that describes the special education and related services the LEA will provide to a parentally-placed child with a disability enrolled in a private school who has been designated to receive services, including the location of the services and any transportation necessary, consistent with § 300.132, and is developed and implemented in accordance with §§ 300.137 through 300.139.

(Authority: 20 U.S.C. 1412(a)(10)(A))

After the LEA has engaged in a timely and meaningful consultation process with the private school, has identified through the child find process that a parentally-placed child in a private school is a child with a disability, and has determined that the LEA will provide the child with special education and related services, the LEA must document on a services plan the special education and related services the LEA will provide (including the location of the services and any transportation that is necessary for the LEA to provide).

34 CFR § 300.138 Equitable services provided.
(a) General.
(1) The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to meet the highly qualified special education teacher requirements of § 300.18.
(2) Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

58974-OKEd-SpecialEd text.indd 251 2/10/11 11:26 AM

(b) Services provided in accordance with a services plan.
(1) Each parentally-placed private school child with a disability who has been designated to receive services under § 300.132 must have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in §§ 300.134 and 300.137, it will make available to parentally-placed private school children with disabilities.
(2) The services plan must, to the extent appropriate—
(i) Meet the requirements of § 300.320, or for a child ages three through five, meet the requirements of § 300.323(b) with respect to the services provided; and
(ii) Be developed, reviewed, and revised consistent with §§ 300.321 through 300.324.
(c) Provision of equitable services.
(1) The provision of services pursuant to this section and §§ 300.139 through 300.143 must be provided:
(i) By employees of a public agency; or
(ii) Through contract by the public agency with an individual, association, agency, organization, or other entity.
(2) Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

(Authority: 20 U.S.C. 1412(a)(10)(A)(vi))

34 CFR § 300.139 Location of services and transportation.
(a) Services on private school premises. Services provided to parentally-placed private school children with disabilities may be provided on the premises of private, including religious, schools, to the extent consistent with law.
(b) Transportation.
(1) General.
(i) If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed private school child with a disability must be provided transportation—
(A) From the child's school or the child's home to a site other than the private school; and
(B) From the service site to the private school, or to the child's home, depending on the timing of the services.
(ii) LEAs are not required to provide transportation from the child's home to the private school.
(2) Cost of transportation. The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the LEA has met the requirement of § 300.133.

(Authority: 20 U.S.C. 1412(a)(10)(A))

Services provided to parentally-placed private school children with disabilities must be provided by personnel who meet the same qualifications as personnel providing services in the public schools, including "highly qualified" requirements, unless the LEA contracts with private school teachers to provide these equitable services. Private school children may receive a different amount of services and are not entitled to any services or to any amount of services the child would receive if enrolled in a public school.

Each parentally-placed private school child with a disability who has been designated to receive services under these requirements must have a services plan describing the specific special education and related services that the LEA has determined to provide. The services plan for a parentally-placed private school child with a disability is not required to establish a FAPE, because the child does not have the same rights as a child enrolled

58974-OKEd-SpecialEd text.indd 252 2/10/11 11:26 AM

in the public school. The location of the services and transportation, as determined by these regulations and Oklahoma State law, must be addressed in the services plan for parentally-placed private school children with disabilities who have been designated to receive these services. The cost of transportation may be included in the expenditures of the LEA to meet the proportionate share obligations.

> ***34 CFR § 300.140 Due process complaints and State complaints.***
> *(a) Due process not applicable, except for child find.*
> *(1) Except as provided in paragraph (b) of this section, the procedures in §§ 300.504 through 300.519 do not apply to complaints that an LEA has failed to meet the requirements of §§ 300.132 through 300.139, including the provision of services indicated on the child's services plan.*
> *(b) Child find complaints – to be filed with the LEA in which the private school is located.*
> *(1) The procedures in §§ 300.504 through 300.519 apply to complaints that an LEA has failed to meet the child find requirements in § 300.131, including the requirements in §§ 300.300 through 300.311.*
> *(2) Any due process complaint regarding the child find requirements (as described in paragraph (b)(1) of this section), must be filed with the LEA in which the private school is located and a copy must be forwarded to the SEA.*
> *(c) State complaints.*
> *(1) Any complaint that an SEA or LEA has failed to meet the requirements in §§ 300.300.132 through 300.135 and §§ 300.137 through 300.144 must be filed in accordance with the procedures described in §§ 300.300.151 through 300.153.*
> *(2) A complaint filed by a private school official under § 300.136(a) must be filed with the SEA in accordance with the procedures in § 300.136(b).*
>
> *(Authority: 20 U.S.C. 1412(a)(10)(A))*

Due process complaint hearings may not be filed concerning complaints that the LEA has not provided services to parentally-placed private school children with disabilities under the requirements of 34 CFR §§ 300.132 through 300.139. However, the due process complaint hearing system would be available for complaints that an LEA has not included parentally-placed private school children with disabilities in child find and evaluation activities. Complaints may be filed at the local or State level that allege failure by the LEA to meet the requirements of 34 CFR §§ 300.132 through 300.135 and 34 CFR §§ 300.137 through 300.144.

> ***34 CFR § 300.141 Requirement that funds not benefit a private school.***
> *(a) An LEA may not use funds provided under section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school.*
> *(b) The LEA must use funds provided under Part B of the Act to meet the special education and related services needs of parentally-placed private school children, but not for meeting—*
> *(1) The needs of a private school; or*
> *(2) The general needs of the students enrolled in the private school.*
>
> *(Authority: 20 U.S.C. 1412(a)(10)(A))*
>
> ***34 CFR § 300.142 Use of personnel.***
> *(a) Use of public school personnel. An LEA may use funds available under sections 611 and 619 of the Act to make public school personnel available in other than public facilities—*

58974-OKEd-SpecialEd text.indd 253 2/10/11 11:26 AM

(1) To the extent necessary to provide services under §§ 300.130 through 300.144 for parentally-placed private school children with disabilities; and
(2) If those services are not normally provided by the private school. (b) Use of private school personnel. An LEA may use funds available under sections 611 or 619 of the Act to pay for the services of an employee of a private school to provide services under §§ 300.130 through 300.144 if—
(1) The employee performs the services outside of his or her regular hours of duty; and
(2) The employee performs the services under public supervision and control.

(Authority: 20 U.S.C. 1412(a)(10)(A))

34 CFR § 300.143 Separate classes prohibited.
An LEA may not use funds available under section 611 or 619 of the Act for classes that are organized separately on the basis of school enrollment or religion of the students if—
(a) The classes are at the same site; and
(b) The classes include students enrolled in public schools and students enrolled in public schools and children enrolled in private schools.

(Authority: 20 U.S.C. 1412(a)(10)(A))

34 CFR § 300.144 Property, equipment, and supplies.
(a) A public agency controls and administers the funds used to provide special education and related services under §§ 300.137 through 300.139, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the Act..
(b) The public agency may place equipment and supplies in a private school for the period of time needed for the Part B program.
(c) The public agency must ensure that the equipment and supplies placed in a private school—
(1) Are used only for Part B purposes; and
(2) Can be removed from the private school without remodeling the private school facility.
(d) The public agency must remove equipment and supplies from a private school if—
(1) The equipment and supplies are no longer needed for Part B purposes; or
(2) Removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.
(e) No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities.

(Authority: 20 U.S.C. 1412(a)(10)(A)(vii))

Funds for services provided to parentally-placed private school children with disabilities may not be used, in accordance with these requirements, for separate classes or benefits to private schools, nor may funds be used for repairs, minor remodeling, or construction of private school facilities. Requirements for permissible uses of funds are described in the regulations for use of public and private school personnel concerning property, equipment, and supplies for the benefit of parentally-placed private school children with disabilities. The provisions of 34 CFR §§ 300.141 through 300.144 must apply to LEAs.

58974-OKEd-SpecialEd text.indd 254 2/10/11 11:26 AM

Appendices

oklahoma state department of education
special education services
"changing times in special education"

PARENTS RIGHTS IN SPECIAL EDUCATION: NOTICE OF PROCEDURAL SAFEGUARDS

As the parent(s) of a child who is receiving or may be eligible for special education and related services, you have certain rights according to State and federal laws. If you have questions about these rights and procedural safeguards, please contact your school district, or the Oklahoma State Department of Education (OSDE), Special Education Services (SES). These rights and procedural safeguards are in accordance with Federal Law, the Individuals with Disabilities Education Act (IDEA) 2004.

In general, a copy of the procedural safeguards must be given to you (or your young adult who has reached the age of majority—18 years of age unless a guardian has been appointed by a Court) only one time per year, except that a copy must also be given to you: upon initial referral or your request for evaluation; upon the filing of a State administrative complaint or due process hearing complaint; upon your request and if your student is subject to a disciplinary change of placement. Your school district may place a current copy of the procedural safeguards notice on its Web site if such Web site exists.

The procedural safeguards notice must include a full explanation of the procedural safeguards, written in a language understandable to the general public, and provided in your native language or other mode of communication you use, unless it is clearly not feasible to do so. If your native language or other mode of communication is not a written language, your school district must ensure that the notice is translated orally or by other means in your native language or other mode of communication; you understand the content of the notice; and that there is written evidence that these requirements have been met.

PRIOR WRITTEN NOTICE TO PARENTS

Your school district must provide prior written notice to you each time it proposes or refuses to initiate or change the identification, evaluation, educational placement of your child or the provision of a free appropriate public education (FAPE) to your child.

The notice must include:

- A description of the action your school district proposes or refuses to take.
- An explanation of why your school district proposes or refuses to take the action.
- A description of any other options that the Individualized Education Program (IEP) Team considered and the reasons why those options were rejected.
- A description of each evaluation procedure, assessment, record, or report your school district used in deciding to propose or refuse the action.
- A description of any other factors which are relevant to your school district's proposal or refusal.
- A statement that you have protection under the procedural safeguards under the IDEA and, if the notice is not a referral for an initial evaluation, the means by which a copy of a description of the procedural safeguards

58974-OKEd-SpecialEd text.indd 257 2/10/11 11:26 AM

can be obtained, and include resources for you to contact for help in understanding the provisions of the IDEA.

The notice must be:
- Written in language understandable to the general public.
- Provided in your native language or other mode of communication you use, unless it is clearly not feasible to do so.

NATIVE LANGUAGE

If your native language or other mode of communication is not a written language, your school district must ensure that the notice is translated for you orally or by other means in your native language or other mode of communication and that you understand the content of the notice. The school must have written documentation that this requirement has been met.

In the case of an individual who is limited English proficient (LEP), native language refers to the language normally used by that person. In the case of a child, it refers to the language normally used by your child's parents in all direct contact with your child. In all direct contact with your child, it refers to the language normally used by your child in the home or learning environment.

For a person with deafness or blindness, or a person with no written language, the mode of communication is the language the person normally uses (such as sign language, Braille, or oral communication).

ELECTRONIC MAIL (E-MAIL)

If your school district offers you the choice of receiving documents by e-mail, you may also choose to receive the following documents by e-mail:
- Procedural Safeguards Notice.
- Notices related to a due process complaint.

PARENT CONSENT—DEFINITION

Consent means:
- You have been fully informed in your native language or other mode of communication of all information relevant to the activity for which you are asked to provide consent.
- You understand and agree in writing to the carrying out of the activity for which your consent is sought, and the consent describes the activity and lists the records (if any) which will be released and to whom.
- You understand that the granting of consent is voluntary and you may revoke or withdraw your consent at any time prior to carrying out the action. However, your revocation of consent is not retroactive which means that it does not negate the action that has already occurred after you gave consent and before you revoked consent.

PARENTAL CONSENT FOR INITIAL EVALUATION

After providing you with written notice of the proposed evaluations for your child, your school district must obtain your consent before conducting an initial evaluation to determine whether your child is eligible under Part B of the IDEA to receive special education and related services. Your consent for an initial evaluation does not mean that you have given your consent for the school district to provide special education and related services to your child. Your school district must make reasonable efforts to obtain your informed consent for initial evaluation to decide whether your child is a child with a disability.

Your consent is not required before your school district may:
- Review existing data as part of your child's evaluation or reevaluation.
- Give your child a test or other assessment that is given to all children, unless, before that test or assessment, consent is required from all parents of all children.

58974-OKEd-SpecialEd text.indd 258 2/10/11 11:26 AM

- Screen your child by a teacher or specialist to determine strategies for curriculum implementation.

WARDS OF THE STATE

For children that are wards of the state and are not living with his/her parent(s) the school district does not need consent from the parent for an initial evaluation to determine if your child is a child with a disability if:

- Despite reasonable efforts to do so, the school district cannot find the parent(s) of the child.
- The rights of the parent(s) have been terminated in accordance with State law.
- A judge has assigned the right to make educational decisions and to consent for an individual evaluation to an individual appointed by the judge to represent the child.

Ward of the state as used in the IDEA, means a child who, as determined by the state where the child lives, is:

- A foster child.
- Considered a ward of the state under Oklahoma State law.
- In the custody of a public child welfare agency.

The term does not include a foster child who has a foster parent who meets the definition of a parent.

REFUSAL TO CONSENT

If you, the parent(s), refuse consent for evaluation, the school or school district may continue to pursue an evaluation by utilizing the mediation and due process complaint hearing procedures, except to the extent where State law is inconsistent with this provision related to parental consent. If you are home schooling your child or you have placed your child in a private school, the school cannot use the mediation or due process hearing procedures to pursue an evaluation.

Parental consent for evaluation must not be construed as consent to placement for provision of special education and related services.

If the local educational agency (LEA) pursues an evaluation by utilizing the due process complaint hearing procedures, and the hearing officer decides in favor of the LEA/agency, the LEA/ agency may evaluate your child without your consent. This is subject to the parents' rights under provisions for administrative appeals, impartial reviews, civil actions, due process timelines, and status of your child during the proceedings under the IDEA. The LEA/agency must notify the parent(s) of its actions and that the parent(s) have appeal rights, as well as safeguards and rights at the hearing itself.

TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY

When a young adult with a disability reaches the age of majority (18 years of age) or when a minor is married, under State law (except for a young adult with a disability who has been determined to be incompetent under State law):

- The school district must provide any notice required by the law to both the young adult and the parents.
- All other rights afforded to parents under the IDEA Part B transfer to the young adult.
- The school district must notify the individual and the parent(s) of transfer of rights at least one year before the transfer in your student's IEP.
- All rights afforded to parent(s) under this law transfer to young adults who are incarcerated in an adult or juvenile federal, State, or local correctional institution.

If, under State law, a young adult with a disability who has reached the age of majority

58974-OKEd-SpecialEd text.indd 259 2/10/11 11:26 AM

has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to his or her educational program, the State must establish procedures for appointing the parent(s) of the young adult, or if the parent(s) are not available, another appropriate individual, to represent the educational interests of the young adult throughout the period of eligibility of the young adult under this part.

EVALUATION

Either a parent or a school district may initiate a request for an initial evaluation to determine if your child is a child with a disability. If you believe your child is in need of a special education evaluation, you should contact your child's school.

Evaluation means a variety of assessment tools, including your input, your child's teachers and other service providers observations, strategies, technically sound instruments, and procedures used in accordance with IDEA to determine whether a child qualifies as a child with a disability as defined by IDEA and the educational needs of your child. The term means procedures used selectively with an individual child, and it does not include basic assessments administered to or procedures used with all children in a school, grade, or class.

ELIGIBILITY

Upon completion of the determination of tests and other evaluation procedures, including information provided by you, the parent(s), the determination of whether your child is eligible as a child with a disability must be made by a group of qualified professionals and the parent(s). A copy of the evaluation report and the documentation of determination of eligibility must be given to you, the parent(s), at no cost. Your child will be eligible for special education services if it is determined that your child has one or more of the disabilities included under Oklahoma's special education standards and your child is in need of special education (specially designed instruction) as a result.

An initial evaluation must be conducted in a 45-school-day timeframe from receipt of parental consent for the initial evaluation until the initial eligibility determination is completed.

This timeframe would not apply if you repeatedly fail or refuse to make your child available for the evaluation or your child enrolls in another school district while the evaluation is being conducted. Your child's new school district and you would then agree on a specific time when your child's evaluation would be promptly completed.

If your child has participated in a process that assesses your child's response to scientifically research-based intervention to determine if your child has a specific learning disability, the instructional strategies used and the student-centered data collected must include documentation that you, the parent(s), were notified about the State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; strategies for increasing your child's rate of learning; and the your right to request an evaluation.

PARENTAL CONSENT FOR SERVICES

Your school district must obtain your informed consent before providing special education and related services to your child for the first time.

Your school district must maintain documentation of reasonable efforts to obtain your informed consent.

58974-OKEd-SpecialEd text.indd 260 2/10/11 11:26 AM

The documentation must include a record of the school district's attempts in these areas, such as:

- Detailed records of telephone calls made or attempted and the results of those calls.
- Copies of correspondence sent to you and any responses received.
- Detailed records of visits made to your home or place of employment and the results of those visits.

If you refuse to give your consent for your child to receive special education and related services for the first time, or if you do not respond to a request to provide such consent, your school district cannot provide special education and related services to your child. Your refusal to provide consent for your child to first receive special education services cannot be challenged legally by your school district.

If you refuse to consent to the provision of special education and related services, or if you fail to respond to a request to provide such consent:

- The school district is not in violation of the requirement to make available a FAPE to your child for its failure to provide those services to your child.
- The school district is not required to have an IEP meeting or develop an IEP for your child for the special education and related services for which your consent was requested.

Except for an initial evaluation and initial placement of your child into special education, the IDEA provides that consent may not be required as a condition of any benefit to you or your child. Any changes in your child's special education program, after the initial placement, are not subject to your parental consent under the IDEA Part B, but are subject to the prior notice and IEP requirements.

Oklahoma procedures and the IDEA also require prior notice to parents and opportunity to participate in development or review of IEPs before conducting reevaluations.

PARENTAL CONSENT FOR REEVALUATIONS

A reevaluation must be conducted at least every three years, or more often if conditions warrant. However, the IDEA does not require that a school conduct a reevaluation more than once per year unless you and the school agree. Also, the IDEA allows the school district and you to mutually agree to waive the reevaluation.

Your school district must obtain your informed consent before it reevaluates your child, unless your school district can demonstrate that:

- Your school district took reasonable measures to obtain your consent for your child's reevaluation.
- You failed to respond.
- No additional information is needed after a review of existing information.

Your school district may, but is not required to, pursue your child's reevaluation by using the mediation, due process complaint resolution meeting, and/or impartial due process complaint hearing procedures to override your refusal to consent to your child's reevaluation. However, as with initial evaluations, your school district does not violate its obligations under Part B of the IDEA if it declines to pursue the reevaluation in this manner.

PARENTAL REVOCATION OF CONSENT

You have the right to revoke consent for the continued provision of special education and related services at any time.

You must submit in writing your request to revoke your consent for special education

58974-OKEd-SpecialEd text.indd 261 2/10/11 11:26 AM

and related services. Services cannot be revoked in part; therefore, your request for revocation would forfeit all special education services, related services and any other supports included in your child's IEP. Within a reasonable time, your school district must respond to your revocation with a written notice, regarding the termination of the educational placement and special education and related services that will result from the revocation of consent. The written notice must include information on resources for you to contact to understand the requirements of Part B of the IDEA. If you revoke consent for special education, the school district:

- Is not in violation of the requirement to make available a FAPE to your child for its failure to provide services to your child.
- Your child will be treated as a nondisabled student for disciplinary purposes.
- Is not required to amend your child's education records to remove any references to your child's receipt of special education and related services.

You or the school district may at a later date, initiate a request for an initial evaluation to determine if your child is a child with a disability.

INDEPENDENT EDUCATIONAL EVALUATION

You have the right to obtain an independent educational evaluation (IEE) for your child. If you request an IEE, the school district must provide you information about where an IEE may be obtained.

An independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of your child.

IEE at public expense means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you. Whenever an IEE is at public expense, the criteria in which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the school district uses when it initiates an evaluation.

You have the right to an IEE at public expense if you disagree with an evaluation of your child obtained by your school district. However, the school district may initiate a due process complaint hearing to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, you still have the right to an IEE, but not at public expense.

The school district may require you to provide them prior notice before you obtain an IEE at public expense; however, the school district may not fail to pay for an IEE if you do not notify the school district that an IEE is being sought.

If you obtain an IEE at private or public expense, the results of the evaluation must be considered by the school district in any decision made with respect to the provision of a FAPE to your child, and may be presented as evidence at a due process hearing regarding your child.

If a hearing officer requests an IEE as part of a hearing decision, the cost of the evaluation must be at public expense.

EDUCATION RECORDS-PERSONALLY IDENTIFIABLE INFORMATION

An education record is information that the school maintains that contains personally identifiable information on your child.

Personally identifiable information includes: the name of your child, your name, or other

58974-OKEd-SpecialEd text.indd 262 2/10/11 11:26 AM

family member names; the address of your child; a personal identifier, such as your child's social security number or student number; or a list of personal characteristics or other information that would make it possible to identify your child with reasonable certainty.

ACCESS RIGHTS

Each school district must permit you to inspect and review any educational records which are collected, maintained, or used by your school district. The school district must comply with your request without unnecessary delay and before any meeting regarding your child's IEP, a resolution session or impartial due process hearing, and in no case, more than 45 days after the request has been made.

The right to inspect and review educational records under this section includes:

- Your right to a response from the school district to your reasonable requests for explanations and interpretations of the records.
- Your right to have your representative inspect and review the records.
- Your right to request that the school district provide copies of the records if you cannot effectively inspect and review the records, unless you receive those copies.

A school district may presume that you have authority to inspect and review records relating to your child unless the school district has been advised that you do not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

RECORD OF ACCESS

Each school district must keep a record of parties obtaining access to education records collected, maintained, or used under this part, (except access by parents and authorized employees of the school district), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

RECORDS ON MORE THAN ONE CHILD

If any educational record includes information on more than one child, the parent(s) of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

LISTS OF TYPES AND LOCATIONS OF INFORMATION

On request, each school district must provide you with a list of the types and locations of your child's education records collected, maintained, or used by the school district.

FEES FOR SEARCHING, RETRIEVING, AND COPYING RECORDS

Each school district may not charge a fee to search for or to retrieve information under the IDEA Part B. Each school district may charge a fee for copies of records, which are made for you if the fee does not effectively prevent you from exercising your right to inspect and review those records.

AMENDMENT OF RECORDS AT PARENT'S REQUEST

If you believe that information in education records collected, maintained, or used under this part is inaccurate, misleading, or violates the privacy or other rights of your child, you may request the school district that maintains the information change the information.

The school district must decide whether to change the information in accordance with your request within a reasonable period of time of receipt of this request. If the school district decides to refuse to change the information in accordance with your request,

58974-OKEd-SpecialEd text.indd 263 2/10/11 11:26 AM

it must inform you of the refusal and advise you of your right to a hearing as set forth under the Family Education Rights and Privacy Act (FERPA).

OPPORTUNITY FOR A HEARING

The school district must, on request, provide you an opportunity for a hearing to challenge information in educational records regarding your child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child. If, as a result of the hearing, the school district decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of your child, it must change the information accordingly and inform you in writing.

RESULTS OF A HEARING

If, as a result of the hearing, the school district decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, it must inform you of your right to place in the records it maintains on your child your written statement commenting on the information or providing any reasons you disagree with the decision of the school district.

Such an explanation placed in the records of your child must be maintained by the school district as part of the records of your child as long as the record or contested portion is maintained by the school district. If the school district discloses the records of your child or the challenged portion to any party, the explanation must also be disclosed to the party.

CONSENT FOR DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION

Unless the information is contained in education records, and the disclosure is authorized without your consent under FERPA, your consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies. Your consent is not required before personally identifiable information is released to officials to participating agencies for purposes of meeting a requirement of Part B of the IDEA.

Your consent must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

If your child is in, or is going to attend, a private school that is not located in the same school district in which you reside, your consent must be obtained before any personally identifiable information about your child is released between officials in the school district where the private school is located and officials in the school district where you reside.

SAFEGUARDS

Each school district must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

One official at each school district must assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction regarding your State's policies and procedures regarding confidentiality under Part B of the IDEA and FERPA.

Each school district must maintain, for public inspection, a current listing of the names and positions of those employees within the district that may have access to personally identifiable information.

58974-OKEd-SpecialEd text.indd 264 2/10/11 11:26 AM

DESTRUCTION OF INFORMATION

Your school district must inform you when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to your child.

The information must be destroyed at your request; however, a permanent record of your child's name, address, and phone number, grades, attendance record, classes attended, grade level completed, and year completed, may be maintained without time limitation.

MEDIATION

Mediation in special education is a free and effective process to assist parents and schools in resolving disagreements, at the earliest stage possible, regarding the education program of a student with disabilities. This occurs at a non-adversative meeting that is more structured than a parent-school conference but less formal than a due process hearing.

The Oklahoma State Department of Education or school district must make mediation available to allow you and the school district to resolve disagreements involving any matter under Part B of the IDEA, including matters arising prior to the filing of a due process complaint. Thus, mediation is available to resolve disputes under Part B of the IDEA, whether or not you have filed a due process hearing request. When a due process complaint is initiated under the IDEA, the school district must inform you of the availability of mediation as an alternative to resolving disputes.

The procedures must ensure that the mediation process:

- Is voluntary on your part and the school district's part.
- Is provided at no cost to you.
- Is not used to deny your right to a due process hearing, or deny any other rights you have under Part B of the IDEA.
- Is conducted by a qualified and impartial mediator who is trained in effective techniques.

For further information on Oklahoma's Mediation system, you may contact the Special Education Resolution Center (SERC) at 918-712-9632 or 888-267-0028. You may also contact the local Early Settlement Center at 877-521-6677 for the name and number of your local Early Settlement Center.

Opportunity to Meet with a Disinterested Party:

The state educational agency (SEA) or school district may establish procedures to offer you and school districts that choose not to use the mediation process an opportunity to meet with a disinterested party who is under contract with:

- An appropriate alternative dispute resolution entity (Early Settlement Centers of the Alternative Dispute Resolution System, under the direction of the Administrative Office of the Courts), a parent training and information center (Oklahoma Parent Training and Information Center), the Joint Oklahoma Information Network (JOIN), or a community parent resource center in the State.
- To encourage the use, and explain the benefits, of the mediation process to you.

The mediator:

- May not be an employee of the SEA or the school district that is involved in the education or care of your child.
- Must not have a personal or professional interest which conflicts with the mediator's objectivity.

A person who otherwise qualifies as a mediator is not an employee of a school

58974-OKEd-SpecialEd text.indd 265 2/10/11 11:26 AM

district or State agency solely because he/she is paid by the agency or school district to serve as a mediator.

Trained, qualified, and impartial mediators are available, and may be requested from the Early Settlement Centers of the Alternative Dispute Resolution System, under the direction of the Administrative Office of the Courts. Information and referral may also be obtained at no cost through the OSDE-SES, the Oklahoma Areawide Services Information System (OASIS), the Oklahoma Parent Training Information Center, or the Oklahoma Disability Law Center (ODLC).

The OSDE-SES supports resolution of disputes, involving any matter subject to due process complaints, through mediation or other informal means between parents and school districts concerning the education of a child with a disability or purported to have disabilities. The State is responsible for the costs of the mediation process.

Each meeting in the mediation process must be scheduled in a timely manner and held in a location that is convenient for you and the school district. Mediation is not used to deny or delay your right to a due process hearing or to deny any other rights afforded under these requirements. Also, the mediation meeting does not alter the required timelines for due process hearings.

To resolve a dispute through the mediation process, both you and the school district must execute a legally binding agreement that sets forth such resolution, and:

- States that all discussions occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceedings.
- Is signed by both you and a representative of the school district who has the authority to bind the school district.

A written, signed mediation agreement is enforceable in any State court or competent jurisdiction or in a district court of the United States.

Mediation may be requested by you or the school district but must be attended and agreed upon by both parties. The parties involved may or may not have representatives at the mediation; however, those persons attending should be in a position of authority to make decisions.

Either party may refuse to participate in a conference without prejudice to any procedural safeguard afforded under any applicable State or federal law.

FILING LOCAL OR STATE LEVEL ADMINISTRATIVE COMPLAINTS

A signed written complaint regarding alleged violations of the IDEA Part B may be filed with the local school district administrator or the SEA. The complaint may address your specific child and/or policy or practice of the school district that you allege is in violation of the IDEA.

If the complaint is filed with the local school district, the complainant may request that the State review the findings.

A written complaint must include:

- A statement that the school district has violated a requirement under the IDEA Part B.
- Facts on which the statement is based.
- The signature and contact information of the complainant.

If alleging violations regarding a specific child:

- The name of the child and the address of the residence of the child.
- The name of the school in which the child attends.

58974-OKEd-SpecialEd text.indd 266 2/10/11 11:26 AM

- In the case of a homeless child or youth, available contact information for the child and the name of the school in which the child attends.
- A description of how the school district has violated the requirements under the IDEA related to the allegation including the facts related to the problem.
- The proposed resolution of the problem to the extent known and available to the party following the complaint at the time the complaint is filed.

The complaint must allege the violation occurred not more than one year prior to the date the complaint is filed.

If you file an administrative complaint and a due process hearing complaint on the same issue, the investigation of the administrative complaint will be held in abeyance. The hearing officer assigned to hear your due process hearing complaint will conduct an impartial hearing.

Relevant information may be submitted orally and in writing regarding the alleged issue for consideration in determining if there is a violation of the IDEA Part B.

A form for this purpose is available from the OSDE-SES to assist you in filing a formal written complaint.

A written letter of findings will be issued by the OSDE-SES within 60 calendar days after receipt of a formal written complaint, unless exceptional circumstances exist which require lengthier involvement.

Mediation is also encouraged as an option to facilitate early resolution of complaint issues. Information to assist in requesting mediation or filing a complaint may be obtained by contacting the special education director or administrator of your school district or the OSDE-SES.

FILING A DUE PROCESS HEARING COMPLAINT

You or the school district may file a due process complaint on any matter relating to a proposal or refusal to initiate or change the identification, evaluation, or educational placement of your child, or the provision of a FAPE.

The due process complaint must allege a violation that happened not more than two years before you or the school district knew or should have known about the alleged action that forms the basis of the due process complaint.

The above timeline does not apply to you if you could not file a due process complaint due to:

- The school district specifically misrepresented that it has resolved the issue forming the basis of the complaint.
- The school district withheld information from you that was required to be provided to you under Part B of the IDEA.

The school district must inform you of any free or low-cost legal or other relevant services available in your area if you request the information, or if you or the school district file a due process complaint.

DUE PROCESS COMPLAINT

To request a hearing, you or the school district (or your attorney or the school district's attorney) must submit a due process complaint to the other party. That complaint must contain all of the content listed below and must be kept confidential.

You or the school district, whichever filed the complaint, must also provide the SEA with a copy of the complaint.

The due process complaint must be in writing, signed, and include:

58974-OKEd-SpecialEd text.indd 267 2/10/11 11:26 AM

- The name of your child.
- Your child's date of birth.
- The address of your child's residence.
- The name of the school your child is attending.
- If your child is a homeless child or youth, your child's contact information and the name of the school your child is attending.
- The current grade or current placement of your child.
- Your child's established or purported disability.
- A description of the nature of the problem of your child relating to the proposed or refused action, including facts relating to the problem.
- A proposed resolution of the problem to the extent known and available to you or the school district at the time.
- The reason for challenging the identification, evaluation, educational placement of your child, or the provision of a FAPE to your child.

A party may not have a due process hearing until the party, or the attorney representing the party, files a notice that meets the requirements.

A form for this purpose is available from the OSDE-SES to assist you in filing a due process complaint. A copy of this request must be mailed by you, or the attorney representing you on behalf of your child, to the school district, and to the OSDE-SES, Attention: Due Process Hearing Requests, 2500 North Lincoln Boulevard, Room 412, Oklahoma City, Oklahoma 73105-4599.

An impartial due process hearing office will be appointed to the case. You or your attorney will be notified of the appointment.

The due process complaint will be considered sufficient unless the party receiving the due process complaint notifies the hearing officer and the other party, in writing, within 15 calendar days of receiving their complaint, that the complaint does not meet the requirements listed above. Within five calendar days of receiving the notification that the receiving party considers a due process complaint insufficient, the hearing officer must make a determination if the due process complaint meets the requirements listed above, and must immediately notify the parties in writing of such determination.

If the hearing officer determines that your due process hearing complaint is insufficient, you have the right to submit an amended complaint addressing the reason why it did not meet the criteria of a sufficient complaint.

You or the school district may make changes to the due process complaint only if:
- The other party approves of the changes in writing and is given the opportunity to resolve the due process complaint through resolution meeting.
- By no later than five days before the due process hearing begins, the hearing officer grants permission for the changes. If the complaining party makes changes to the due process complaint, the timeline for the resolution meeting, and the time period for the resolution start again on the date in which the amended complaint is filed.

Nothing in this section may be construed to preclude you from filing a separate request for a due process complaint on an issue separate from the complaint already filed.

If the school district has not sent a prior written notice to you regarding the subject matter contained in your due process complaint, the school district must, within ten calendar days of receiving the due process complaint, send to you a response that must include:
- An explanation of why the school district proposed or refused to take the action raised in the due process complaint.

58974-OKEd-SpecialEd text.indd 268 2/10/11 11:26 AM

- A description of other options that your child's IEP team considered and the reasons why those options were rejected.
- A description of each evaluation procedure, assessment, record or report the school district used as the basis for the proposed or refused actions.
- A description of the other factors that are relevant to the school district's proposed or refused actions.

Except as stated above, the party receiving a due process complaint must, within ten calendar days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the complaint.

RESOLUTION SESSIONS

Within 15 calendar days of receiving notice of your due process hearing complaint, and before the due process hearing begins, the school district must convene a meeting with you and the relevant member(s) of the IEP team who have specific knowledge of the facts identified in your due process complaint.

The meeting:
- Must include a representative of the school district who has decision-making authority on behalf of the school district.
- May not include an attorney of the school district, unless you are accompanied by an attorney.

The purpose of the meeting is for you to discuss your due process complaint, and the facts that form the basis of the complaint.

The school district is provided the opportunity to resolve the complaint, unless you and the school district both agree in writing to waive the resolution meeting, or agree to use the mediation process. Unless both you and the school district waive the resolution meeting or agree to go to mediation, your failure to participate in the resolution meeting will delay the timelines for the resolution process and the due process hearing until the resolution meeting is held.

If the school district has not resolved the complaint to your satisfaction within 30 calendar days of the receipt of the due process complaint, the due process hearing may occur.

The 45 calendar day timeline for issuing a final decision begins at the expiration of the 30 calendar day resolution period, unless you and the school district have both agreed to waive the resolution process or to use mediation. In this case, the 45 calendar day timeline begins the next day.

If, after making reasonable efforts and documenting such efforts, the school district is not able to obtain your participation in the resolution meeting, the school district may, at the end of the 30 calendar day resolution period, request that a hearing officer dismiss your due process complaint.

If the school district fails to hold a mediation session within 15 days after receiving your due process hearing complaint or fails to participate in the resolution meeting, you may ask the hearing office to begin the due process hearing timeline.

If a resolution to the dispute is reached at the resolution meeting, you and the school district must execute a legally binding agreement that is:
- Signed by you and a representative of the school district who has the authority to bind the school district.
- Enforceable in any State court of competent jurisdiction or in a district court of the United States.

If you and the school district enter into an agreement as a result of a resolution meeting,

58974-OKEd-SpecialEd text.indd 269 2/10/11 11:26 AM

either party may void the agreement within three business days of the time that both you and the school district signed the agreement.

IMPARTIAL DUE PROCESS HEARING

At a minimum, a hearing officer must:

- Not be an employee of the SEA or the school district involved in the education or care of your child; however, a person is not an employee of the agency solely because he/she is paid by the agency to serve as a hearing officer.
- Not have personal or professional interest that conflicts with the hearing officer's objectivity in the hearing.
- Be knowledgeable of, and understand, the provisions of the IDEA, federal, and State regulations pertaining to the IDEA, and legal interpretations of the IDEA by federal and State courts.
- Have the knowledge and ability to conduct hearings, in accordance with appropriate standard legal practice.
- Have the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

The party that requests the due process hearing may not raise issues at the due process hearing that were not addressed in the due process complaint, unless the other party agrees.

The SEA maintains a list of qualified hearing officers. When a due process hearing is assigned, the SEA must provide the name of the hearing officer assigned and their qualifications to all parties involved.

DUE PROCESS HEARING RIGHTS

Any party to a hearing or an appeal must be accorded the right to:

- Be accompanied and advised by a lawyer or person with special knowledge or training regarding the problems of children with disabilities.
- Present evidence and confront, cross examine, and require the attendance of witnesses.
- Prohibit the introduction of any evidence at the hearing that has not been disclosed to the other party at least five business days prior to the hearing.
- Obtain a written, or, at your option, electronic, word-for-word record of the hearing.
- Obtain a written, or, at your option, electronic findings of the facts and decisions, which shall be made available to the public and transmitted to the State advisory panel.

A hearing officer may prevent any party that fails to disclose relevant evaluations or recommendations to the other party at least five business days before the hearing.

You must be given the right to have your child present, and the right to open the hearing to the public.

HEARING DECISIONS

A hearing officer's decision on whether your child received a FAPE must be based on substantive grounds.

In matters alleging a procedural violation, a hearing officer may find that your child did not receive a FAPE, only if the procedural inadequacies:

- Impeded your child's right to a FAPE.
- Significantly impeded your opportunity to participate in the decision-making process regarding the provision of a FAPE to your child.
- Caused a deprivation of an educational benefit.

Nothing in the procedural safeguards section of the federal regulations under Part B of the IDEA can be interpreted to prevent you from

58974-OKEd-SpecialEd text.indd 270 2/10/11 11:26 AM

filing a separate request for a due process hearing on an issue separate from a request already filed.

The SEA, after deleting any personally identifiable information, must:
- Provide the findings and decisions in the due process hearing or appeal to the State special education advisory panel.
- Make those findings and decisions available to the public.

FINALITY OF DECISION, APPEAL, IMPARTIAL REVIEW

A decision made in a due process hearing is final, except that any party involved in the hearing may appeal the decision within 30 calendar days.

If a party is aggrieved by the findings and decision in the hearing, an appeal may be brought to the SEA.

If there is an appeal, the SEA appoints a state reviewing officer who conducts an impartial review of the findings and decisions appealed. The official conducting the review must:
- Examine the entire hearing record.
- Ensure that the procedures at the hearing were consistent with the requirements of due process.
- Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the hearing rights described above apply.
- Give the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official.
- Make an independent decision on completion of the review.
- Give you and the school district a copy of written, or at your option, electronic, findings of fact and decisions.

The SEA, after deleting any personally identifiable information, must transmit the findings and decisions to the State special education advisory panel, and make the findings and decisions available to the public.

The decision made by the reviewing official is final, unless a party brings a civil action under the procedures described below.

TIMELINES AND CONVENIENCE OF HEARINGS AND REVIEWS

The SEA must ensure that no later than 45 calendar days after the expiration of the 30 calendar day period for resolution meetings, or, no later than 45 calendar days after the expiration of the adjusted time period:
- A final decision is reached in a hearing.
- A copy of the decision is mailed to you and the school district.

If there is an appeal, the SEA must ensure that no later than 30 calendar days after the receipt of a request for a review:
- A final decision is reached in the review.
- A copy of the decision is mailed to you and the school district.

A hearing officer may grant specific extensions of time beyond the 45 day calendar time period, if you or the school district requests a specific extension of the timeline.

Each hearing must be conducted at a time and place that is reasonably convenient to you and your child. Except in the case of a change in placement initiated by school personnel due to your child carrying or possession of a weapon, possession or use of illegal drugs, or the sale or soliciting the sale of a controlled substance, or inflicting serious bodily injury upon another person, (or a change in placement ordered by a hearing officer due to a determination that maintaining the current placement is substantially likely to result in injury to the child or others), if you request a hearing to challenge the manifestation determination review, your child must remain

58974-OKEd-SpecialEd text.indd 271 2/10/11 11:26 AM

in the interim alternative educational setting pending the decision of the hearing officer, or until the expiration of the time period of the change of placement, whichever occurs first, unless the State or school district and you agree otherwise.

RIGHT TO BRING A CIVIL ACTION

Any party who does not agree with the findings and decisions in the State level review has the right to bring a civil action with respect to the matter that was the subject of the due process complaint hearing. The action may be brought in any State court of competent jurisdiction or in a district court of the United States, without regard to the amount in dispute.

The party bringing the civil action must have 90 calendar days from the date of the decision of the hearing officer to bring such an action.

In any civil action, the court:

- Receives the records of the administrative proceedings.
- Hears additional evidence at the request of a party.
- Bases its decision on the preponderance of the evidence, and grants the relief that the court determines to be appropriate.

ATTORNEYS' FEES

In any action or proceeding brought under Part B of the IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the cost:

- To a prevailing party who is the parent of a child with a disability.
- To a prevailing party who is a school district against the attorney of a parent who files a request for a due process hearing or subsequent cause of action that is frivolous, unreasonable or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable or without foundation.
- To a prevailing school district against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of the action or proceeding.

A court awards reasonable attorneys' fees based on rates prevailing in the community in which the action or hearing arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating fees awarded.

Funds under the IDEA Part B may not be used to pay attorney's fees or costs of a party related to an action or proceeding.

Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding for services performed subsequent to the time of a written offer of settlement to you, if:

- The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure; or, in the case of an administrative proceeding, at any time more than ten calendar days before the proceeding begins.
- The offer is not accepted within ten calendar days.
- The court or administrative hearing officer finds that the relief finally obtained by you is not more favorable to you than the offer of settlement.

Attorneys' fees may not be awarded relating to any meeting of the IEP team unless such meeting is convened as a result of an administrative proceeding or court action, or, at the discretion of the State, for mediation.

58974-OKEd-SpecialEd text.indd 272 2/10/11 11:26 AM

DISCIPLINE

AUTHORITY OF SCHOOL PERSONNEL

School personnel may consider any unique circumstances on a case-by-case basis, when determining whether to order a change in placement for a child with a disability who violates a code of student conduct.

School personnel may remove a child with a disability who violates a code of student conduct from their current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days (to the extent such alternatives are applied to children without disabilities).

If school personnel seek to order a change in placement that would exceed ten school days, and the behavior that gave rise to the violation of the school code is determined not to be a manifestation of your child's disability, school personnel may apply the disciplinary procedures to your child in the same manner and for the same duration in which the procedures would be applied to children without disabilities, except the school must provide services to your child.

Your child's IEP team determines the interim alternative educational setting for such services.

These services that must be provided to your child if removed from his or her current placement may be provided in an interim alternative educational setting.

SERVICES

Your child, if removed from his or her current placement for more than ten school days in the same school year must:

- Continue to receive educational services, so as to enable him or her to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals identified in his or her IEP; and receive, as appropriate, an Functional Behavior Assessment (FBA), behavioral intervention services, and modifications that are designed to address the behavior violation so that it does not happen again.

MANIFESTATION DETERMINATIONS

Must occur within ten school days of any decision to change the placement of your child because of a violation of a code of student conduct that results in ten or more consecutive school days, or more than ten cumulative schools days of suspension in the same school year that school officials have determined is a pattern of behavior.

A pattern of behavior may be determined because of the length of each removal, the total time that the student has been removed, the proximity of the removals to one another and whether or the behavior is substantially similar to the student's behavior in previous incidents that resulted in disciplinary removals.

The school district, you, and other relevant members of the IEP team (as determined by you and the school district) must review all relevant information in your child's file, including his or her IEP, any teacher observations, and any relevant information you have provided to determine if:

- The conduct in question was caused by, or was a direct and substantial relationship to, his or her disability.
- The conduct in question was the direct result of the school district's failure to implement his or her IEP.

If the school district, you, and other relevant members of the IEP team determine that either is applicable for your child, the conduct

58974-OKEd-SpecialEd text.indd 273 2/10/11 11:26 AM

must be determined to be a manifestation of your child's disability.

DETERMINATION THAT BEHAVIOR WAS A MANIFESTATION

If the school district, you, and other relevant members of the IEP team determine that the conduct was a manifestation of your child's disability, the IEP team must either:

- Conduct an FBA and implement a behavior intervention plan (BIP) for your child, unless the school district had conducted such assessment prior to such determination and the behavior that resulted in a change in placement.
- If a BIP already has been developed, the IEP team must meet to review the plan, and modify it, as necessary, to address the behavior.

Unless determined to be a special circumstance, the school district must return your child to the placement from which your child was removed, unless you and the school district agree to a change of placement as part of the modification of the BIP.

DETERMINATION THAT BEHAVIOR WAS NOT A MANIFESTATION OF THE DISABILITY

If the result of the review is a determination that the behavior of your child was not a manifestation of your child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to your child in the same manner in which they would be applied to children without disabilities, except that a FAPE must be provided to your child during the term of suspension.

You have the right to request mediation or an expedited due process hearing if you disagree with the manifestation determination.

DISCIPLINARY RECORDS

If the school district initiates disciplinary procedures applicable to all children, the school district must ensure that the special education and disciplinary records of your child are transmitted for consideration by the person(s) making the final determination about the disciplinary action.

INTERIM ALTERNATIVE EDUCATIONAL SETTINGS

Regardless of whether or not the behavior was a manifestation of your child's disability, school personnel may remove a student to an interim alternative educational setting for up to 45 school days if your child:

- Carries or possesses a weapon to school or has a weapon at school, on school premises, or at a school function under the jurisdiction of an SEA or a school district.
- Knowingly has or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a SEA or school district.
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or a school district.

"Serious Bodily Injury" is defined to mean a bodily injury that involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or faculty.

The IEP Team will determine the appropriate services for your child in an Interim Alternative Educational Settings (IAES).

The school has the option of continuing the IAES into the next school year if there are less than 45 school days remaining in the school year in which the incident takes place.

58974-OKEd-SpecialEd text.indd 274 2/10/11 11:26 AM

Not later than the date on which the decision to take disciplinary action is made, the school district must notify you of that decision, and provide you with a procedural safeguards notice.

CHANGE OF PLACEMENT DUE TO DISCIPLINARY REMOVALS

The removal of your child from his or her current educational placement is a change of placement if:

- The removal is more than ten consecutive days.
- Your child has been subjected to a series of removals that constitute a pattern of removal because:
  - The series of removals totaled more than ten school days in a school year.
  - Your child's behavior is substantially similar to your child's behavior in previous incidents that resulted in the series of removals.
  - Of such additional factors as the length of each removal, the total amount of time your child has been removed, and the proximity of the removals to one another.
  - Whether a pattern of removals constitutes a change of placements is determined on a case-by-case basis by the school district, and, if challenged, is subject to review by judicial proceedings.

APPEALS

You may file a due process complaint to request a due process hearing if you disagree with:

- Any decision regarding placement made under the discipline provision.
- The manifestation determination. The school district may file a due process complaint to request a due process hearing if it believes that maintaining the current placement of your child is substantially likely to result in injury to your child or to others.

AUTHORITY OF HEARING OFFICER

A hearing officer must conduct the due process hearing and make a decision. The hearing officer may:

- Return your child to the placement from which your child was removed if the hearing officer determines that the removal was a violation of the requirements described under the heading **Authority of School Personnel**, or that your child's behavior was a manifestation of your child's disability.
- Order a change in the placement of your child to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of your child is substantially likely to result in injury to your child or to others.

These hearing procedures may be repeated, if the school district believes that returning your child to the original placement is substantially likely to result in injury to your child or to others.

The SEA or school district must arrange for an expedited hearing when you request one. Whenever you or the school district file a due process complaint to request such a hearing, a hearing must be held that meets the requirements described under the headings **Due Process Complaint Procedures, Hearings on Due Process Complaints, and Appeal of Decisions; Impartial Review**, except as follows:

- The SEA or school district must arrange for an expedited due process hearing, which must occur within 20 school days of the date the hearing is requested and must result in a determination within ten school days after the hearing.
- Unless you and the school district agree in writing to waive the meeting, or agree to use mediation, a resolution meeting must occur within seven calendar days or

58974-OKEd-SpecialEd text.indd 275 2/10/11 11:26 AM

upon receiving notice of the due process complaint.
- The hearing may proceed, unless the matter has been resolved to the satisfaction of both parties within 15 calendar days of receipt of the due process complaint.

A State may establish different procedural rules for expedited due process hearings than it has established for other due process hearings. Except for the timelines, those rules must be consistent with the rules in this document regarding due process hearings.

A party may appeal the decision in an expedited due process hearing in the same way as they may for decisions in other due process hearings.

PLACEMENT DURING APPEALS

When you or the school district has filed a due process complaint related to disciplinary matters, your child must (unless you and the SEA or school district agree otherwise) remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period of removal provided for and described under the heading **Authority of School Personnel**, whichever comes first.

PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES

If a child who has been determined to be eligible for special education and related services under IDEA Part B, violates a code of student conduct, but the school district had knowledge before the behavior that brought about the disciplinary action that your child was a child with a disability, then your child may assert any of the procedural safeguards described in this notice.

Basis of knowledge for disciplinary matters—A school district must be deemed to have knowledge that a child is a child with a disability if, before the behavior that brought about the disciplinary action occurred:
- You expressed concern in writing that your child is in need of special education and related services to supervisory or administrative personnel of the appropriate education agency, or a teacher of your child.
- You requested an evaluation related to eligibility for special education and related services under Part B of the IDEA.
- Your child's teacher, or other school district personnel, expressed specific concerns about a pattern of behavior demonstrated by your child, directly to the school district's director of special education or to other supervisory personnel of the school district.

Exception—
A school district must not be deemed to have knowledge that your child is a child with a disability:
- If you have not allowed an evaluation of your child.
- If you have refused services for your child.
- Your child has been evaluated and determined not to be a child with a disability under the IDEA Part B.

CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE

If prior to taking disciplinary measures against your child, a school district does not have knowledge that a child is a child with a disability, as described in Basis of Knowledge for Disciplinary Matters and Exceptions, your child may be subjected to the disciplinary measures applied to children without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation of your child during the time period in which your child is subjected to

58974-OKEd-SpecialEd text.indd 276 2/10/11 11:26 AM

disciplinary measures, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, your child remains in the educational placement determined by school authorities, which include suspension or expulsion without educational services.

If your child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school district and information provided by you, the school district must provide special education and related services in accordance with the provision under the IDEA Part B, including the disciplinary requirements described above.

REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES

The IDEA Part B does not:

- Prohibit a school district from reporting a crime committed by a child with a disability to appropriate authorities.
- Prevent Oklahoma State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and Oklahoma State law to crimes committed by a child with a disability.

Transmittal of records—
If a school district reports a crime committed by a child with a disability, the school district:

- Must ensure that copies of your child's special education and disciplinary records are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.
- May transmit copies of your child's special education and disciplinary records only to the extent permitted by Family Education Rights and Privacy Act (FERPA).

REQUIREMENTS FOR UNILATERAL PLACEMENT BY PARENTS OF CHILDREN IN PRIVATE SCHOOLS AT PUBLIC EXPENSE

The IDEA Part B does not require a school district to pay for the cost of education, including special education and related services, of your child with a disability at a private school or facility if the school district made a FAPE available to your child, and you chose to place your child in a private school or facility. However, the school district where the private school is located must include your child in the population whose needs are addressed under Part B provisions of the IDEA regarding children who have been placed by their parents in a private school at 34 CFR §§ 300.131 through 300.144.

Reimbursement for private school placement—

If your child previously received special education and related services under the authority of a school district, and you choose to enroll your child in a private elementary or secondary school without the consent of or referral by the school because you disagree that the IEP being offered your child, a court or a hearing officer may require the school district to reimburse you for the cost of that enrollment. The court or hearing officer must find that the school district had not made a FAPE available to your child in a timely manner prior to that enrollment, and that the private placement is appropriate.

A hearing officer or a court may find your placement to be appropriate, even if the placement does not meet the State standards that apply to education provided by the SEA and the school district.

Limitations on reimbursement—
The cost of reimbursement may be reduced or denied if:

58974-OKEd-SpecialEd text.indd 277 2/10/11 11:26 AM

- At the most recent IEP meeting that you attended prior to removal of your child from the public school, you did not inform the IEP team that you were rejecting the placement proposed by the school district to provide a FAPE to your child, including stating your concerns and your intent to enroll your child in a private school at public expense.
- Ten business days (including any holidays that occur on a business day) prior to the removal of your child from the public school, you did not give written notice to the school district of the information described above.

- Prior to the removal of your child from the public school, the school district provided prior written notice to you, of its intent to evaluate your child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but you did not make your child available for such evaluation.
- Upon a court's finding that your actions were unreasonable.

However, the cost of reimbursement must not be reduced or denied for failure to provide notice if:

- The school district prevented you from providing the notice.
- You cannot read or write in English.
- You had not received notice of your responsibility to provide the notice described above.
- Compliance with the requirements above would likely result in physical harm to your child.

58974-OKEd-SpecialEd text.indd 278 2/10/11 11:26 AM

RESOURCES FOR PARENTS AND SCHOOLS

Alternative Dispute Resolution Program (Mediation) Administrative Office of the Courts
(877) 521-6677 or (405) 522-7876

Joint Oklahoma Information Network (JOIN) 500 North Broadway, Suite 300
Oklahoma City, Oklahoma 73102 Dial 2-1-1

Legal Aid of Western Oklahoma
(405) 521-1302

Legal Services of Eastern Oklahoma
(918) 584-3211
(918) 428-4357 (Hot Line)
(888) 534-5243 (Hot Line)

Office of Juvenile Affairs (OJA) Educational Services
(405) 962-6106

Oklahoma ABLE Tech 1514 West Hall of Fame Stillwater, Oklahoma 74078
(800) 257-1705

Oklahoma Advanced Practice Nurse Coalition
(918) 660-3937

Oklahoma Areawide Services Information System (OASIS)
(800) 426-2747

Oklahoma Assistive Technology Center (OATC) at the University of Oklahoma Health Sciences Center, Department of Rehabilitation Sciences—College of Allied Health 1600 North Phillips Oklahoma City, Oklahoma 73104
(405) 271-3625; (405) 271-1705 (TDD)
(405) 271-1707 (Fax)
(800) 700-OATC (6282)

Oklahoma Assistive Technology Center (OATC) at the University of Oklahoma—Tulsa Department of Rehabilitation Sciences—College of Allied Health
4502 East 41st Street
Tulsa, Oklahoma 74135
(918) 660-3261 or (918) 660-3279
(918) 660-3297 (Fax)

Oklahoma Association of Clinical Nurse Specialists
(405) 951-8214

Oklahoma Board of Nursing
(405) 962-1800

Oklahoma Commission of Children and Youth (OCCY)
(405) 606-4900

Oklahoma Department of Career and Technology Education
(405) 377-2000
(405) 743-6816 TDD

Oklahoma Department of Corrections
(405) 962-6139

Oklahoma Department of Health
(405) 271-5600

Oklahoma Department of Human Services (DHS)
(405) 521-2778

Oklahoma Department of Mental Health & Substance Abuse Services (ODMHSAS)
(405) 522-3908

58974-OKEd-SpecialEd text.indd 279 2/10/11 11:26 AM

Oklahoma Department of Rehabilitation Services (DRS) Office of Disability Concerns
(800) 522-8224 V/TDD
(405) 521-3756 V/TDD
(800) 845-8476
(405) 951-3400 V/TDD
Oklahoma Disability Law Center (ODLC)
(800) 226-5883 V/TDD
Tulsa (918) 743-6220 V/TDD
Oklahoma City (405) 525-7755 V/TDD

Oklahoma Indian Legal Services
(800) 658-1497 or (405) 943-6457

Oklahoma Parent Training and Information Center
(877) 553-4332

Oklahoma State Department of Education (OSDE)

Special Education Services
2500 North Lincoln Boulevard, Room 412
Oklahoma City, Oklahoma 73105-4599
(405) 522-3248 or (405) 521-4875 TTY

Project ECCO (Enriching Children's Communications Opportunities)
(866) 514-9620

Special Education Resolution Center (SERC)
4825 South Peoria, Suite 2
Tulsa, Oklahoma 74105
(888) 267-0028
(918) 712-9632

RECORD OF ACCESS TO EDUCATIONAL RECORDS

NAME OF CHILD: _____ STUDENT ID: _____
FIRST MIDDLE LAST

BIRTHDATE: _____ DISTRICT/AGENCY: _____
MONTH/DAY/YEAR

PARENT(S):_____

PHONE: (WORK) _____ (HOME) _____ (OTHER) _____

HOME ADDRESS: _____
STREET ADDRESS/P.O. BOX CITY STATE ZIP

SIGNATURE	PURPOSE FOR ACCESSING RECORDS	DATE

58974-OKEd-SpecialEd text.indd 281 2/10/11 11:26 AM

RECORD OF PARENT CONTACT

NAME OF CHILD: _____ STUDENT ID: _____
FIRST MIDDLE LAST

BIRTHDATE: _____ DISTRICT/AGENCY: _____
MONTH/DAY/YEAR

PARENT(S):_____

PHONE: (WORK) _____ (HOME) _____ (OTHER) _____

HOME ADDRESS: _____
STREET ADDRESS/P.O. BOX CITY STATE ZIP

SPECIAL INSTRUCTIONS: _____
_____
_____
_____

Date (Month/Day/Year)	Purpose of Contact:
Method of Contact: Mail ☐ Email ☐ Phone ☐ ☐ Other_____	Results:
Person Making Contact:	
Date (Month/Day/Year)	Purpose of Contact:
Method of Contact: Mail ☐ Email ☐ Phone ☐ ☐ Other_____	Results:
Person Making Contact:	
Date (Month/Day/Year)	Purpose of Contact:
Method of Contact: Mail ☐ Email ☐ Phone ☐ ☐ Other _____	Results:
Person Making Contact:	

58974-OKEd-SpecialEd text.indd 283 2/10/11 11:26 AM

RECORD OF PARENT CONTACT

NAME OF CHILD: _____STUDENT ID: _____
FIRST MIDDLE LAST

SPECIAL INSTRUCTIONS:_____
_____

Date (Month/Day/Year) Method of Contact: Mail ☐ Email ☐ Phone ☐ ☐ Other_____ Person Making Contact:	Purpose of Contact: Results:
Date (Month/Day/Year) Method of Contact: Mail ☐ Email ☐ Phone ☐ ☐ Other_____ Person Making Contact:	Purpose of Contact: Results:
Date (Month/Day/Year) Method of Contact: Mail ☐ Email ☐ Phone ☐ ☐ Other _____ Person Making Contact:	Purpose of Contact: Results:
Date (Month/Day/Year) Method of Contact: Mail ☐ Email ☐ Phone ☐ ☐ Other _____ Person Making Contact:	Purpose of Contact: Results:

58974-OKEd-SpecialEd text.indd 284 2/10/11 11:26 AM

REVIEW OF EXISTING DATA (RED)

NAME OF CHILD: _____ STUDENT ID: _____
FIRST MIDDLE LAST

BIRTHDATE: _____ GRADE: _____ AGE: _____ DATE: _____
MONTH/DAY/YEAR MONTH/DAY/YEAR

PARENT(S): _____

PHONE: (WORK) _____ (HOME) _____ (OTHER) _____

HOME ADDRESS: _____ DISTRICT/AGENCY: _____
STREET ADDRESS/P.O. BOX CITY STATE ZIP

BUILDING: _____ SITE CODE: _____ IEP TEACHER OF RECORD: _____

Review by a group of qualified professionals and parent(s) does not require a meeting (34 CFR § 300.305).
If existing records, assessments, or information must be obtained from other sources, the following forms may be utilized: Authority to Transfer Education Records, Consent for the Release of Confidential Information, Medical Report, and/or Vision Report, as appropriate. Parental consent is required for when utilizing the Consent for the Release of Confidential Information form.

SPECIFY PRESENTING CONCERN(S):	**DATA REVIEW** (Check reasons) ☐ Consideration for Initial Evaluation ☐ Consideration for Reevaluation ☐ Other (Explain) _____

Building/Site Level Review of Existing School Information:
Present Levels of Educational Performance (or Age-Appropriate Activities for Preschool Children) _____

_____

_____

Grades/Progress Reports _____ Work Habits _____

Work Samples _____

_____

Assessments of Achievement _____

_____

Attendance History _____ Number of Days Absent This Year _____

Behavior Concerns or Discipline Reports _____

_____

Observations in Classroom or in Age Appropriate Settings _____

_____

Describe Interventions, Instructional Strategies, and Child-Centered Data Collected (e.g., Response to Intervention [RtI], reduced homework assignment, bilingual interpreter) _____

_____

_____

Other Information:

Concerns/Special Considerations of Parent(s) or other sources _____

_____

What are the specific referral concerns/questions to be answered? _____

_____

_____

58974-OKEd-SpecialEd text.indd 285 2/10/11 11:26 AM

RED

NAME OF CHILD: _____STUDENT ID: _____
FIRST MIDDLE LAST

Complete only the areas needed for this child.

AREA	EVALUATION PROCEDURES	PERSON/AGENCY QUALIFICATIONS	DATE (of information)	COMMENTS, FINDINGS, EDUCATIONAL NEEDS
PARENT INFORMATION CONCERNS/COMMENTS ☐ Existing ☐ New Information				
DEVELOPMENTAL ☐ Existing ☐ New Information				
ADAPTIVE BEHAVIOR _____HOME _____SCHOOL _____AGE APPROPRIATE SETTING ☐ Existing ☐ New Information				
SOCIOCULTURAL ☐ Existing ☐ New Information				
HEALTH/MEDICAL ☐ Existing ☐ New Information				
VISION ☐ Existing ☐ New Information				
HEARING ☐ Existing ☐ New Information				
MOTOR ☐ Existing ☐ New Information				
COMMUNICATION/SPEECH AND LANGUAGE ☐ Existing ☐ New Information				

58974-OKEd-SpecialEd text.indd 286 2/10/11 11:26 AM

RED

NAME OF CHILD: _____ STUDENT ID: _____

FIRST MIDDLE LAST

AREA	EVALUATION PROCEDURES	PERSON/AGENCY QUALIFICATIONS	DATE (of information)	COMMENTS, FINDINGS, EDUCATIONAL NEEDS
ACADEMIC: LISTENING COMPREHENSION ☐ Existing ☐ New Information				
ORAL EXPRESSION ☐ Existing ☐ New Information				
BASIC READING SKILLS ☐ Existing ☐ New Information				
READING COMPREHENSION ☐ Existing ☐ New Information				
READING FLUENCY ☐ Existing ☐ New Information				
WRITTEN EXPRESSION ☐ Existing ☐ New Information				
MATHEMATICS CALCULATION ☐ Existing ☐ New Information				
MATHEMATICS PROBLEM SOLVING ☐ Existing ☐ New Information				

RED

NAME OF CHILD: _____STUDENT ID: _____

FIRST MIDDLE LAST

AREA	EVALUATION PROCEDURES	PERSON/AGENCY QUALIFICATIONS	DATE (of information)	COMMENTS, FINDINGS, EDUCATIONAL NEEDS
ASSISTIVE TECHNOLOGY ☐ Existing ☐ New Information				
PERCEPTUAL/PROCESSING ☐ Existing ☐ New Information				
INTELLECTUAL/COGNITIVE ☐ Existing ☐ New Information				
FUNCTIONAL BEHAVIOR ASSESSMENT ☐ Existing ☐ New Information				
PSYCHOLOGICAL SOCIAL/EMOTIONAL ☐ Existing ☐ New Information				
VOCATIONAL ☐ Existing ☐ New Information				
OBSERVATION IN CLASSROOM OR OTHER ENVIRONMENT ☐ Existing ☐ New Information				
OTHER ☐ Existing ☐ New Information				

58974-OKEd-SpecialEd text.indd 288 2/10/11 11:26 AM

RED

NAME OF CHILD: _____ STUDENT ID: _____
FIRST MIDDLE LAST

Background Information:

Native Language/Mode of Communication _____ Primary Language of Home _____

List Schools Previously Attended _____

List Grade(s) Repeated _____ Remedial/Other School Services _____

_____

Previous Individualized Evaluation(s)/Date(s) _____

Special Education Services ☐ None ☐ Previous Disability Category _____

Student Received SoonerStart or Other Early Intervention Services: ☐ Yes ☐ No

If Yes, Describe _____

Pertinent Medical or Health Information _____

List Medication Taken Regularly _____ Reason _____

Describe Physical Limitations or Motor Impairments _____

Services Provided By Outside Professionals/Agencies ☐ Yes ☐ No ☐ Previously ☐ Currently

Describe Services _____

Screening Information:

Date of Last Visual Test/Screening _____ Results _____

Describe Vision Problems _____ Aids/Devices _____

Date of Last Hearing Test/Screening _____ Results _____

Describe Hearing Problems _____ Aids/Devices _____

Date of Last Speech/Language Test/Screening _____ Results _____

Describe Speech/Language Problems _____ Aids/Devices _____

Developmental Screening _____ Results _____

Describe Developmental Problems _____

Other Screening _____ Results _____

Team/Group Recommended Action:

☐ Consultation Services _____

☐ Additional Assessments for Initial Evaluation _____

☐ Additional Assessments for Reevaluation _____

☐ No Additional Assessments Needed

SIGNATURES: (Sign and date when each person reviews. Dates may vary since a meeting is not required for review of existing data and information.)

Regular Education Teacher _____ Date _____

Special Education Teacher _____ Date _____

Administrative Representative _____ Date _____

Other/Qualified Professional _____ Date _____

Parent(s) _____ Date _____

Comments/Concerns _____

_____

_____

_____

_____

58974-OKEd-SpecialEd text.indd 289 2/10/11 11:26 AM

RED

NAME OF CHILD: _____ STUDENT ID: _____
FIRST MIDDLE LAST

DOCUMENTATION OF INTERVENTIONS

Targeted Behavior/Skill:

Goal:

Interventions Attempted:

Frequency and Duration:

Treatment Integrity Data:

Type of Measure Used to Define Outcome:

Was goal accomplished? ☐ Yes ☐ No

Recommended Action:

58974-OKEd-SpecialEd text.indd 290 2/10/11 11:26 AM

PARENT CONSENT

NAME OF CHILD: _____ STUDENT ID: _____
FIRST MIDDLE LAST

BIRTHDATE: _____ GRADE: _____ AGE: _____ DATE: _____
MONTH/DAY/YEAR MONTH/DAY/YEAR

PARENT(S):_____

PHONE: (WORK) _____ (HOME) _____ (OTHER) _____

HOME ADDRESS: _____ DISTRICT/AGENCY: _____
STREET ADDRESS/P.O. BOX CITY/STATE ZIP

Consent is being requested for the following:

☐ Initial Evaluation

☐ Reevaluation

☐ Amendment/Modifications to the Individualized Education Program (IEP)

☐ Access Public Benefits or Insurance (Must be obtained each time the public agency attempts to access; must be voluntary on the part of the parent(s).)

☐ IEP team attendance: Excusal for an IEP team member, in whole or in part

_____ _____ _____
(Name of Member Excused) (LEA Representative) (Date)

☐ Members of outside agency(ies) paying for or providing secondary transition services to attend IEP meetings

_____ _____to _____
(Agency) (Date) (Date)

_____ _____to _____
(Agency) (Date) (Date)

PARENT(S):
Evaluation procedures to be utilized in assessing these areas of functioning are explained on the Written Notice to Parents, OSDE Form 8. I have received an explanation of the proposed evaluation and the evaluation procedures to be utilized. I am aware of the protections provided under the procedural safeguards. I have received a copy of *Parents Rights in Special Education: Notice of Procedural Safeguards*. _____ (Parent Initials)

For additional resources contact your local educational agency (LEA) at the telephone number listed below. You may also contact the Oklahoma State Department of Education (OSDE), Special Education Services (SES) at (405) 522-3248 or by visiting the OSDE-SES Web site located at <www.sde.state.ok.us>.

_____
PARENT SIGNATURE DATE

FROM: _____
SIGNATURE OF DISTRICT/PUBLIC AGENCY OFFICIAL DISTRICT/ AGENCY TELEPHONE DATE

_____
STREET ADDRESS/POST OFFICE BOX CITY STATE ZIP

SCHOOL USE ONLY: Notice sent by: ☐ U.S. Mail Date Mailed _____
☐ Personal Delivery Date Delivered _____

Translation/interpretation needed? ☐ Yes ☐ No If yes, specify how and when provided:_____

School/public agency official's signature verifies that parent(s) have received an explanation in their native language or other mode of communication to accommodate the parent(s) understanding their rights.

58974-OKEd-SpecialEd text.indd 291 2/10/11 11:26 AM

58974-OKEd-SpecialEd text.indd 292 2/10/11 11:26 AM

MULTIDISCIPLINARY EVALUATION AND ELIGIBILITY GROUP SUMMARY (MEEGS)

NAME OF CHILD: _____STUDENT ID: _____
FIRST/MIDDLE/LAST

BIRTHDATE: _____GRADE: _____ AGE: _____ DATE: _____
MONTH/DAY/YEAR MONTH/DAY/YEAR

PARENT(S):_____

PHONE: (WORK) _____ (HOME) _____ (OTHER) _____

HOME ADDRESS: _____ DISTRICT/AGENCY: _____
STREET ADDRESS/P.O. BOX CITY STATE ZIP

BUILDING:_____ SITE CODE:_____IEP TEACHER OF RECORD:_____

Type of evaluation conducted:

☐ Initial Evaluation Date of Parent Consent:_____
The determination of initial eligibility and educational needs must be completed within 45 school days of receiving parental consent for the evaluation.

☐ Reevaluation Date of Parent Consent:_____

☐ Reevaluation where no additional data is needed-*Required to only complete gray areas of form*

On the basis of the review of existing data and parent(s) input the following must be addressed when conducting both initial evaluations and reevaluations:

1. Whether the child has a particular disability, or in the case of reevaluation, continues to have such a disability.
   Check disability category:

   ☐ Autism
   ☐ Deaf-Blindness
   ☐ Developmental Delay - list suspected disability_____
   ☐ Emotional Disturbance
   ☐ Hearing Impairment including Deafness
   ☐ Intellectual Disabilities
   ☐ Multiple Disabilities – list concomitant disabilities_____
   ☐ Orthopedic Impairment
   ☐ Other Health Impairment
   ☐ Specific Learning Disability
   ☐ Speech or Language Impairment
   ☐ Traumatic Brain Injury
   ☐ Visual Impairment including Blindness

2. Present levels of performance and educational needs of the child.

3. Whether the child needs special education and related services, or if a reevaluation, whether the child continues to need those services.

   ☐ YES ☐ NO

4. Whether any additions or modifications to special education and related services are needed to meet the measurable annual goals in the IEP and to participate, as appropriate, in the general curriculum (or age-appropriate activities for preschool children).

   ☐ YES, additions or modifications are needed as follows:

   ☐ NO, additions or modifications are NOT needed at this time.

58974-OKEd-SpecialEd text.indd 293 2/10/11 11:26 AM

MEEGS

NAME OF CHILD: _____STUDENT ID: _____
FIRST MIDDLE LAST

Complete only the areas needed for this child.

AREA	EVALUATION PROCEDURES	PERSON/AGENCY QUALIFICATIONS	DATE (of information)	COMMENTS, FINDINGS, EDUCATIONAL NEEDS
PARENT INFORMATION CONCERNS/COMMENTS ☐ Existing ☐ New Information				
DEVELOPMENTAL ☐ Existing ☐ New Information				
ADAPTIVE BEHAVIOR _____HOME _____SCHOOL _____AGE APPROPRIATE SETTING ☐ Existing ☐ New Information				
SOCIOCULTURAL ☐ Existing ☐ New Information				
HEALTH/MEDICAL ☐ Existing ☐ New Information				
VISION ☐ Existing ☐ New Information				
HEARING ☐ Existing ☐ New Information				
MOTOR ☐ Existing ☐ New Information				
COMMUNICATION/SPEECH AND LANGUAGE ☐ Existing ☐ New Information				

58974-OKEd-SpecialEd text.indd 294 2/10/11 11:26 AM

MEEGS

NAME OF CHILD: _____STUDENT ID: _____

FIRST MIDDLE LAST

AREA	EVALUATION PROCEDURES	PERSON/AGENCY QUALIFICATIONS	DATE (of information)	COMMENTS, FINDINGS, EDUCATIONAL NEEDS
ACADEMIC: LISTENING COMPREHENSION ☐ Existing ☐ New Information				
ORAL EXPRESSION ☐ Existing ☐ New Information				
BASIC READING SKILLS ☐ Existing ☐ New Information				
READING COMPREHENSION ☐ Existing ☐ New Information				
READING FLUENCY ☐ Existing ☐ New Information				
WRITTEN EXPRESSION ☐ Existing ☐ New Information				
MATHEMATICS CALCULATION ☐ Existing ☐ New Information				
MATHEMATICS PROBLEM SOLVING ☐ Existing ☐ New Information				

58974-OKEd-SpecialEd text.indd 295 2/10/11 11:26 AM

MEEGS

NAME OF CHILD: _____STUDENT ID: _____

FIRST MIDDLE LAST

AREA	EVALUATION PROCEDURES	PERSON/AGENCY QUALIFICATIONS	DATE (of information)	COMMENTS, FINDINGS, EDUCATIONAL NEEDS
ASSISTIVE TECHNOLOGY ☐ Existing ☐ New Information				
PERCEPTUAL/PROCESSING ☐ Existing ☐ New Information				
INTELLECTUAL/COGNITIVE ☐ Existing ☐ New Information				
FUNCTIONAL BEHAVIOR ASSESSMENT ☐ Existing ☐ New Information				
PSYCHOLOGICAL SOCIAL/EMOTIONAL ☐ Existing ☐ New Information				
VOCATIONAL ☐ Existing ☐ New Information				
OBSERVATION IN CLASSROOM OR OTHER ENVIRONMENT ☐ Existing ☐ New Information				
OTHER ☐ Existing ☐ New Information				

58974-OKEd-SpecialEd text.indd 296 2/10/11 11:26 AM

MEEGS – Additional Procedures and Requirements for Specific Learning Disabilities

NAME OF CHILD: _____STUDENT ID: _____
FIRST MIDDLE LAST

Additional Procedures and Requirements for Specific Learning Disabilities

Describe Differentiated Instructional Strategies Attempted (Tier 1):

_____
_____
_____
_____
_____

Describe Interventions (Tier 2):

_____
_____
_____
_____
_____
_____

Summary of behavior(s) noted during the observation and the relationship of that behavior to the child's academic functioning:

_____
_____
_____
_____
_____

When provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards the child does not achieve adequately in the following achievement area(s):

(Check all areas that apply):

- ☐ Oral Expression
- ☐ Listening Comprehension
- ☐ Reading Fluency Skills
- ☐ Basic Reading Skills
- ☐ Reading Comprehension
- ☐ Written Expression
- ☐ Mathematics Calculation
- ☐ Mathematics Problem Solving

Ruled out as the primary cause of learning problems:

- ☐ Physical/Sensory Impairments
- ☐ Intellectual Disabilities
- ☐ Emotional Disturbance
- ☐ Environmental or Economic Disadvantage
- ☐ Cultural Factors

Basis for making the determination: (Select one)

☐ **Response to scientific, research-based intervention**	**OR**	☐ **A severe discrepancy between ability and achievement**
List child-centered data collected:		A discrepancy of at least 1.5 standard deviations between ability and achievement exists in the following areas:

The parent(s) has been notified of their right to request an evaluation if using response to scientific, research-based intervention.
DATE: _____

Effective Strategies for increasing child's rate of learning (Tier 3):

_____
_____
_____

58974-OKEd-SpecialEd text.indd 297 2/10/11 11:26 AM

MEEGS

NAME OF CHILD: _____STUDENT ID: _____
FIRST MIDDLE LAST

Ruled out as determining factor:

☐ Limited English proficiency ☐ Lack of instruction in Mathematics
☐ Lack of appropriate instruction in Reading, including the essential components of reading instruction

Summary and Conclusions

Conclusions of the multidisciplinary evaluation and adverse effects on educational performance:

If this child is not eligible for special education and related services, what are recommendations to address educational needs?

Evaluation and Eligibility Group (Eligibility determination is made by a group of qualified professionals and the parent[s].)

_____ ☐ Agree ☐ *Disagree
Parent Date
_____ ☐ Agree ☐ *Disagree
Parent Date
_____ ☐ Agree ☐ *Disagree
Special Education Teacher Date
_____ ☐ Agree ☐ *Disagree
Regular Education Teacher Date
_____ ☐ Agree ☐ *Disagree
Administrative Representative Date
_____ ☐ Agree ☐ *Disagree
Qualified Examiner Date
_____ ☐ Agree ☐ *Disagree
Other Date
_____ ☐ Agree ☐ *Disagree
Other Date

***Group members who disagree must submit separate statements presenting their conclusions**. (Complete the Comment Form as necessary.)

An explanation of the evaluation procedures, evaluation results, and the eligibility determination has been provided to the parent(s) as participants in the group. ☐ Yes ☐ No

Parent(s) of a child with a disability have protection under the procedural safeguards of the IDEA.

Parent(s) have received ***Parents Rights in Special Education: Notice of Procedural Safeguards***. ☐ Yes ☐ No
Parent Initial: _____

Translation/Interpretation needed? ☐ Yes ☐ No If yes, specify how and when provided: _____

58974-OKEd-SpecialEd text.indd 298 2/10/11 11:26 AM

NOTIFICATION OF MEETING

NAME OF CHILD: _____ STUDENT ID: _____
FIRST MIDDLE LAST

BIRTHDATE: _____ GRADE: _____ AGE: _____ DATE: _____
MONTH/DAY/YEAR MONTH/DAY/YEAR

PARENT(S):_____

PHONE: (WORK) _____ (HOME) _____ (OTHER) _____

HOME ADDRESS: _____ DISTRICT/AGENCY: _____
STREET ADDRESS/P.O. BOX CITY STATE ZIP

TO: _____
PARENT AND CHILD (IF TRANSITION SERVICES ARE BEING CONSIDERED)

We would like to meet with you regarding the following:

- ☐ Evaluation/eligibility/identification of disability requiring special education services
- ☐ Placement/Individualized Education Program (IEP)
- ☐ Transition from early intervention services to preschool
- ☐ Review of placement/IEP
- ☐ Reevaluation to determine disability and nature, extent of special education and related services needed
- ☐ Consideration of needed transition services (beginning during the ninth grade year or upon turning 16 years of age, whichever occurs first)
- ☐ Consideration of Extended School Year (ESY) services
- ☐ Other options to be considered (if applicable): _____

LOCATION OF MEETING (Building/Room)	ADDRESS
on _____	at _____
DATE	TIME

This meeting will provide an opportunity to discuss your child's educational program and any changes that may be necessary for provision of appropriate services. Students must be invited to attend meetings for the purpose of considering transition services beginning not later than the first IEP developed during the student's ninth grade year or upon turning 16 years of age, whichever occurs first. As the parent, you will decide whether your minor child will attend. Representative(s) from agencies that may be responsible for providing transition services shall be invited to the meeting, with prior written parental consent. At your discretion or the agency's discretion, other individuals who have knowledge or special expertise regarding the child may also be a member of the IEP Team.

The persons indicated below are required to attend:	The persons selected below are invited to attend:	
Parent	☐Related Service Provider(s)	☐IDEA Part C Representative
Regular Education Teacher	☐Vocational Rehabilitation Counselor	☐Other_____
Special Education Teacher	☐Student	☐Other_____
Administrative Representative	☐Qualified Examiner	☐Other_____

Please contact the person at the address, phone number, or email address below by _____/_____/_____ as to whether you can meet at the mutually agreed upon time and place suggested or if other arrangements convenient for you should be made. If neither parent can attend, the agency shall make other methods of participation available to the parent, including individual or conference telephone calls and copies of the IEP. Your child's educational program and services will not be changed prior to the meeting to ensure your opportunity to participate. Translation/interpretation will be arranged upon request. Parents have protection under the procedural safeguards. If you have any questions regarding this notice or your rights, please contact the person listed on this form. Additional resources can be located within the *Parents Rights in Special Education: Notice of Procedural Safeguards*. To obtain a copy, contact <autofill special education teacher>.

FROM: _____
SIGNATURE OF DISTRICT/PUBLIC AGENCY OFFICIAL DISTRICT/AGENCY TELEPHONE DATE

_____
STREET ADDRESS/P.O. BOX CITY STATE ZIP EMAIL ADDRESS

SCHOOL USE ONLY: Notice sent by: ☐ U.S. Mail Date Mailed _____
☐ Personal Delivery Date Delivered _____

Translation/interpretation needed? ☐ Yes ☐ No If yes, specify how and when provided:_____

School/public agency official's signature verifies that parent(s) have received an explanation in their native language or other mode of communication to accommodate the parent(s) understanding their rights.

58974-OKEd-SpecialEd text.indd 299 2/10/11 11:26 AM

58974-OKEd-SpecialEd text.indd 300 2/10/11 11:26 AM

INDIVIDUALIZED EDUCATION PROGRAM (IEP)

NAME OF CHILD: _____ STUDENT ID: _____
FIRST MIDDLE LAST

BIRTHDATE: _____ GRADE: _____ AGE: _____
MONTH/DAY/YEAR

PARENT(S):_____

PHONE: (WORK) _____ (HOME) _____ (OTHER) _____

HOME ADDRESS: _____ DISTRICT/AGENCY: _____
STREET ADDRESS/P.O. BOX CITY STATE ZIP

BUILDING:_____ SITE CODE: _____ IEP TEACHER OF RECORD:_____

☐ INITIAL IEP:_____ ☐ INTERIM IEP:_____ ☐ SUBSEQUENT IEP:_____ ☐ AMENDED or MODIFIED:_____
DATE DATE DATE DATE

Present Levels of Academic Achievement and **Functional Performance:** Document current evaluation data and write objective statements, (may include most recent statewide and districtwide assessments) to demonstrate how the child's disability affects the child's involvement, functional performance, and progress in the general education curriculum and postsecondary transition, as appropriate. For students of transition age, document transition assessment results as they relate to the postsecondary goal(s). For preschool children, describe how the disability affects the child's participation in age appropriate activities.

Current Assessment Data	Objective Statements

58974-OKEd-SpecialEd text.indd 301 2/10/11 11:26 AM

IEP – Strengths/Needs, Special Factors, and Parent Concerns Page

List **strengths of the child** and a statement of the **anticipated effects** on the child's participation in the general education curriculum or appropriate activities.	List the **educational needs** resulting from the child's disability, which may require special education, related services, supplementary aids, supports for personnel, or modifications.
Strengths:	
Anticipated Effects:	

Consideration of special factors: Check yes or no whether the IEP team considers each special factor to be relevant to this child.

Yes	No	
☐	☐	Strategies, positive behavior interventions and supports, as appropriate, if behavior impedes learning of self or others
☐	☐	Language needs as related to the IEP for a child with limited English proficiency (LEP)
☐	☐	Instruction and use of Braille if child is blind or visually impaired, unless determined inappropriate based on evaluation.
☐	☐	Communication needs, and for child who is deaf or hard of hearing, the language and communication needs and opportunities for communication and instruction in the child's native language and communication mode
☐	☐	Whether this child requires assistive technology devices and service

For special factors checked yes, explain determinations of the team as to whether services are required in the IEP.

Parent Concerns for Enhancing the Child's Education:

IEP – Goals Page

NAME OF CHILD: _____STUDENT ID:_____
FIRST MIDDLE LAST

Annual Goals:
Provide measurable annual goals, including academic and functional goals to enable the child to be involved in and make progress in the general education curriculum (for a preschool child in the appropriate activities), and to meet other educational needs that result from the disability.

GOAL # _____

Parents are to be informed of progress in annual goals, in addition to general education academic performance reports. Describe **how often** this will occur and **what methods** will be utilized.	Record the extent of progress toward achieving the annual goals by the end of the year (i.e., one-half, two-thirds, fifty percent, passing grades in general curriculum).					
	DATE	**DATE**	**DATE**	**DATE**	**DATE**	**DATE (ESY)**
How will the extent of progress toward annual goals be measured?						

GOAL # _____

Parents are to be informed of progress in annual goals, in addition to general education academic performance reports. Describe **how often** this will occur and **what methods** will be utilized.	Record the extent of progress toward achieving the annual goals by the end of the year (i.e., one-half, two-thirds, fifty percent, passing grades in general curriculum).					
	DATE	**DATE**	**DATE**	**DATE**	**DATE**	**DATE (ESY)**
How will the extent of progress toward annual goals be measured?						

GOAL # _____

Parents are to be informed of progress in annual goals, in addition to general education academic performance reports. Describe **how often** this will occur and **what methods** will be utilized.	Record the extent of progress toward achieving the annual goals by the end of the year (i.e., one-half, two-thirds, fifty percent, passing grades in general curriculum).					
	DATE	**DATE**	**DATE**	**DATE**	**DATE**	**DATE (ESY)**
How will the extent of progress toward annual goals be measured?						

COMMENTS:

IEP – Goals and Short-Term Objective/Benchmark Page

NAME OF CHILD: _____STUDENT ID:_____
FIRST MIDDLE LAST

Annual Goals:
Provide measurable annual goals, including academic and functional goals to enable the child to be involved in and make progress in the general education curriculum (for a preschool child in the appropriate activities), and to meet other educational needs that result from the disability.

Short-term Objectives or Benchmarks: In addition to Annual Goals, provide at least two short-term objectives or benchmarks per goal for children who take alternate assessments aligned to alternate achievement of the standards.

GOAL # _____

SHORT-TERM OBJECTIVE/BENCHMARK #_____

SHORT-TERM OBJECTIVE/BENCHMARK #_____

SHORT-TERM OBJECTIVE/BENCHMARK #_____

SHORT-TERM OBJECTIVE/BENCHMARK #_____

Parents are to be informed of progress in annual goals, in addition to general education academic performance reports. Describe **how often** this will occur and **what methods** will be utilized.	Record the extent of progress toward achieving the annual goals by the end of the year (i.e., one-half, two-thirds, fifty percent, passing grades in general curriculum).					
	DATE	**DATE**	**DATE**	**DATE**	**DATE**	**DATE (ESY)**
How will the extent of progress toward annual goals be measured?						

COMMENTS:

IEP – Transition Services Plan – Goals and Activities Page

(Beginning not later than the first IEP developed during the student's ninth grade year, or upon turning 16 years of age, whichever occurs first)

NAME OF CHILD: _____ STUDENT ID: _____
FIRST MIDDLE LAST

Postsecondary Goal(s): _____

_____

_____

Annual Transition Goals

Provide measurable annual transition goals to assist the young adult in working toward their postsecondary goal(s). The annual transition goal(s) must include academic and functional goals to enable the young adult to be involved in and make progress in the general education curriculum and in community experiences. For a young adult beginning with the first IEP developed during the student's ninth grade year or upon turning 16 years of age, whichever occurs first, postsecondary goal(s) based upon age appropriate transition assessments related to education/training, employment, and where appropriate, independent living skills, and to meet other educational needs that result from the disability. **For young adults being taught to alternate achievement of the standards, include a minimum of two (2) short-term objectives or benchmarks for each annual goal.**

Education/Training Goal(s)	**Short-Term Objectives/Benchmarks (as needed)**

Coordinated Activities	**Responsible Party(ies)**

Parents are to be informed of progress in annual goals, in addition to general education academic performance reports. Describe **how often** this will occur and **what methods** will be utilized.	Extent of progress toward achieving the annual transition goals by the end of the year (i.e., one-half, two-thirds, fifty percent, passing grades in general curriculum).					
	DATE	**DATE**	**DATE**	**DATE**	**DATE**	**DATE (ESY)**
How will the extent of progress toward annual goals be measured?						

Employment Goal(s)	**Short-Term Objectives/Benchmarks (as needed)**

Coordinated Activities	**Responsible Party(ies)**

Parents are to be informed of progress in annual goals, in addition to general education academic performance reports. Describe **how often** this will occur and **what methods** will be utilized.	Extent of progress toward achieving the annual transition goals by the end of the year (i.e., one-half, two-thirds, fifty percent, passing grades in general curriculum).					
	DATE	**DATE**	**DATE**	**DATE**	**DATE**	**DATE (ESY)**
How will the extent of progress toward annual goals be measured?						

Initial IEP Date_____ Interim IEP Date_____ Subsequent IEP Date_____

58974-OKEd-SpecialEd text.indd 305 2/10/11 11:26 AM

IEP – Transition Services Plan – Transition Goals/Course of Study

(Beginning not later than the first IEP developed during the student's ninth grade year or upon turning 16 years of age, whichever occurs first.)

NAME OF CHILD: _____ STUDENT ID: _____
FIRST MIDDLE LAST

Independent Living Goal(s) (if appropriate)	**Short-Term Objectives/Benchmarks (as needed)**
Coordinated Activities	**Responsible Party(ies)**
Parents are to be informed of progress in annual goals, in addition to general education academic performance reports. Describe **how often** this will occur and **what methods** will be utilized.	Extent of progress toward achieving the annual transition goals by the end of the year (i.e., one-half, two-thirds, fifty percent, passing grades in general curriculum).
How will the extent of progress toward annual goals be measured?	

DATE	DATE	DATE	DATE	DATE	DATE (ESY)

Build a course of study, to be updated annually, to assist the young adult in achieving their postsecondary goal(s):

Grade _____	**Grade** _____	**Grade** _____

Grade _____	**Grade** _____	
		Projected date of graduation/program completion and type:
		_____
		_____
		☐ Standard Diploma
		☐ General Education Development (GED)
		☐ Other _____

In planning the course of study, is information needed regarding opportunities for vocational education (e.g., high school vocational education courses, school-based training, work study programs, technology education, or area career technology center programs)?
☐ Yes ☐ No
If yes, document date(s) when information was provided to young adult and parent(s). Date: _____

By age 16, the young adult has been referred to the vocational rehabilitation counselor in the young adult's school district.
☐ Yes ☐ No
Person responsible for the referral: _____ Date: _____
Name of the Vocational Rehabilitation Counselor: _____

Have the young adult and parent(s) been provided a copy of the referral form? ☐ Yes ☐ No
If no, explain why. _____
If yes, explain how. _____

By age 17, have young adult and parent(s) been informed of any transfer of rights at age of majority? ☐ Yes ☐ No
If no explain why: _____
Comments: _____

Initial IEP Date_____ Interim IEP Date_____ Subsequent IEP Date_____

58974-OKEd-SpecialEd text.indd 306 2/10/11 11:26 AM

IEP – Services Page

NAME OF CHILD: _____STUDENT ID:_____
FIRST MIDDLE LAST

Special Education Services: List each special education service.				
Type of Service(s)	Amount of Services (Time and Frequency)	Starting Date	Ending Date	Person Responsible (Title)

Related Services: List each related service necessary for the child to benefit from special education.					
Type of Service(s)	Location of Services	Amount of Services (Time and Frequency)	Starting Date	Ending Date	Person Responsible (Title)

Provide an explanation of the extent, if any, to which the child will not participate with nondisabled children in the general education curriculum or age-appropriate activities:

The **continuum of placements** for the least restrictive environment (LRE) includes regular classes full-time, special classes part-time or full-time, public/private separate day school facility, public/private residential facility, home instruction/hospital environment, correctional facility, or parentally placed in private schools. For preschool children (aged 3 through 5), the continuum includes early childhood program, special education program, residential facilities, home, service provider location.
Continuum of Placement:

Amount of time in general education setting: _____ of _____ periods per day **OR** _____ % of instructional day.
If block schedule, describe:

Is this child's instructional day the same length as nondisabled peers? ☐ Yes ☐ No
If no, describe the reason(s) for a shortened school day:

☐ Regular PE ☐ Adapted PE ☐ NA If not applicable provide justification:	List modifications necessary for this child to participate in regular PE (specially designed adapted PE, if needed, must be addressed on the IEP):

Supplementary aids and services, program modifications and/or supports for personnel in general education or other education-related settings not otherwise addressed as special education or related services:

Supplementary aids and services:	**Location/Class/Settings**
Program modifications:	**Location/Class/Settings**
Supports for personnel:	**Location/Class/Settings**

IEP – Signature Page

NAME OF CHILD: _____STUDENT ID:_____
FIRST MIDDLE LAST

State and Districtwide Assessment Programs

Child will participate in: ☐ Oklahoma Core Curriculum Tests (OCCT) ☐ Alternate Assessment (OAAP or OMAAP)
If the child is participating in alternate assessment, has the IEP team considered the guidelines for participation in alternate assessment?
☐ Yes ☐ No If no, explain why:
If the child is participating in an alternate assessment, how will the child be assessed? ☐ OAAP Portfolio ☐ OMAAP
If the child is participating in OMAAP, list each subject for which the child will participate.

Specify state approved accommodations used in **each** test administration.

Extended School Year (ESY) Services

ESY Services: ☐ Requires further data; will reconvene by ___/____/___ ☐ are necessary ☐ are not necessary
If necessary, describe services provided:

Documentation of LRE Placement Considerations

Describe continuum of placements considered and reasons determined not appropriate:

Is this placement in the school the child would normally attend if nondisabled? ☐ Yes ☐ No
If no, is the placement as close as possible to the child's home? ☐ Yes ☐ No
If no, explain why the IEP requires other arrangements:

Explain considerations of potential harmful effects on the child or the quality of services needed:

When special classes, separate schools/facilities, or other removal from the general education environment occurs, describe how the nature and severity of the disability is such that education in general education classes, with the use of supplementary aids and services, cannot be achieved satisfactorily:

Date of next IEP _____Date of next 3 year reevaluation _____
FROM INITIAL FROM INTERIM FROM SUBSEQUENT

Team Participant Signatures:

Parent(s)_____	Date _____	☐ Agree	☐ *Disagree
Special Education Teacher_____	Date _____	☐ Agree	☐ *Disagree
Regular Education Teacher _____	Date _____	☐ Agree	☐ *Disagree
Administrative Representative_____	Date _____	☐ Agree	☐ *Disagree
Student _____	Date _____	☐ Agree	☐ *Disagree
Other_____	Date _____	☐ Agree	☐ *Disagree

***Team members who disagree may submit separate statements presenting their conclusions. (Complete Comment Form as necessary.)**

If parent(s) did not attend the IEP meeting, explain other methods to ensure parent participation (and/or child as appropriate):
(e.g., conference call, videoconference, home visit)

Parent(s) have protection under the procedural safeguards.
Parent(s) received *Parents Rights in Special Education: Notice of Procedural Safeguards*
☐ Yes ☐ No
Parent(s) received *Parent Survey* form and *business reply* envelope:
☐ Yes ☐ No

Translation/Interpretation needed: ☐ Yes ☐ No
If yes, specify how provided: _____

Parent Initial: _____

Parent consent for initial placement (consent is voluntary and may be revoked at any time) ☐ Yes ☐ No

Parent Signature: _____ Date: _____

oklahoma state department of education
special education services
"changing times in special education"

OKLAHOMA STATE DEPARTMENT OF EDUCATION

INSTRUCTIONS FOR COMPLETING THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

FIRST PAGE OF THE IEP

1) Name of Student:

Indicate the student's full name.

2) Student ID:

Indicate the student's school ID number, as appropriate. This should be the student's student testing number (STN).

3) Birthdate:

Indicate the month, day, and year the student was born.

4) Grade:

Indicate the student's grade in school on the date of the IEP meeting.

5) Age:

Indicate the age of the student on the date of the IEP meeting.

6) Parent(s):

Indicate the parents' full name(s).

7) Phone:

Indicate a work, home, and other contact telephone number for the parent(s).

8) Home Address:

Indicate the mailing address of the parent(s).

58974-OKEd-SpecialEd text.indd 309 2/10/11 11:26 AM

9) District/Agency:

Indicate the school district or agency responsible for the student's education.

10) Building:

Indicate the name of the building/school in which the student receives special education and related services.

11) Site Code:

Indicate the site code number for the building in which the student receives special education or related services.

12) IEP Teacher of Record:

Indicate the first and last name of the special education teacher who is responsible for this student's IEP. This teacher is the one who carries this student on his or her caseload. The LEA shall ensure that IEPs are developed, reviewed, and revised by at least one properly qualified special education teacher.

13) IEP Type:

Check only one: Initial, Interim, or Subsequent IEP. An initial IEP is developed upon first determination of eligibility and placement, regardless of a change in category (i.e., speech to learning disabilities). The purpose of an Interim IEP is to aid in determining the appropriate placement for a student who has been determined to be eligible for special education and related services. The Interim IEP must include specific conditions and timelines which shall **not** exceed 30 calendar days. Subsequent IEPs are developed annually.

14) Amended or Modified:

When the IEP team convenes to amend or modify components of the IEP without developing a subsequent IEP, please indicate the date in which the team made the amendment. Amendments or modifications are intended to allow minor changes in the IEP; however, **amending or modifying an IEP does not extend the ending IEP date**. For example, if an IEP team develops a subsequent IEP for a student on January 15, 2010, and meets to amend or modify the IEP in July, the ending date for the IEP will continue to be January 15, 2011.

15) Present Levels of Academic Achievement and Functional Performance:

The present levels of performance provide a starting point from which to measure progress toward the annual goals. The statement of present levels of academic achievement and functional performance will be different for each student. Thus, the content of the statement for an individual student is determined by participants in the IEP team; however, the following points should be considered.

The statement should include current evaluation data (may include state mandated testing and classroom assessments) and objective statements accurately describing how the disability affects the student's involvement and progress in the general education curriculum, including academic areas (e.g., reading, math, communication), postsecondary transition, as appropriate, and participation in nonacademic areas (e.g., daily life activities and mobility).

58974-OKEd-SpecialEd text.indd 310 2/10/11 11:26 AM

For the preschool student, describe how the disability affects participation in developmentally and age-appropriate activities.

For students of transition age, document transition assessment results as they relate to the postsecondary goal(s).

Transition assessments may include, but are not limited to, vocational interests, broad-based transition assessments, self-determination assessments, interest inventories, life skills assessments, academic assessments, and social assessments. Assessment results should give an indication of where the student is on reaching his or her postsecondary goal(s). Assessment results shall be used to determine annual transition IEP goals necessary for the student to develop skills that will enable him or her to reach postsecondary goal(s). The type of assessment utilized for each student will vary based on the student's needs, strengths, preferences, and interests, and may change from year to year, depending on progress achieved each year.

Disability categories, such as mental retardation or deafness, may not be used as a substitute for the description of present levels of performance.

This information should be measurable and written in factual terms, to the extent possible. Data from the student's most recent evaluations would be a good source of information. Test scores that are pertinent to the student's eligibility might be included; however, the information listed should be self-explanatory and readily interpreted by participants without the use of test manuals or other aids, or an explanation should be included (raw scores would not usually be sufficient). Current classroom-based assessments and observations by teachers and service providers should be considered.

There should be a direct relationship between the present levels of educational performance, the annual goals, and the other components of the IEP.

IEP-STRENTHS/NEEDS, SPECIAL FACTORS, AND PARENT CONCERNS PAGE:

1) Strengths and Anticipated Effects:

The statements of strengths for initial placement would be identified through the student's multidisciplinary evaluation. For subsequent IEPs, sources of this information include the ongoing IEP data, any additional reevaluation data, and existing data.

Indicate strengths of the student and describe the anticipated effects on the student's participation in the general curriculum. Include areas that will aid the student in attaining progress in the general curriculum (or for preschool-aged students, age-appropriate activities). For example, a student may be strong in the area of problem solving. This strength will enable the student to think through steps before taking action, and evaluate courses of action prior to making a final decision. The thought process behind the student's problem solving will provide a more thorough result.

2) Educational Needs:

Indicate areas of educational needs as a result of the student's disability which may require special education, related services, supplementary aids, and supports for school personnel, or modifications. These areas are to be considered in determining measurable annual goals and short-term objectives

58974-OKEd-SpecialEd text.indd 311 2/10/11 11:26 AM

or benchmarks. Educational needs that may require certain services (e.g., transportation, transition, adapted physical education, core academic subjects, and related services) must be included.

3) Consideration of Special Factors:

If the IEP team considers a special factor to be relevant for the student, please mark the box "yes." If the IEP team did not consider a special factor to be relevant to the student, please mark the box "no." Each special factor must have a designated mark.

Special factors to be considered include:

- Strategies, positive behavior interventions and supports, as appropriate, if behavior impedes learning of self or others.
- Language needs as related to the IEP for a student with LEP.
- Instruction and use of Braille if the student is blind or visually impaired, unless determined inappropriate based on evaluation.
- Communication needs, and for student who is deaf or hard of hearing, the language and communication needs and opportunities for communication and instruction in the student's native language and communication mode.
- Whether this student required assistive technology devices or services.

For special factors checked "yes," the team must explain determinations as to whether services are required in the IEP. The team must document how these special factors will be addressed to meet the student's needs.

4) Parent concerns:

Document any parent concerns for enhancing the education of the student. The team shall consider these concerns when addressing relevant components of the IEP. It is best practice not to leave this area blank. If parents have additional concerns or disagreements they may document these concerns on the Comment Form and attach to the IEP.

IEP-GOALS PAGE:
For students who are being taught on grade level standards, including preschool students, the IEP team will use the IEP goals page to document annual IEP goals.

1) Student's Name:

Please indicate the student's full name.

2) Student ID:

Indicate the student's school ID number, as appropriate. This should be the student's student testing number (STN).

58974-OKEd-SpecialEd text.indd 312 2/10/11 11:26 AM

3) Annual Goal:

For students who are taught to grade-level standards or grade-level modified achievement standards, including preschool students, utilize this page to document annual IEP goals. Provide measurable annual goals, including academic and functional goals, to enable the student to be involved in and make progress in the general education curriculum (for preschool students, in the appropriate activities), and to meet other educational needs that result from the disability.

4) How will extent of progress toward annual goals be measured:

Indicate how the student's progress on each of the annual IEP goals will be measured (e.g., a specific assessment tool, work product or other data collection method). 5) Informing parents of progress: Parent(s) of students with disabilities are to be informed of their progress in annual goals, in additional to general education academic performance reports. Describe how often the parent(s) will be informed of progress on IEP goals and what methods will be utilized.

6) Extent of progress toward achieving annual goals:

Indicate the extent to which the student achieved his or her annual IEP goal(s) and the date for which you are reporting. Progress should be documented numerically using percent, number achieved, or other calculation method.

7) Comments:

This box may be utilized if any IEP team member has additional comments about goals or progress.

EXAMPLES

> "Elijah will demonstrate math skills at the 5th grade level as identified in the general curriculum with 70% accuracy or better."
>
> "Christa will demonstrate appropriate behavior as defined by the student handbook with no more than 3 discipline referrals for a 9-week period."
>
> "Jaden will sit and attend during circle time for 10 minutes independently 4 out of 5 times."

IEP-GOALS AND OBJECTIVES PAGE:
For students who are being taught to grade level alternate achievement of the standard, the IEP team will use the IEP Goals and Objective page to document annual IEP goals and benchmarks or short-term objectives.

1) Student's Name:

Please indicate the student's full name.

2) Student ID:

Indicate the student's school ID number, as appropriate. This should be the student's student testing number (STN).

58974-OKEd-SpecialEd text.indd 313 2/10/11 11:26 AM

3) Annual Goal:

For students who are taught to grade-level alternate achievement of the standard, utilize this page to document annual IEP goals and benchmarks or short-term objectives. Provide measurable annual goals, including academic and functional goals, to enable the student to be involved in and make progress in the general education curriculum and to meet other educational needs that result from the disability.

4) Short-Term Objectives or Benchmarks:

For students who are being taught to grade-level alternate achievement of the standard, include benchmarks or short-term objectives for each annual goal. **There must be at least two Short-Term Objectives/benchmarks per goal**. However, it is up to each IEP team to determine the steps the student will need to take/master to achieve the annual IEP goal.

Short-term Objectives or Benchmarks: (Students who take alternate assessment aligned to grade-level alternate achievement of the standard.)

Short-term objectives generally break down the skills described in the annual goal into discrete components. Benchmarks describe the amount of progress the student is expected to make within specified segments of the year. Benchmarks establish expected performance levels that allow for regular checks of progress that coincide with the reporting periods for informing parents of their student's progress toward achieving the annual goals. The benchmarks or short-term objectives are measurable steps or criteria that reflect progress toward the annual goals and meet the student's educational needs resulting from the disability.

Each IEP annual goal should include at least two short-term objective/benchmarks or intermediate steps. The short-term objectives or benchmarks build on each other to determine progress toward the annual goal.

Short-Term Objectives or Benchmarks should be based upon the annual goal and state:

- **Who**: The person who will perform the behavior.
- **Will do what**: The specific, measurable, and observable behavior or skills to be performed, including a verb that tells what the learner will do.
- **Under what conditions**: This may indicate what specific assistance or help will be given to the student to accomplish the skill. Conditions also include settings or circumstances in which the student will perform the skill or additional criteria.
- **How well**: The student must successfully perform the skill listed in the benchmark or objective to accomplish the progress criteria, milestones, or steps for meeting the annual goal. This could be expressed in fractions, percentages, frequency rates, scores, or phrases.

The short-term objectives or benchmarks may include projected dates to accomplish the skill or behavior and/or certain times or circumstances when these will be demonstrated. Progress criteria, including specific evaluation procedures and schedules, will be reflected for short-term objectives or benchmarks.

The IEP is not intended to be a detailed instructional plan, but it serves as the basis for developing such plans by the teacher and persons responsible for the IEP. The IEP goals focus on addressing the

58974-OKEd-SpecialEd text.indd 314 2/10/11 11:26 AM

academic achievement and functional performance needs resulting from the student's disability that interfere with learning and educational performance.

An IEP is not required to include annual goals that relate to areas of the general education curriculum in which the student's disability does not affect the student's ability to be involved in and progress in the general curriculum. If a student with a disability needs only modifications or accommodations in order to progress in an area of the general curriculum, the IEP does not need to include a goal for that area; however, the IEP would need to specify those modifications or accommodations.

Additionally, the IEP, through its goals, sets the general direction to be taken for implementing the IEP and determining progress.

5) Informing parent(s) of progress:

Parent(s) of students with disabilities are to be informed of their progress in annual goals, in additional to general education academic performance reports. Describe how often the parent(s) will be informed of progress on IEP goals and what methods will be utilized.

6) Extent of progress toward achieving annual goals:

Indicate and record the extent to which the student achieved his or her annual IEP goal(s) and the date of which you are reporting. Progress should be documented numerically using percent, number achieved, or other calculation method.

7) How extent of progress toward annual goals will be measured:

Indicate how the student's progress on each of the annual IEP goals will be measured (e.g., a specific assessment tool, work product, observation or other data collection method).

8) Comments:

This box may be utilized if any IEP team member has additional comments about goals or progress.

EXAMPLES

Annual Goal: (Alternate Achievement Standard)
"By the end of the school year, Kathie will tell time to the minute using an analog clock, 5 out of 6 times per week."

Benchmarks:
"By the end of the first nine weeks, Kathie will tell time to the half hour using an analog clock, 5 out of 6 times per week."

"By the end of the second nine weeks, Kathie will tell time to the quarter hour using an analog clock, 5 out of 6 times per week."

"By the end of the third nine weeks, Kathie will tell time to the 5-minute interval using an analog clock, 5 out of 6 times per week."

58974-OKEd-SpecialEd text.indd 315 2/10/11 11:26 AM

"By the end of the fourth nine weeks, Kathie will tell time to the minute using an analog clock, 5 out of 6 times per week."

Annual Goal: (Alternate Achievement Standards)
"Carlos will demonstrate mathematics skills utilizing patterns, number sense, spatial sense, and measurement in 4 out of 5 trials."

Short-term Objectives:
"Carlos will sort objects, group into a set, and tell what the objects have in common (e.g., color, size, shape) with 75% accuracy."

"Carlos will match sets of objects to numerals zero through ten in 2 out of 3 trials."

TRANSITION SERVICES PLAN-GOALS AND ACTIVITIES PAGE:
Beginning not later than the first IEP developed during the student's ninth grade year, or upon turning 16 years of age, whichever occurs first, the IEP team may use the Transition Services Plan-Goals and Activities page.

1) Student's Name:

Please indicate the student's full name.

2) Student ID:

Indicate the student's school ID number, as appropriate. This should be the student's student testing number (STN).

3) Postsecondary Goal(s):

Indicate postsecondary goal(s) as they relate to education/training, employment, and independent living skills, as needed.

4) Annual Transition Goal(s):

The postsecondary goal should drive further development of the transition plan, including annual transition IEP goals. Annual transition IEP goals must be developed to enable the student to work toward reaching his/her postsecondary goal(s). That does not mean that there must be a separate annual transition IEP goal for each postsecondary goal, as long as the annual transition IEP goal addresses and helps the student work toward achieving all components of the postsecondary goal. Annual transition IEP goals may change depending on the student's progress in reaching the goals and based on transition assessment results.

For students who are being taught to alternate achievement standards, include benchmarks or short-term objectives for each annual goal. **There must be at least two short-term objectives or benchmarks per goal**. However, it is up to each IEP team to determine the steps the student will need to take/master to achieve the annual transition IEP goal(s).

58974-OKEd-SpecialEd text.indd 316 2/10/11 11:26 AM

5) How extent of progress toward annual transition goals will be measured:

Indicate how the student's progress on each of the annual transition IEP goals will be measured (e.g., a specific transition assessment tool, work product, observation, or other data collection method).

6) Informing parents of progress:

Parent(s) of students with disabilities are to be informed of their progress in annual goals, in additional to general education academic performance reports. Describe how often the parent(s) will be informed of progress on IEP goals and what methods will be utilized.

7) Extent of progress toward achieving annual transition goals:

Indicate the extent to which the student achieved his or her annual transition IEP goal(s). Progress should be documented numerically using percent, number achieved, or other method of calculation.

9) Coordinated activities:

Coordinated activities include those activities that will enable the student to achieve his or her annual transition IEP goals. These activities may or may not require special education or related services. Responsible parties may include the LEA staff, including special education teachers, general education teachers, related service providers, counselors; other service providers; parents; and others who are involved in assisting the student with transition goals.

10) Responsible Party(ies):

Indicate each activity and the person responsible for providing that service. For example, a student working toward becoming a welder may learn job readiness skills (e.g., building a resume or job shadowing) at a technology center.

EXAMPLES

Postsecondary Goals:
"Brookelyn would like to be a nurse's assistant and will obtain her training through Oklahoma City Community College."

"Larry would like to be a carpenter. Larry will attend the CareerTech to gain carpentry skills. Larry would like to build his own house on a lake in Oklahoma."

Annual IEP Goals:
"Jack will complete the college application process to two out of three colleges of his choice to identify the best institution to study history."

Coordinated Activities:
"Jack will complete the following activities to reach his annual transition IEP goals:

- Research colleges in Oklahoma that have history programs
- Visit colleges in Oklahoma with history programs
- Obtain college applications
- Study for the ACT

58974-OKEd-SpecialEd text.indd 317 2/10/11 11:26 AM

- Take the ACT
- Complete college applications
- Obtain financial aid applications
- Complete financial aid applications"

TRANSITION SERVICES PLAN – TRANSITION GOALS/COURSE OF STUDY:

1) Student's Name:

Indicate the student's full name.

2) Student ID:

Indicate the student's school ID number, as appropriate. This should be the student's student testing number (STN).

1) Course of Study:

For students beginning not later than the first IEP developed during the student's ninth grade year or upon turning 16 years of age, whichever occurs first, the IEP team will develop a course of study that will be updated annually to assist the student in reaching his or her postsecondary goal(s). The IEP team should work with the student to select courses that will assist the student in completing his or her secondary education.

Also, the course of study should be directly related to the student's long-range, postsecondary goals (i.e., related to education/training, employment, and independent living skills, when appropriate). The course of study must include specific course names, such as Algebra I, Welding II, and Creative Writing. It is not acceptable to put a statement, such as "All necessary courses for high school graduation."

The course of study is intended to be developed individually based on the student's needs and preferences. The course of study must not be left blank.

The CareerTech is moving toward using career clusters, and each course will be assigned a specific name and grade. Therefore, for students who enroll in CareerTech programs, the course of study must list the specific courses in which the student will be enrolled.

2) Projected Date of Graduation/Program Completion:

Identify the student's intended result for his or her completion of a secondary education program (e.g., standard diploma, General Education Development [GED], or aging out). Identify the projected date (month and year) that the student is anticipated to graduate or otherwise complete a secondary education program. To earn a high school diploma, a student must earn all required credits for graduation. If the student is going to age out due to reaching maximum age for eligibility, please indicate the date on which this will occur.

The IEP team may decide if the student will cease receiving services upon his or her 22nd birthday, or complete the school year in which the student turns 22. This decision must be made during the course of transition planning and not be a last-minute decision.

58974-OKEd-SpecialEd text.indd 318 2/10/11 11:26 AM

Comment: Once a student graduates with a standard diploma, or ages out, the student is no longer eligible to receive special education and related services provided under the IDEA.

Students may not reenroll in public school after graduating or aging out; however, for a student who dropped out and earned a GED, this student may continue to enroll in the public school and is eligible to receive a FAPE through the age of 22.

3) Opportunities for Vocational Education:

In planning the course of study, if information regarding vocational educational opportunities is needed you must document the provision of the necessary information regarding vocational opportunities to the student and the parent(s). This information may include available high school vocational education courses, school-based training, work-based training, work-study programs, technology education, or area technology center programs that will support the student's course of study.

Indicate whether or not this information was discussed with the student and parent(s), and on which date, if applicable.

4) Vocational Rehabilitation:

Referral of the student to the vocational rehabilitation (VR) counselor for determination of possible eligibility for vocational rehabilitation services must be indicated. The referral must be made no later than the age of 16. Indicate the month, day, and year of the referral, and the person responsible for making the referral. Also indicate the name of the VR counselor to whom this student has been referred. Indicate if a copy of the referral form was provided to the student and parent(s). If a copy of the referral form was not provided to the student or parent(s), please detail reasons why. If a copy of the referral form was provided to the student or parent(s), please detail how this form was provided (i.e., a copy was mailed to the home, a copy was provided at the IEP meeting, or a copy was provided electronically).

5) Transfer of Rights:

By the age of 17, document that the student and the parent(s) have been informed of rights that will transfer to the student on reaching the age of majority.

When a student with a disability reaches the age of majority under State law (aged 18, except for an individual with a disability who has been determined to be incompetent under State law), all other rights assigned to parent(s) under the Individuals with Disabilities Education Act (IDEA) transfer to the student. The school shall notify the student and the parent(s) of the transfer of these rights. Refer to Parental Involvement and Participation, including surrogate parent information and Transition Planning and Services sections of the Policies and Procedures for Special Education in Oklahoma for further guidance.

6) Comments:

Additional information regarding transition planning and services may be documented here. The IEP team may utilize this space to document extracurricular activities, community involvement, volunteer opportunities, and other activities of relevance and of special interest to the student.

58974-OKEd-SpecialEd text.indd 319 2/10/11 11:26 AM

IEP- SERVICES PAGE:

1) Student's Name:

Indicate the student's full name.

2) Student ID:

Indicate the student's school ID number, as appropriate. This should be the student's student testing number (STN).

3) Type of Service(s):

Indicate the type of special education service(s) provided to the student. Special education services include those service as described at 34 CFR § 300.39. The type of service may include consultation with monitoring, co-teaching, collaborative, direct instruction in a core academic subject or elective class, or, when provided as specially designed instruction, speech-language pathology services.

More than one service may be documented for a student (e.g., if services may change at semester, or if one class, English, is co-taught, and another class, American Literature, is provided in the special education classroom). Example, student A receives instruction in a cotaught classroom for English, attends the special education classroom for math and is in regular education classes for other subjects. Type of service for this student would be: co-taught class for English and direct instruction for math.

Definitions:
Special education teachers and regular education teachers are encouraged to consider the collaborative/co-teaching model as a service delivery option. Co-teaching can allow more individualized instruction in the general education classroom, increase access to the general education curriculum for special education students, and decrease the stigma for a student with special needs. Teachers benefit from the professional support and exchange of teaching practices as they collaboratively work together.

Monitoring

- The special education teacher monitors attendance, progress, grades, and behavior of the student in the general education classroom.

Consultation

- General education classroom teachers have primary instructional responsibility and special educators meet with them on a regular basis to discuss issues related to instruction or certain students and to demonstrate ways to approach students' specific instructional and behavior needs.

- Consultation today is often used as a bridge for students exiting from special education services or for a low-end service delivery.

- Consultation is less intense than a co-teacher arrangement.

- The special education teacher provides resources and assistance in implementing modifications and/or accommodations as needed.

Note: Consultation and Monitoring could be used simultaneously to meet the needs of the student.

58974-OKEd-SpecialEd text.indd 320 2/10/11 11:26 AM

Collaborative Teaching or Co-Teaching

- Co-Teaching implies a partnership in the classroom or a teacher with general education credentials and a special education teacher with special education and/or content credentials. This partnership creates a qualitatively different classroom than one with only a single teacher. A change of instructional intensity is also often noted in descriptions of this type of classroom that is operated by two teachers and meets the instructional needs of all students in the classroom.

- Time may be split between general education classroom and other locations (i.e., a student could receive direct instruction in the general education classroom and receive assistance and support in the special education classroom). In this instance, the general education teacher maintains the responsibility of direct instruction and accountability and is the teacher of record for that core class.

Note: Consultative teaching and collaborative teaching or co-teaching each has a place and it will depend on student's need and a student's IEP to determine the intensity of instruction needed.

Direct Instruction

- The special education teacher provides direct instruction services in a resource room/lab in core or elective areas and is the teacher of record assigning the grade for that specific course.

- The special education teacher has responsibility for instruction/accountability.

- The special education teacher must be highly qualified in the core curriculum area being taught.

4) Amount of Services:

Indicate the amount of special education services the student will receive for each type of service that will be provided. For example, if a student is receiving direct instruction in the special education classroom for social studies every day for one period, the team could document services as "one period daily," or 60 minutes daily."

5) Starting Date:

Indicate the date in which each service will begin. The start date for each service may vary, depending on when the IEP team decides services are necessary, or if services change at the quarter or semester.

6) Ending Date:

Indicate the date in which each service will end. The ending date for each service may vary, depending on when the IEP team decides services may cease, or if services change at the quarter or semester. If a special education service is to be provided throughout the duration of the IEP, the ending date is the date in which the annual IEP is due (one year from the date in which the annual IEP was developed).

7) Person Responsible:

Indicate the person responsible for providing the special education service. Generally, this will be the special education teacher. If speech-language services are provided as the primary type of service, the speech-language pathologist will be designated as the responsible person. Do not designate the parent, student, or other family member as the person responsible for providing the special education service. The name of an individual should not be indicated, only the title.

58974-OKEd-SpecialEd text.indd 321 2/10/11 11:26 AM

8) Related Service(s)—Type of Service:

Indicate any related services that will be provided to the student. Related services are determined by the IEP team based on the student's needs and evaluation results. Related services may include:

- Speech-language pathology
- Audiology
- Psychological services
- Counseling
- Social work services in school
- Transportation
- Occupational therapy
- Physical therapy
- Recreation
- Assistive technology
- School health services
- Medical services
- Rehabilitation counseling
- Parent counseling and training
- Early identification and assessment of disabilities
- Other services needed to benefit from special education
- Orientation and mobility
- Other services needed to benefit from special education Note: Do not include reevaluations as a related service.

9) Location of Services:

Indicate the location(s) in which related services will be provided to the student. Service locations may include, but are not limited to, regular classroom, special classroom, community, or other location.

10) Amount of Related Services:

The amount of services needed for the student should include the amount of time per session or per day and the frequency per week or per month (e.g., 30 minutes per day, five days a week, or 30 minutes one time per month).

11) Starting Date:

Indicate the date in which the services are projected to begin. Give the month, day, and year. The start date for each service may vary, depending on when the IEP team decides services are necessary, or if services change at the quarter or semester.

12) Ending Date:

Indicate the date in which the services are anticipated to end. The end date for each service may vary, depending on when the IEP team decides services may cease, or if services change at the quarter or semester. If a special education service is to be provided throughout the duration of the IEP, the ending date is the date in which the annual IEP is due (one year from the date in which the annual IEP was developed).

58974-OKEd-SpecialEd text.indd 322 2/10/11 11:26 AM

13) Person(s) Responsible:

The title of the professional person responsible should be designated (e.g., physical therapist, school psychologist). Do not designate the parent, student, or other family member as the person responsible for providing the special education service. The name of an individual should not be indicated only the title.

14) Nonparticipation in General Education:

Explain the extent, if any, to which the student will not participate with nondisabled students in the general education curriculum (e.g., extracurricular, and nonacademic) or in age-appropriate activities. Please indicate what classes or activities the student will not participate in while receiving special education and related services. This section is intended to document when the student will not interact with students without disabilities. For example, a student may be in the general education class for math, band, computers, science and social studies, and receive direct instruction in a special education classroom for language arts. The student will not participate in the general education classroom for language arts.

15) Continuum of Placements:

Indicate the placement setting where special education services will be delivered (e.g., regular classes full-time, special classes part-time or full-time, special schools, home instruction, instruction in hospitals, instruction in other settings, and instruction in institutions or a residential facility).

The team must document the least restrictive environment (LRE) for the student, based upon the needs identified in the IEP. No local educational agency (LEA) may make a universal decision to mainstream all students with disabilities, to assign special transportation to groups of students identified with a specific disability, or place students with a specific disability in full-time special education, without holding individual IEP team meetings to discuss each student's individual program needs.

All team decisions must be made based on the needs and in the best interest of each student. **Indicate the placement to be utilized for the student.**

Placements may include:

- Regular classes (full-time) inside the general class more than 80% of the school day (examples of services in this placement include modifications, consultations, supports for school personnel, supplementary aids and services).
- Special class (part-time) inside the regular class 40-80% of the school day.
- Special class (full-time) inside the general class less than 40% of the school day.
- Public/private, separate day schools.
- Public/private residential facility.
- Home instruction/hospital environment.
- Correctional facility.
- Parentally placed in private schools. ? Instruction in other settings.

Continuum of placements for Preschool Students (aged 3 through 5) might include:

- Early childhood setting (this includes preschoolers who receive all of their special education and related services in educational programs designed primarily for students without disabilities).

58974-OKEd-SpecialEd text.indd 323 2/10/11 11:26 AM

- Special education program.
- Residential facilities.
- Home.
- Service provider location.

16) Amount of Time In General Education Setting:

Indicate the instructional periods per day or the percent of instructional day that the student is participating in the general education classroom. The team may determine to document time to best fit their school schedule. For example, if a student is receiving special education services for 3 periods out of 7 daily, the team may document this amount of time in terms of general education class periods. However, a student may receive 30 minutes of special education services daily, and the team may document this in terms of percent of instructional minutes per day.

The amount of time documented in this section must correlate to the "Amount of Services" designated in the Special Education Services section listed above on this same page.

If your school utilizes block scheduling, please describe the extent of time outside the general education classroom in the space provided.

For students on a shortened school day, their participation in the general education classroom would be determined by documenting their amount of time in a general education classroom compared to the total instructional time offered to that student. For example, if a student is in school for three periods each day, two of which are in the general education classroom, this student would be in the general education classroom for two of three periods daily, or 67% of that student's instructional day.

17) Length of Instructional Day:

Indicate if the student's instructional day is the same length as nondisabled peers. If the length of instructional day is not the same as that of nondisabled peers, document the team's reason(s) that a shortened instructional day is viewed as necessary for the student. Transportation, scheduling, or administrative conveniences are not acceptable reasons for students to have shortened instructional days.

18) Physical Education (PE):

Indicate if the student is participating in regular PE (with nondisabled peers), specially designed adapted PE, movement education, or motor development instruction. Provide justification if the student is not participating in any PE program. Each student with a disability must be afforded the opportunity to participate in the regular PE program available to nondisabled students.

If a student can participate fully in the regular PE program without special modifications, supports, or services to compensate for the student's disability, it would not be necessary to further describe PE in the IEP.

In the situation where PE is offered but not chosen by the student as an elective, the team could document that PE is not applicable due to the student not selecting it as an elective.

58974-OKEd-SpecialEd text.indd 324 2/10/11 11:26 AM

19) Modifications Necessary for PE:

If modifications, supports, or services are necessary for the student to be able to participate in the PE program, those must be described in the IEP.

If a student with a disability needs a specially designed, adapted PE program, that program must be addressed in all applicable areas of the IEP (e.g., present levels of educational performance, goals and Short-Term Objectives, and services to be provided).

20) Supplementary Aids and Services:

Supplementary aids and services are defined as: aids, services, and other supports that are provided in general education classes or other education-related settings to enable students with disabilities to be educated with nondisabled students to the maximum extent appropriate.

Supplementary aids and services for the student, or on behalf of the student, must be described in the student's IEP if these services are necessary to assist the student to advance toward attaining annual goals, to be involved and progress in the general curriculum, and to participate in extracurricular and other nonacademic activities or education-related settings with nondisabled students (e.g., for a student with a hearing impairment, assistive technology, or the use of an interpreter). Accommodations, such as study carrels, highlighters, and colored overlays would be listed in this section.

21) Location/Class/Setting:

Indicate the location, class, or setting in which the supplementary aids and services will be provided.

22) Program Modifications:

Program modifications for the student, or on behalf of the student, must be described in the student's IEP if these modifications are necessary to assist the student to advance toward attaining annual goals, to be involved and progress in the general curriculum, and to participate in activities with nondisabled students.

Program modifications include: modifications in the administration of assignments and/or tests (e.g., provide word banks for tests, reduce the reading level of tests, or take tests orally). Program modifications must be specific to the area of need for the student.

23) Location/Class/Setting:

Indicate the location, class, or setting in which the program modifications will be provided.

24) Supports for Personnel:

Supports for school personnel must be described in the student's IEP if these supports are necessary to assist the student to advance toward attaining annual IEP goals, to be involved and progress in the general curriculum, and to participate in activities with nondisabled students.

Supports for personnel may include, but are not limited to: specific training to ensure effective provision of appropriate services in the least restrictive environment, consultation between special

58974-OKEd-SpecialEd text.indd 325 2/10/11 11:26 AM

education and general education personnel, adequate planning and preparation time, teacher assistants, and paraprofessionals.

25) Location/Class/Setting:

Indicate the location, class, or setting in which the supports for personnel will be provided.

IEP- SIGNATURE PAGE:

1) Student's Name:

Indicate the student's full name.

2) Student ID:

Indicate the student's school ID number, as appropriate. This should be the student's student testing number (STN).

3) State and Districtwide Assessment Programs:

Assessment must be addressed by the IEP team for all students.

Indicate in which manner the student will participate in State/districtwide assessment. For any student taking the Oklahoma Core Curriculum Tests (OCCT), check the box indicating OCCT. For any student participating in Alternate Assessment, either the Oklahoma Modified Alternate Assessment Program (OMAAP) or the Oklahoma Alternate Assessment Program (OAAP) Portfolio, check the box indicating Alternate Assessment. Both boxes may be checked for students who will participate in both the OCCT and the OMAAP.

If the student will participate in an alternate assessment, check whether the IEP team considered the guidelines for the participation in alternate assessment by utilizing the "Criteria Checklist for Oklahoma's Alternate Assessments." If no, explain why not. All IEP teams must consider the "Criteria Checklist for Oklahoma's Alternate Assessments" when determining the appropriate assessment for students.

If the student is participating in alternate assessment, how will the student be assessed? Indicate if the student will participate in the OMAAP or the OAAP Portfolio. If the student is participating in OMAAP, list each subject for which the student will participate.

Specify state approved accommodations used in each test administration.

The State Approved Accommodations and Criteria Checklist for Oklahoma's Alternate Assessments can be accessed on the Special Education Services Web site, under the Assessment link at <www.sde.state.ok.us>.

4) Extended School Year (ESY) Services:

Each IEP team must address ESY services on an individual basis. For determination of ESY services, address whether or not the team needs additional data or information. If further data is needed, address in the comments section when the team will meet again to assess whether or not ESY services are

58974-OKEd-SpecialEd text.indd 326 2/10/11 11:26 AM

needed. If further data is not needed, check whether or not extended school year services are or are not necessary for the student. If the team documents a date in which it will reconvene to determine the need for ESY services, the IEP team must reconvene on or before the date documented. Teams may utilize the ESY Checklist of the ESY technical assistance document provided by the OSDE-SES, which is located on the Web site.

5) Documentation of LRE Placement Considerations:

The team must document the continuum of services considered and determined not appropriate for the student. Additionally, the team must indicate the reasons these services were rejected. For example, the team decided that the least restrictive environment for Anita would be special education part-time. Full-time special education for Anita would be too restrictive. Regular Education full-time would require more accommodations and modifications than could be provided within the general classroom setting for Anita to be academically successful.

6) Placement Closest to Home:

All students must be given the opportunity to obtain a FAPE in the school in which they would normally attend, regardless of the disability. If the student is attending his or her home school, please mark the box "yes." If the student is not attending his or her home school, please mark the box "no." If the student is not attending his or her home school, indicate whether the placement is as close as possible to the student's home. In the event that a placement is not as close as possible to the student's home, please explain why such an arrangement is required.

7) Potential Harmful Effects:

In selecting the least restrictive environment, consideration is given to any potential harmful effect on the student or on the quality of services which are needed. There are always potential harmful effects. Various alternative placements must be considered on an individual basis to ensure appropriate educational programs are provided.

8) Reason for Removal from the Regular Educational Environment:

Removal of a student with a disability from the general education environment occurs only when the nature or severity of the disability is such that education in general classes cannot be achieved satisfactorily, even with the use of supplementary aids and services.

Statements should address unique factors and specific needs of the student which cannot be accomplished in the general education environment. The IEP team must consider whether supplementary aids and services in general education classrooms have been or might be attempted in order to address the student's needs and the results of any such implemented interventions. Factors to consider may include, but are not necessarily limited to: individual learning, social/behavioral and communication needs, medical conditions, and type/level of support needed.

9) Date of Next IEP:

Indicate the month, day, and year of the projected date for the next IEP meeting. A meeting to review the IEP must be scheduled no later than one year from the date in which the IEP was written, but may occur more often as needed.

58974-OKEd-SpecialEd text.indd 327 2/10/11 11:26 AM

10) Date of Next Three-Year Reevaluation:

Indicate the due date of the next three-year reevaluation. Include the month, day, and year. A meeting for the consideration of a reevaluation must be scheduled no later than three years from the date of the last three year reevaluation; however, a reevaluation may occur more often as needed.

11) Team Participant Signatures:

Appropriate team participation is documented on the IEP. Signatures indicate participation in the development of the IEP and attendance at the meeting. Students who require transition services and representatives of participating agencies must be invited to attend meetings for consideration of transition services needs.

The IEP team is composed of the following persons:

- The parent(s) of a student with a disability.
- At least one general education teacher of such student (if the student is, or may be, participating in the general education environment).
- At least one properly qualified special education teacher or, where appropriate, at least one special education provider of the student.
- An administrative representative of the local educational agency who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the local educational agency.

IEP team members may also include:

- An appropriately qualified professional who can interpret the instructional implications of evaluation results.
- At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate.
- The student beginning not later than the first IEP developed during the student's ninth grade year or upon turning 16 years of age, whichever occurs first.

The general education teacher of the student, as a member of the IEP team, shall participate in the IEP development, including addressing positive behavioral interventions and strategies, supplementary aids and services, program modifications, and support for school personnel, as appropriate.

12) Agreement:

Each participant in the IEP meeting shall indicate their agreement or disagreement with the content of the IEP. If any participant disagrees with the IEP, they may submit in writing a separate statement presenting their conclusions. Disagreement does not indicate that FAPE will not be provided. The IEP will be implemented as written; however, upon disagreement, the LEA may provide parent(s) with Written Notice to Parents (OSDE Form 8) to document the proposal or refusal of services. In this instance, the LEA must wait a reasonable amount of time prior to implementation. Documentation of such disagreement may be submitted on the Comment Form and attached to the IEP.

58974-OKEd-SpecialEd text.indd 328 2/10/11 11:26 AM

13) Other Methods of Parent Participation or Student, as Appropriate:

When parents have been afforded adequate opportunity to attend the IEP meeting at a mutually agreeable date, time, and location, but choose not to attend or are not able to attend, other means of documenting their participation must be included. Such methods might include individual or conference telephone calls, written correspondence, home visits, etc.

When parents do not attend the meeting, the requirements for written notice must be fulfilled (i.e., provide parents with a copy of the IEP, Written Notice to Parents (OSDE Form 8) and Parents Rights in Special Education: Notice of Procedural Safeguards). For transition purposes, beginning not later than the first IEP developed during the student's ninth grade year or upon turning 16 years of age, whichever occurs first, the student's strengths, preferences and interests must be considered and documented. Parents' rights transfer to the student at the age of 18; therefore, their participation must be documented when the student chooses not to attend. Other means of documenting his or her participation must be included. Methods such as teacher-student conferences, interviews, or meetings prior to the IEP meeting might occur, with results being appropriately documented.

14) Explanation of Parents' Rights, Translation or Interpretation:

Document parents' receipt of Parents Rights in Special Education: Notice of Procedural Safeguards and explanation of the procedural safeguards and rights available to them.

If translation/interpretation is necessary, specify how it is provided. Communication with the parent(s) should be in their native language.

Document the parents' receipt of the parent survey along with a business reply envelope. This is to be completed annually.

The parent(s) should initial this area as a means to document that each of these areas have been addressed.

14) Parent Consent for Initial Placement:

Parent signature giving consent is required for initial placement in special education. Parent(s) must sign and date this area in order for a student to receive special education and related services. If parents do not give consent for placement, special education and related services may not be provided to the student under IDEA. Consent is voluntary and may be revoked at any time.

58974-OKEd-SpecialEd text.indd 329 2/10/11 11:26 AM

58974-OKEd-SpecialEd text.indd 330 2/10/11 11:26 AM

WRITTEN NOTICE TO PARENTS

NAME OF CHILD: _____ STUDENT ID: _____
FIRST MIDDLE LAST

BIRTHDATE: _____ GRADE _____ AGE _____ DATE: _____
MONTH/DAY/YEAR MONTH/DAY/YEAR

PARENT(S):_____

PHONE: (WORK) _____ (HOME) _____ (OTHER) _____

ADDRESS: _____ DISTRICT/AGENCY: _____
STREET ADDRESS/P.O. BOX CITY STATE ZIP

To: _____
PARENT or YOUNG ADULT (If young adult has reached age of majority)

This notice is to inform you of the school district's intent as follows:

DESCRIPTION OF ACTION: ☐ PROPOSED OR ☐ REFUSED
To ☐ initiate or ☐ change the following:

- ☐ Identification of your child as having a disability which requires special education services
- ☐ Evaluation/Reevaluation to determine disability and nature, extent of special education and related services needed
- ☐ Educational placement
- ☐ Provision of a Free and Appropriate Public Education (FAPE)
- ☐ Parent Revocation of Consent
- ☐ Other _____

Explanation of the proposal or refusal:

_____

_____

Reason(s) for the proposal or refusal:

_____

_____

Description of any options considered and reasons refused:

_____

_____

Description of each evaluation procedure, test, record, or report used as a basis for the proposed or refused action:

_____

_____

Description of any other factors relevant to the proposal or refusal:

_____

_____

Parents have protection under the procedural safeguards. Additional resources can be located within the *Parents Rights in Special Education: Notice of Procedural Safeguards*. To obtain a copy, contact <autofill special education teacher>.

The issues addressed in this notice will go into effect on: _____ as the local educational agency has
MONTH/DAY/YEAR
determined that this be considered a reasonable amount to provide the parent(s).

FROM: _____
SIGNATURE OF DISTRICT/PUBLIC AGENCY OFFICIAL DISTRICT/AGENCY TELEPHONE DATE

_____
STREET ADDRESS/P.O. BOX CITY STATE ZIP

SCHOOL USE ONLY: Notice sent by: ☐ U.S. Mail Date Mailed _____
☐ Personal Delivery Date Delivered _____

Translation/interpretation needed? ☐ Yes ☐ No If yes, specify how and when provided:_____
School/public agency official's signature verifies that parent(s) have received an explanation in their native language or other mode of communication to accommodate the parent(s) understanding their rights.

58974-OKEd-SpecialEd text.indd 331 2/10/11 11:26 AM

Written Notice to Parents

NAME OF CHILD: _____STUDENT ID: _____
FIRST MIDDLE LAST

Evaluation procedures to be utilized in assessing these areas of functioning are explained on this form. Qualified professionals will conduct evaluation procedures to provide additional information, to the extent appropriate, on the basis of a review of existing evaluation data and input from the parents. Additional information may be needed to determine whether a child has or continues to have a particular disability; present levels of performance and educational needs; whether the child continues to need special education and related services; or whether any additions or modifications to the special education and related services are needed to meet the annual goals in the IEP and to participate as appropriate in the general curriculum. The appropriate extent of the reevaluation has been reviewed by the IEP team, with opportunity for parent participation and input.

Descriptions of Evaluation Procedures (Check additional areas proposed for this child)

- ☐ **HEALTH/MEDICAL:** Health and medical history, information about child's health and medical status or medical diagnostic evaluation to determine a medically related disability
- ☐ **VISION:** Assessment of visual acuity, field of vision, and vision functioning as necessary to determine a vision-related disability
- ☐ **HEARING:** Assessment of hearing functioning and extent of hearing impairment as necessary to determine a hearing-related disability
- ☐ **MOTOR:** Assessment of gross and/or fine motor skills and abilities in relation to educational needs
- ☐ **COMMUNICATION/LANGUAGE:** Speech skills (including articulation, voice, fluency, and oral-motor) and/or receptive and expressive language skills and abilities (including phonology, morphology, syntax, semantics, and pragmatics)
- ☐ **ACADEMIC ACHIEVEMENT:** Assessments to measure academic achievement in such areas as listening comprehension, oral expression, basic reading skills, reading comprehension, reading fluency, mathematics calculation, mathematics problem solving, and written expression skills
- ☐ **INTELLECTUAL/COGNITIVE:** Individually administered assessment of child's ability to learn, including overall mental ability and cognitive functioning
- ☐ **PERCEPTUAL/PROCESSING:** Child's abilities to perceive and/or process information through visual, auditory, and sensorimotor means
- ☐ **DEVELOPMENTAL:** Assessment of child's developmental history, skills, and abilities in relationship to expectations for the age group
- ☐ **PSYCHOLOGICAL, SOCIAL/EMOTIONAL:** Information collected and assessments of the child's social skills/emotional status, psychological concerns, and behavior (may include data collection, rating scales, behavioral observations, interviews, personal inventories, and projective tests)
- ☐ **FUNCTIONAL BEHAVIOR:** Information collected and assessments of the child's functional behavior (may include data collection, rating scales, behavioral observations, interviews, and personal inventories)
- ☐ **ADAPTIVE BEHAVIOR:** Assessment of child's general behavior in the school and home settings (may include adaptive behavior skills and activities in the community)
- ☐ **SOCIOCULTURAL:** Collection of information and procedures to consider potential influence of sociocultural background or cultural, linguistic diversity
- ☐ **OBSERVATION IN CLASSROOM/OTHER ENVIRONMENT:** Observations of child's performance and functioning in the classroom and/or other appropriate settings
- ☐ **VOCATIONAL:** Assessment of vocational interests, aptitudes, and skills
- ☐ **ASSISTIVE TECHNOLOGY**
- ☐ **OTHER CONCERNS AND ASSESSMENTS:**

58974-OKEd-SpecialEd text.indd 332 2/10/11 11:26 AM

MEDICAL REPORT

NAME OF CHILD: _____ STUDENT ID: _____
FIRST MIDDLE LAST

BIRTHDATE: _____ GRADE _____ AGE _____ DATE: _____
MONTH/DAY/YEAR MONTH/DAY/YEAR

PARENT(S):_____

PHONE: (WORK) _____ (HOME) _____ (OTHER) _____

HOME ADDRESS: _____ DISTRICT/AGENCY: _____
STREET ADDRESS/P.O. BOX CITY STATE ZIP

TO BE COMPLETED BY THE SCHOOL

Referral Date_____ School Contact Person _____ Phone _____

Medical concerns about this child are as follows:

At school

_____
_____
_____

At home

_____
_____
_____

NOTE: Consent for Release of Confidential Information with parent signature, is required.

TO BE COMPLETED BY A LICENSED MEDICAL DOCTOR, DOCTOR OF OSTEOPATHY, OR ADVANCED REGISTERED NURSE PRACTITIONER (ARNP)

Information in the following areas would be helpful to the school and parents in planning for the child's educational needs. Please respond as appropriate, including any applicable medical diagnoses.

General health:

Motor functioning:

Neurological findings:

Allergies:

58974-OKEd-SpecialEd text.indd 333 2/10/11 11:26 AM

Medical Report

NAME OF CHILD: _____ STUDENT ID: _____
FIRST MIDDLE LAST

Dietary considerations:

Vision (attach eye report):

Hearing:

Medications, including purpose:

Other pertinent information:

Please indicate ways in which any of the above may adversely affect behavior.

Is further medical evaluation or treatment planned for any specific area?

In what ways may your medical findings affect the school's educational or behavioral planning?

In what ways can school personnel facilitate ongoing communication with you?

If the child is involved in the **Systems of Care** program, please describe.

This information will be maintained in accordance with the Family Educational Rights and Privacy Act (34 CFR Part 99) and Individuals with Disabilities Education Act (IDEA).

Medical or epidemiological information or records which identify any person as having a communicable or venereal disease (such as hepatitis, syphilis, gonorrhea, and the human immunodeficiency virus [also known as AIDS]) shall be strictly classified as confidential pursuant to Title 63 O.S. § 502.2.

Physician's or ARNP's name address, and telephone number (typed or stamped)	_____ **Physician's/ARNP's Signature** _____ **Date**

58974-OKEd-SpecialEd text.indd 334 2/10/11 11:26 AM

SURROGATE PARENTS

VERIFICATION OF TRAINING

_____ has received training to act as a surrogate parent in accordance with the Individuals with Disabilities Education Act (IDEA). This training included:

- Information regarding Oklahoma State and federal requirements for the education of children with disabilities;
- Parents rights;
- Parent handbook;
- Due process procedures and procedural safeguards;
- Structures, procedures, and forms of the public agency educating the child;
- The step-by-step process for delivery of special education services;
- Information about the nature of the child's disability(ies) and needs; and
- Information regarding the IDEA Part B rights that transfer to the student at the age of majority (18).

The surrogate parent has the responsibility of representing the disabled child in all matters relating to:

- The identification, evaluation, and educational placement of the child; and
- The provision of a free appropriate public education of the child;

Written information and training for skill and knowledge as a surrogate parent have been provided by:

Person Conducting the Training _____

Agency _____ Telephone _____

Address _____

Date of Training _____ Location _____

ASSIGNMENT

I understand the responsibilities of acting as a surrogate parent. I have no interests that conflict with the interests of the child and am not an employee of an agency involved with the care or education of the child/student.

Signature _____ Date _____

Address _____

Name of Child _____

Birthdate _____

School District or Educational Agency _____

Contact Person for District/Agency _____

58974-OKEd-SpecialEd text.indd 335 2/10/11 11:26 AM

NAME OF CHILD: _____ AGE: _____
FIRST/MIDDLE/LAST

BIRTHDATE: _____ DATE OF GRADUATION: _____
MONTH/DAY/YEAR

DISTRICT/AGENCY: _____ DATE OF SUMMARY: _____

STUDENT SUMMARY OF PERFORMANCE

Summary of Academic Achievement and Functional Performance: Provide the most recent evaluation data, current grades, GPA, levels of functioning, and progress made toward achieving postsecondary goals related to training, education, employment, and independent living skills.

Recommendations for assisting the student in meeting his or her postsecondary goals: Provide information about activities, modifications, accommodations, assistive technology, and strategies that enable the student to be successful in reaching their postsecondary goal(s).

OSDE Form 11

PHYSICAL RESTRAINT DOCUMENTATION FORM

NAME OF CHILD: _____ STUDENT ID: _____
FIRST MIDDLE LAST

BIRTHDATE: _____ GRADE: _____ AGE: _____ DATE: _____
MONTH/DAY/YEAR MONTH/DAY/YEAR

PARENT(S):_____

PHONE: (WORK) _____ (HOME) _____ (OTHER) _____

HOME ADDRESS: _____ DISTRICT/AGENCY: _____
STREET ADDRESS/P.O. BOX CITY STATE ZIP

Date of Incident: _____ Location: _____
MONTH/DAY/YEAR

Beginning Time: _____ Ending Time: _____

School personnel involved in incident (additional documentation may be attached if determined necessary):

_____
_____
_____
_____

Describe the student's activity and behavior immediately preceding the behavior that prompted the use of physical restraint:

_____
_____
_____
_____

Describe efforts of school personnel to de-escalate the situation, and alternatives to physical restraint that were utilized prior to the use of physical restraint:

_____
_____
_____
_____

Provide a description of the physical restraint utilized:

_____
_____
_____
_____

Describe the actions of the student and school personnel that occurred during the physical restraint:

_____
_____
_____
_____

58974-OKEd-SpecialEd text.indd 339 2/10/11 11:26 AM

Describe observed student and school employee behaviors that followed the physical restraint:

_____
_____
_____
_____

Describe de-escalation techniques and interventions utilized following the physical restraint:

_____
_____
_____
_____

Describe any injuries to the student or school employees:

_____
_____
_____
_____

Describe future alternatives to physical restraint that will be utilized:

_____
_____
_____
_____

Signatures:

Person Completing Form: _____ Date: _____

Witness: _____ Date: _____

Witness: _____ Date: _____

Witness: _____ Date: _____

Notification to Parent:

Type: _____ Time: _____ By whom: _____

Date Information Provided to Parent: _____ By whom: _____

Notification to Site Administrator:

Type: _____ Time: _____ By whom: _____

58974-OKEd-SpecialEd text.indd 340 2/10/11 11:26 AM

Findings of debriefing meeting:

_____

Signature: _____ Date: _____ ☐ Agree ☐ *Disagree

Signature: _____ Date: _____ ☐ Agree ☐ *Disagree

Signature: _____ Date: _____ ☐ Agree ☐ *Disagree

Signature: _____ Date: _____ ☐ Agree ☐ *Disagree

Signature: _____ Date: _____ ☐ Agree ☐ *Disagree

Signature: _____ Date: _____ ☐ Agree ☐ *Disagree

*Individuals who disagree may submit separate statements presenting their conclusions. (Complete Comment Form as necessary).

If parent(s) did not attend the meeting, explain other methods to ensure parent participation and/or child as appropriate (e.g., conference call, videoconference, home visit): _____

58974-OKEd-SpecialEd text.indd 341 2/10/11 11:26 AM

SECLUSION DOCUMENTATION FORM

NAME OF CHILD: _____ STUDENT ID: _____
FIRST MIDDLE LAST

BIRTHDATE: _____ GRADE: _____ AGE: _____ DATE: _____
MONTH/DAY/YEAR MONTH/DAY/YEAR

PARENT(S):_____

PHONE: (WORK) _____ (HOME) _____ (OTHER) _____

HOME ADDRESS: _____ DISTRICT/AGENCY: _____
STREET ADDRESS/P.O. BOX CITY STATE ZIP

Date of Incident: _____ Location: _____
MONTH/DAY/YEAR

Beginning Time: _____ Ending Time: _____

Describe the location utilized for this seclusion incident:

_____
_____
_____
_____

School personnel involved in incident (additional documentation may be attached if determined necessary):

_____
_____
_____
_____

Describe the student's activity and behavior immediately preceding the behavior that prompted the use of seclusion:

_____
_____
_____
_____

Describe efforts of school personnel to de-escalate the situation, and alternatives that were utilized prior to the use of seclusion:

_____
_____
_____
_____

Provide a description of the seclusion incident:

_____
_____
_____
_____

58974-OKEd-SpecialEd text.indd 343 2/10/11 11:26 AM

Describe the actions of the student and school personnel that occurred during the use of seclusion:

_____
_____
_____
_____
_____

Describe observed student and school employee behaviors that followed the use of seclusion:

_____
_____
_____
_____

Describe de-escalation techniques and interventions utilized following the use of seclusion:

_____
_____
_____
_____

Describe any injuries to the student or school employees:

_____
_____
_____
_____

Describe future alternatives to the use of seclusion that will be utilized:

_____
_____
_____
_____

Signatures:

Person Completing Form: _____ Date: _____

Witness: _____ Date: _____

Witness: _____ Date: _____

Witness: _____ Date: _____

Notification to Parent:

Type: _____ Time: _____ By whom: _____

Date Information Provided to Parent: _____ By whom: _____

58974-OKEd-SpecialEd text.indd 344 2/10/11 11:26 AM

Notification to Site Administrator:

Type: _____ Time: _____ By whom: _____

Findings of debriefing meeting:

Signature: _____ Date: _____ ☐ Agree ☐ *Disagree

Signature: _____ Date: _____ ☐ Agree ☐ *Disagree

Signature: _____ Date: _____ ☐ Agree ☐ *Disagree

Signature: _____ Date: _____ ☐ Agree ☐ *Disagree

Signature: _____ Date: _____ ☐ Agree ☐ *Disagree

Signature: _____ Date: _____ ☐ Agree ☐ *Disagree

*Individuals who disagree may submit separate statements presenting their conclusions. (Complete Comment Form as necessary).

If parent(s) did not attend the meeting, explain other methods to ensure parent participation and/or child as appropriate (e.g., conference call, videoconference, home visit): _____

58974-OKEd-SpecialEd text.indd 345 2/10/11 11:26 AM

COMMENT FORM

NAME OF CHILD: _____STUDENT ID: _____
FIRST MIDDLE LAST

BIRTHDATE: _____ GRADE _____ AGE _____ DATE: _____
MONTH/DAY/YEAR MONTH/DAY/YEAR

Please complete this form to add necessary documentation or information concerning the above child. You may use this form as an attachment to other Oklahoma State Department of Education (OSDE) Forms (i.e., Individualized Education Plan [IEP], IEP Review, Multidisciplinary Evaluation and Eligibility Group Summary [MEEGS]) to supply comments, express disagreements or concerns, add interventions and/or additional information that may benefit a child or add a group/team member's input that cannot be present at the meeting.

This Comment Form must be attached to OSDE Form. _____ Form date: _____

PURPOSE: _____

_____

_____

_____

_____

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_____

Submitted by: Print Name Title

Signature Date

58974-OKEd-SpecialEd text.indd 346 2/10/11 11:26 AM

CASELOAD/CLASS SIZE REQUIREMENTS

Class Size for all placements in special education shall be no more than ten children at any time.

The following chart details maximum full-time equivalent (FTE) teacher caseload based on each child's placement. Each child counts as a percentage of the teacher's total caseload. To determine a teacher's maximum caseload, the number of children in a particular placement is multiplied by the percentage for that placement (e.g., 25 children in 80% regular class placement, multiplied by .04, equals 1.00 FTE caseload). A total of greater than 1.00 exceeds the caseload requirements.

PLACEMENT	CASELOAD	
	PERCENTAGE (FTE)	TOTAL
Regular Class Full-time (inside the regular class more than 80% of the day)--consultation and monitoring only	.0250	40
Regular Class Full-time (inside the regular class more than 80% of the day)--collaboration or co-teaching	.0400	25
Special Class Part-time (inside the regular class 40% to 80% of the day)	.0500	20
Special Class Full-time (inside the regular class less than 40% of the day)	.0670	15
Special Class Full-time (inside the regular class less than 10% of the day)	.1000	10

58974-OKEd-SpecialEd text.indd 347 2/10/11 11:26 AM

PLACEMENT	CASELOAD	
	PERCENTAGE (FTE)	TOTAL
Outside of Public School Setting (home instruction, hospitals, institutions public/private residential facilities, public/private separate day school facilities, correctional facilities, parentally placed in private schools)	.0250	40
Preschool Continuum (early childhood program, special education program, residential facility, home, service provider location)	.0500	20 (10 students per .5 day)

Speech/Language changes to be phased in:	CASELOAD	
	PERCENTAGE (FTE)	TOTAL
Speech/Language 2007/2008 60 minutes or less per week More than 60 minutes per week	 .0166 .0250	 60 40
Speech/Language 2008/2009 60 minutes or less per week More than 60 minutes per week	 .018 .0250	 55 40
Speech/Language 2009/2010 60 minutes or less per week More than 60 minutes per week	 .018 .0250	 55 40
Speech/Language 2010/2011 60 minutes or less per week More than 60 minutes per week	 .018 .025	 55 40
Speech/Language 2011/2012 60 minutes or less per week More than 60 minutes per week	 .020 .0250	 50 40

*Total caseload, provided as an example, is based only on that particular placement or category (e.g., total caseload of 25 for regular classroom, 80% or greater is calculated assuming that the teacher serves only children in this type of placement).

If a teacher serves children in a variety of placements, percentages for each child's placement are totaled to determine the teacher's maximum caseload. For example, a teacher who serves 15 children in a regular classroom 80% of the day or greater and 7 children who are served in the

58974-OKEd-SpecialEd text.indd 348 2/10/11 11:26 AM

regular classroom 40-79% of the day, the teacher would have a total FTE of .95. This is determined in the following manner: 15 children in a regular classroom 80% or greater, multiplied by .04, equals .60; and 7 children who are served in a regular classroom 40-79%, multiplied by .05, equals .35. By adding the two totals of .60 and .35, we arrive at our FTE of .95, which is within the State caseload limit.

The caseload for a speech language pathologist is determined by the amount of services a given child receives. A child who receives speech/language therapy 60 minutes or less per week counts as .0165 towards the total caseload, while a child receiving services 61 minutes or more per week would count as .025. For example, 40 children receiving services 60 minutes or less would count as .66 of the total caseload, and 9 children receiving services 61 minutes or more per week would count as .225, for a total of .885. Children who are eligible for services under the developmental delay category (due to a significant delay in the communication domain) may be counted only on the speech language pathologist's caseload based on the amount of services they receive.

Caseload size for SLPs supervising SLTAs

	PERCENTAGE (FTE)	**TOTAL**
SLP supervising one SLTA	**.0250**	**40**
SLP Supervising two SLTAs	**.0188**	**30**

Exceptions to Caseload/Class Size

For permission to adjust caseload/class size for programs serving children with disabilities that exceed the limits set, the LEA must obtain a letter of approval from the OSDE-SES. The LEA must document that exceptions to caseload/class size do not interfere with provision of a FAPE. The LEA must ensure that IEPs are implemented as developed to meet the educational needs of the children served, with special consideration for any potential harmful effects to the child or the quality of the program. To request an exception to caseload/class size, the LEA must submit the Caseload/Class Size Request for Exception form.

58974-OKEd-SpecialEd text.indd 349 2/10/11 11:26 AM

SCHOOL FACILITIES - CASELOAD/CLASS SIZE CHECK

School District:_____**School Site:**_____

		Number of Students Per Class Period	
Teacher's Name		1	
Areas of Certification		2	
		3	
*Caseload (total)		4	
		5	
Disability Categories		6	
		7	

Classroom Location	**Comments:**
Separate Building: ☐	
Substantially Separate Area: ☐	
Among Other Classrooms: ☐	

PLACEMENTS

# of students in Regular class full-time (inside the regular class more than 80% of the day)- consultation and monitoring only	# of students in regular class full-time (inside the regular class more than 80% of the day)- collaboration or co-teaching	# of students in special class part-time (inside the regular class 40% to 80% of the day)	# of students in special class full-time (inside the regular class less than 40% of the day)	# of students in special class full-time (inside the regular class less than 10% of the day)
0.025	**0.04**	**0.05**	**0.067**	**0.10**

# of students outside of public school setting (home instruction, hospitals, institutions, public/private residential facilities, public/private separate day school facilities, correctional facilities, parentally placed in private schools)	# of students in pre-school continuum (early childhood program, special education program, residential facility, home, service provider location)	# of students with Speech/Language Therapy 60 minutes or less per week	# of students with Speech/Language Therapy more than 60 minutes per week	
0.025	**0.05**	**0.0166**	**0.025**	

Count students who are assigned to the teacher for developing and monitoring implementation of their IEPs. Do not count students that the teacher serves but does not develop and monitor implementation of the IEP as the qualified specialist.

*Refer to Policies and Procedures for Special Education in Oklahoma, 2007

58974-OKEd-SpecialEd text.indd 350 2/10/11 11:27 AM

INSTRUCTIONAL PERSONNEL QUALIFICATIONS

Oklahoma Entry Level Requirements		
Level of Support Needed by the Child (regardless of child's identified disability, except for Hearing Impairment, Visual Impairment, Deaf-Blindness, Multiple Disabilities, and Speech or Language Impairment)	**Certification Area and Code**	**Meets or exceeds Oklahoma's Entry Level Requirement**
Child's evaluation data and program reflect levels of functioning, curriculum, goals, objectives, and services provided in various educational placements are aligned to State standards of academic achievement (*PASS* [1]); requires supports, supplementary aids and services or modifications.	(2556) Mild/Moderate Disabilities	Yes
Child's evaluation data and program reflect levels of functioning, curriculum, goals, objectives, and services provided in various educational placements have increased focus on life skills and alternate standards of educational performance (CARG-A [2]).	(2558) Severe/Profound/Multiple Disabilities	Yes

Oklahoma Entry Level Requirements		
Category of Child	**Certification Area and Code**	**Meets or exceeds Oklahoma's Entry Level Requirement**
Autism	(2556) Mild/Moderate Disabilities, or (2558) Severe/Profound/Multiple Disabilities or Certification in any area of special education (categorical certification, except speech language pathology) **plus** completion of SES-approved registry training in Autism (9801)	Yes
Deaf-Blindness	Certification in at least one sensory area **plus** completion of SES-approved registry training in Deaf-Blindness (9802)	Yes
Developmental Delay (3- to 9-years-old)* see sensory exceptions	Certification in (2256) Mild/Moderate Disabilities, or (2558) Severe/Profound/Multiple Disabilities **or** Categorical certification in any area of special education **plus** (1003) Early Childhood Education, (1501 or 1600) Elementary Education, or Certification in (0521) Speech Language Pathology, or if the child's only area of delay is in the communication domain (0523) Speech Pathology	Yes

* Children with sensory impairments (Hearing Impairment, Visual Impairment, Deaf-Blindness) must be categorized as Hearing Impaired, Visual Impaired, or Deaf-Blindness, not Developmentally Delayed.

[0] - This certification area is required for teachers of children with sensory impairments aged 3 - 21.

[1] - *Priority Academic Student Skills*

[2] - Curriculum Access Resource Guide - Alternate

58974-OKEd-SpecialEd text.indd 351 2/10/11 11:27 AM

INSTRUCTIONAL PERSONNEL QUALIFICATIONS

Oklahoma Entry Level Requirements

Category of Child	Certification Area and Code	Meets or exceeds Oklahoma's Entry Level Requirement
Emotional Disturbance	(2556) Mild/Moderate Disabilities, or (2558) Severe/Profound/Multiple Disabilities or (2501) Emotionally Disturbed	Yes
Hearing Impairment (including Deafness)	(2503) Hearing Impaired [0], **or** (2552) Deaf/Hard of Hearing [0]	Yes
Intellectual Disabilities	(2556) Mild/Moderate Disabilities, or (2558) Severe/Profound/Multiple Disabilities or (2507) Mentally Handicapped	Yes
Multiple Disabilities	(2558) Severe/Profound/Multiple Disabilities or Certification in any area of special education (categorical certification), except speech language pathology, **plus** completion of SES-approved registry training in Multiple Disabilities (9803)	Yes
Orthopedic Impairment	(2556) Mild/Moderate Disabilities, or (2558) Severe/Profound/Multiple Disabilities or (2509) Physically Handicapped	Yes
Other Health Impairment	(2556) Mild/Moderate Disabilities, or (2558) Severe/Profound/Multiple Disabilities or Certification in any area of special education (categorical certification, except speech language pathology) **plus** completion of SES-approved registry training in Other Health Impairment (9804)	Yes
Specific Learning Disabilities	(2556) Mild/Moderate Disabilities, or (2558) Severe/Profound/Multiple Disabilities or (2505) Learning Disability	Yes
Speech or Language Impairment	(0521) Speech Language Pathologist , or (0523) Speech Pathologist (valid until 2010)	Yes
Traumatic Brain Injury	(2556) Mild/Moderate Disabilities, or (2558) Severe/Profound/Multiple Disabilities or Certification in any area of special education (categorical certification, except speech language pathology) **plus** completion of SES-approved registry training in Traumatic Brain Injury (9805)	Yes
Visual Impairment (including Blindness)	(2550) Blind/Visual Impairment [0], **or** (2511) Visually Handicapped [0]	Yes

[0] - This certification area is required for teachers of children with sensory impairments aged 3 - 21.

[1] - *Priority Academic Student Skills*

[2] - Curriculum Access Resource Guilde - Alternate

58974-OKEd-SpecialEd text.indd 352 2/10/11 11:27 AM

RELATED SERVICES PERSONNEL QUALIFICATIONS

Profession/Discipline	Services Provided	Oklahoma Entry Level Requirements				Meets or Exceeds Oklahoma's Entry Level Requirement
		State Licensure or Credential	Requirements for Licensure or Credential	Teaching Certification or Credential	Requirements for OSDE Certification	
Advanced Registered Nurse Practitioner	Medical and Other Health services (see narrative)	Yes	Must hold a master's degree in nursing, and State licensure as an ARNP[12]	No	N/A	Yes
Audiologist	Audiology services (see narrative)	Yes	OBESPA[11] State licensure in audiology - **Before December 31, 2006** - Must hold a master's degree, or the equivalent, with a major emphasis in audiology - **After December 31, 2006** - New applicants must hold an AuD or PhD with an emphasis in audiology	No	N/A	Yes
Educational Interpreter	Educational interpreting services	No	N/A	Yes	**Complete one of the following:** an interpreter training program, obtain a Bachelor's degree, or work a minimum or three years in an area related to the deaf education; **and** maintain certification at a minimum level of QAST[10] III, EIPA[1] 3.5, ESSE[3] 3.5, RID[6], NIC[9], or NAD[4].	Yes
Licensed Counselor	Counseling services	Yes	Master's degree; state licensure as LPC[2], LMFT[5], or LBP[8]	No	N/A	Yes
Occupational Therapist	Occupational therapy services	Yes	Bachelor's degree; state licensure	No	N/A	Yes
Orientation and Mobility Specialist	Orientation and Mobility services	No	Bachelor's or Master's degree; ACVREP[7] certification	No	N/A	Yes
Physical Therapist	Physical therapy services	Yes	Bachelor's degree; state licensure	No	N/A	Yes
Physician	Medical services	Yes	MD[13] or DO[13]; state licensure	No	N/A	Yes
Project ECCO[21] Parent Advisor	Family information, support, and family-centered home visits	No	Deaf education teachers, speech language pathologists, or audiologists who have completed SKI-HI Curriculum	Yes	N/A	Yes

58974-OKEd-SpecialEd text.indd 353 2/10/11 11:27 AM

RELATED SERVICES PERSONNEL QUALIFICATIONS

Profession/Discipline	Services Provided	Oklahoma Entry Level Requirements				Meets or Exceeds Oklahoma's Entry Level Requirement
		State Licensure or Credential	Requirements for Licensure or Credential	Teaching Certification or Credential	Requirements for OSDE Certification	
Psychological Clinician	Psychological and counseling services while working in state agencies	No	Master's Degree; OPM[15] requirements	No	N/A	Yes
Psychologist	Psychological and counseling services	Yes	Doctorate degree; state licensure; appropriate to scope of practice and specialty	No	N/A	Yes
Rehabilitation Counselor	Rehabilitation Counseling services	No	Master's Degree; OPM[15] requirements	No	N/A	Yes
School Counselor	Counseling services	No	Master's degree	Yes	Master's degree; state certification test	Yes
School Nurse	School health services	Yes	Associate's degree; state licensure as a registered nurse	No	N/A	Yes
School Psychologist	Psychological and counseling services	No	Master's degree; state licensure	Yes	Master's degree; special course of study; state certification test; or NSPCS[16] certification	Yes
School Psychometrist	Psycho-educational services in schools	No	Master's degree	Yes	Master's degree' state certification test	Yes
Social Worker	School Social work services	Yes	Master's degree; state licensure; OPM[15] requirements	No	N/A	Yes
Speech Language Therapist Assistant	Speech and language therapy services (see narrative)	No	OBESPA State licensure	Yes	See Narrative in SLTA Section	No
Speech Language Pathologist	Speech, language, and swallowing services (see narrative)	Yes	Master's degree in SLP[17] or Communication Sciences and Disorders; **and** ASHA[14] certification; or OBESPA[11] state licensure in Speech Language Pathology	Yes	Master's degree in SLP[5] or Communication Sciences and Disorders; plus state certification test, or ASHA[1] certification	Yes
Physical Therapy Assistant	Physical therapy services under the general direction and supervision of a licensed Physical Therapist	Yes	Associate's degree; state licensure	No	N/A	Yes

58974-OKEd-SpecialEd text.indd 354 2/10/11 11:27 AM

RELATED SERVICES PERSONNEL QUALIFICATIONS

Profession/Discipline	Services Provided	Oklahoma Entry Level Requirements				Meets or Exceeds Oklahoma's Entry Level Requirement
		State Licensure or Credential	Requirements for Licensure or Credential	Teaching Certification or Credential	Requirements for OSDE Certification	
Occupational Therapy Assistant	Occupational therapy services under the general direction and supervision of a licensed Occupational Therapist	Yes	Associate's degree; state licensure	No	N/A	Yes
Licensed Practical Nurse	School health services under the general direction and supervision of a registered nurse, physician, or dentist	Yes	State Licensure	Yes	State Licensure	Yes
Special Education Paraprofessional	Special education and related services under the general direction and supervision of a certified or licensed professional staff	No	N/A	Yes	High School diploma or GED[18]; completion of ODCTE[19] training, CPR[20] and First Aid certification	Yes

The IEP team may identify the need for other related services not listed in this chart for the child to benefit from special education. Such services must be provided by qualified personnel who hold OSDE approved or recognized licensure, certification, or other comparable requirements for the scope of practice and training in the identified area(s) of related services. Utilization of additional related services personnel must not be in conflict with the standards outlined in Oklahoma State law and in the *Policies and Procedures in Special Education in Oklahoma.*

[1] - Educational Interpreter Performance Assessment
[2] - Licensed Practicing Counselor
[3] - Educational Sign Skills Evaluation
[4] - National Association of the Deaf
[5] - Licensed Marriage and Family Therapist
[6] - Registry of Interpreters for the Deaf
[7] - Academy for Certification of Vision Rehabilitation and Education Professionals
[8] - Licensed Behavioral Therapist
[9] - National Interpreter Certification
[10] - Quality Assurance Screening Test
[11] - Oklahoma Board of Examiners for Speech Language Pathology and Audiology
[12] - Advanced Registered Nurse Practitioner
[13] - Medical Doctor or Doctor of Osteopathy
[14] - American Speech Language Hearing Association
[15] - Office of Personnel Management
[16] - National School Psychology Certification System
[17] - Speech Language Pathology
[18] - General Educational Development
[19] - Oklahoma Department of Career and Technology Education
[20] - Cardiopulmonary resuscitation
[21] - Enriching Children's Communication Opportunities

58974-OKEd-SpecialEd text.indd 355 2/10/11 11:27 AM

CHILD OUTCOMES SUMMARY FORM

Date: _____/_____/_____
Mon Day Yr

Child Information

Name: _____

Date of birth: _____/_____/_____
Mon Day Yr

ID:_____

Persons involved in deciding the summary ratings:

Name	Role

Family information on child functioning (Check all that apply):

___ Received in team meeting

___ Collected separately

___ Incorporated into assessment(s)

___ Not included

IDEAs that Work
U.S. Office of Special Education Programs

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58974-OKEd-SpecialEd text.indd 357 2/10/11 11:27 AM

1. POSITIVE SOCIAL-EMOTIONAL SKILLS (INCLUDING SOCIAL RELATIONSHIPS)

To answer the questions below, think about the child's functioning in these and closely related areas (as indicated by assessments and based on observations from individuals in close contact with the child):

- *Relating with adults*
- *Relating with other children*
- *Following rules related to groups or interacting with others (if older than 18 months)*

1a. To what extent does this child show age-appropriate functioning, across a variety of settings and situations, on this outcome? *(Circle one number)*

Not Yet		Nearly		Somewhat		Completely
1	**2**	**3**	**4**	**5**	**6**	**7**

Supporting evidence for answer to Question 1a

Age-appropriate functioning Concerns? No Yes_____(describe)
Immediate foundational skills/ Functioning that is not age-appropriate
Functioning that is not yet age appropriate or immediate foundational

1b. *(If Question 1a has been answered previously):* **Has the child shown *any* new skills or behaviors related to positive social-emotional skills (including positive social relationships) since the last outcomes summary?** *(Circle one number)*

Yes	**1→**	Describe progress:
No	**2**	

58974-OKEd-SpecialEd text.indd 358 2/10/11 11:27 AM

2. ACQUIRING AND USING KNOWLEDGE AND SKILLS

To answer the questions below, think about the child's functioning in these and closely related areas (as indicated by assessments and based on observations from individuals in close contact with the child):

- *Thinking, reasoning, remembering, and problem solving*
- *Understanding symbols*
- *Understanding the physical and social worlds*

2a. To what extent does this child show age-appropriate functioning, across a variety of settings and situations, on this outcome? *(Circle one number)*

Not Yet		Nearly		Somewhat		Completely
1	2	3	4	5	6	7

Supporting evidence for answer to Question 2a

Age-appropriate functioning Concerns? No Yes_____(describe)
Immediate foundational skills/ Functioning that is not age-appropriate
Functioning that is not yet age appropriate or immediate foundational

2b. *(If Question 2a has been answered previously):* **Has the child shown *any* new skills or behaviors related to acquiring and using knowledge and skills since the last outcomes summary?** *(Circle one number)*

Yes	**1→**	Describe progress:
No	**2**	

58974-OKEd-SpecialEd text.indd 359 2/10/11 11:27 AM

3. TAKING APPROPRIATE ACTION TO MEET NEEDS

To answer the questions below, think about the child's functioning in these and closely related areas (as indicated by assessments and based on observations from individuals in close contact with the child):

- *Taking care of basic needs (e.g., showing hunger, dressing, feeding, toileting, etc.)*
- *Contributing to own health and safety (e.g., follows rules, assists with hand washing, avoids inedible objects) (if older than 24 months)*
- *Getting from place to place (mobility) and using tools (e.g., forks, strings attached to objects)*

3a. To what extent does this child show age-appropriate functioning, across a variety of settings and situations, on this outcome? *(Circle one number)*

Not Yet		Nearly		Somewhat		Completely
1	2	3	4	5	6	7

Supporting evidence for answer to Question 3a

Age-appropriate functioning Concerns? No Yes_____(describe)
Immediate foundational skills/ Functioning that is not age-appropriate
Functioning that is not yet age appropriate or immediate foundational

3b. *(If Question 3a has been answered previously):* **Has the child shown *any* new skills or behaviors related to taking appropriate action to meet needs since the last outcomes summary?** *(Circle one number)*

Yes	**1→**	Describe progress:
No	**2**	

58974-OKEd-SpecialEd text.indd 360 2/10/11 11:27 AM

Instructions for Completing the Child Outcomes Summary Form

Directions for Completing the Form

1. Page 1: Provide all the requested information. It is strongly recommended that the family be asked to provide information about the child's functioning, but if the family's information was not included, check "not included." Additional state-specific information also may be requested.

2. Questions 1a, 2a, 3a: Circle only **one** number for each outcome. Definitions for the scale points are provided at the end of the instructions.

3. Supporting evidence: Provide the evidence that supports the rating. Indicate the source of the evidence (e.g., parent, speech therapist, teacher, XYZ assessment) and the nature of the evidence from the source. For example, if a child's functioning receives a rating of '5', relevant results should provide evidence of a mix of age appropriate and not age appropriate skills and behaviors. A sample completed evidence table is provided below.

Source of information	Date	Summary of Relevant Results
Candace's mom	4/12/06	Mom reports that when Candace eats by herself she makes a big mess. She eats finger foods but does not use a fork or spoon. She uses a "sippy" cup with two hands. Mom reports that she has not begun to toilet train Candace. Candace does not let mom know when she has a wet or soiled diaper. She pulls off her socks when getting ready for bed.
Candace's child care provider	4/5/06	Child care provider said that Candace is learning to use a spoon, but usually uses her fingers to feed herself. Candace uses diapers and tugs on diaper after it is wet or soiled.
Carolina Curriculum for Infants and Toddlers with Special Needs	Administered 3/13/06	Self-Help: Eating – 12-15 months Self-Help: Dressing – 15-18 months Self-Help: Grooming – 18-21 months Self-Help: Toileting -- <15-18 months
Developmental specialist	Observed over a 4 week period in March 2006	Observed in her child care environment during structured activities and unstructured play time. She clapped and jumped during a group song. During free play Candace tended to sit quietly unless engaged in a play activity by her caregiver. Candace did not object to having hands washed by caregiver, but needed assistance.

4. Questions 1b, 2b, 3b: Complete questions 1b, 2b, and 3b only when questions 1a, 2a, and 3b have been answered previously. Circle one number to indicate if the child has made progress since the previous outcomes rating. Progress is defined as the acquisition of at least one new skill or behavior related to the outcome. Describe the general nature of the progress in the space provided.

58974-OKEd-SpecialEd text.indd 361 2/10/11 11:27 AM

assessments, norm-referenced assessments, service provider notes about performance in different situations, and progress and issues identified in the IFSP/IEP or individualized planning process.

- Depending on the assessment tool, assessment tools can be a useful source of information for reaching a summary decision but resulting information should be placed in context with other information available about a child. Many assessment tools are domain-based and were not designed to provide information about functional behaviors and functioning across a variety of situations. Knowing that a child has or has not mastered assessment items that are related to the outcome provides helpful information but the information should be used in conjunction with what else is known about the child. A high score on a set of items in a domain related to the outcome might not mean the child has achieved the outcome and, conversely, a low score might not mean the child has not achieved it.

- Ratings should reflect the child's current functioning across settings and in situations that make up his/her day. Ratings should convey the child's functioning across multiple settings and in everyday situations, *not* his/her capacity to function under unusual or ideal circumstances.

- A standardized testing situation is an unusual setting for a young child. If the child's functioning in a testing situation differs from the child's everyday functioning, the rating should reflect the child's everyday functioning.

- If the child is from a culture that has expectations that differ from published developmental milestones for when young children accomplish common developmental tasks, such as feeding themselves or dressing themselves, use the expectations for the child's culture to decide if child's functioning is at the level expected for his or her age.

- If the child was born prematurely, use the expectations for the child's chronological age, not the corrected age. The intent of the form is to describe the child's current functioning relevant to expectations for his or her age. Presumably over time and with support, many children born prematurely eventually will perform like same age peers.

- If assistive technology or special accommodations are available in the child's everyday environments, then the rating should describe the child's functioning using those adaptations. However, if technology is only available in some environments or is not available for the child, rate the child's functioning with whatever assistance is commonly present. Ratings are to reflect the child's **actual** functioning across a range of settings, *not* his/her capacity to function under ideal circumstances if he or she had the technology.

Additional Information

The outcomes reflect several beliefs about young children:

- It is important that all children be successful participants in a variety of settings both now and in the future. Achieving the three outcomes is key to being successful participants in life.

58974-OKEd-SpecialEd text.indd 362 2/10/11 11:27 AM

- Programs for young children and their families are working to ensure that all children will have the best possible chance of succeeding in kindergarten and later in school – even though school might be several years off for some children. Children who have achieved the outcomes at a level comparable to their same aged peers prior to kindergarten entry have a high probability of being successful in kindergarten.

- Learning and development occur continuously in the years preceding kindergarten. There is much variation in how children develop but children whose development is consistently below what is expected for their age are at risk of not being successful in kindergarten and later school years.

58974-OKEd-SpecialEd text.indd 363 2/10/11 11:27 AM

Definitions for Outcome Ratings

Overall Age-Appropriate	**Completely** *means*:	**7**	• Child shows functioning expected for his or her age in **all or almost all everyday situations** that are part of the child's life. Functioning is considered **appropriate** for his or her age. • No one has any concerns about the child's functioning in this outcome area.
		6	• Child's functioning generally is considered **appropriate** for his or her age but there are **some significant concerns** about the child's functioning in this outcome area. These concerns are substantial enough to suggest monitoring or possible additional support. • Although age-appropriate, the child's functioning may border on not keeping pace with age expectations.
Overall Not Age-Appropriate	**Somewhat** *means:*	**5**	• Child shows functioning expected for his or her age **some of the time and/or in some settings and situations**. Child's functioning is a mix of age-appropriate and not age-appropriate behaviors and skills. • Child's functioning might be described as like that of a **slightly younger child***.
		4	• Child shows occasional age-appropriate functioning across settings and situations. More functioning is **not** age-appropriate than age-appropriate.
	Nearly *means:*	**3**	• Child does **not yet** show functioning expected of a child of his or her age in any situation. • Child uses **immediate foundational skills,** most or all of the time, across settings and situations. Immediate foundational skills are the skills upon which to build age-appropriate functioning. • Functioning might be described as like that of a **younger child***.
		2	• Child occasionally uses **immediate foundational skills** across settings and situations. More functioning reflects skills that are **not** immediate foundational than are immediate foundational.
	Not yet *means*:	**1**	• Child does **not yet** show functioning expected of a child his or her age in any situation. • Child's functioning does **not yet include immediate foundational skills** upon which to build age-appropriate functioning. • Child functioning reflects skills that developmentally come before immediate foundational skills. • Child's functioning might be described as like that of a **much younger child***.

*The characterization of functioning like a younger child only will apply to some children receiving special services, such as children with developmental delays

58974-OKEd-SpecialEd text.indd 364 2/10/11 11:27 AM

RESPONSE TO INTERVENTION (RtI)

Overview
The reauthorized IDEA of 2004 includes provisions that could lead to significant changes in the way in which students with specific learning disabilities (SLD) are identified. Of particular relevance to the process of SLD determination is the provision that LEAs may consider a student's response to scientific-based instruction.

Response to Intervention, often referred to simply as RtI, is a prevention framework that involves schools:

- Providing a research-based curriculum to all students in academic and behavior areas.
- Identifying students who are not meeting standards.
- Planning and providing research-based interventions in a timely manner.
- Monitoring student progress closely.
- Intervening at increasingly intensive levels if students do not progress toward achievement standards.

Although the research for RtI is primarily in reading or math, it can be applied to all content areas. It is an overarching framework that aligns all school services and supports (general and special education) to ensure success for all students.

Summary of Essential Features of Response to Intervention in Oklahoma

Essential Features	Tier I (Section 3 – pg. 12)	Tier II (Section 4 – pg. 16)	Tier III (Section 5 – pg. 21)
Focus	All students receiving general education core practices.	Students failing to meet important benchmarks who have not responded to Tier I core practices.	Students failing to meet important benchmarks who have not responded to Tier I or Tier II efforts.
Setting	General education classrooms	General education classrooms or other general education locations within a school.	General education classrooms or other general education locations within a school.
Interventions	Research-based, comprehensive core delivered with differentiation of instruction.	Supplemental short-term interventions, delivered to homogeneous groups (i.e., students with similar needs); teacher: student ratio up to 1:4 or 1:6.	Supplemental intensive short-term interventions; teacher: student ratio up to 1:3.
Interventionists	General education teachers with collaboration from school specialists.	General education teachers, specialists or other interventionists trained for Tier II interventions.	Specialists or other interventionists trained for Tier III intervention (including general educators with appropriate training).

Assessments	Screening of all students at least three times per year.	Frequent progress monitoring (e.g., every one to two weeks).	Very frequent progress monitoring (e.g., at least once per week).
Data analysis and decision making	District, school and grade/content area data-review teams analyze universal assessment data to establish the overall efficacy of Tier I, identify ways to improve and differentiate instruction within a grade or course, and identify individual students in need of Tier II support.	Data review teams match students with and monitor the effectiveness of appropriate Tier II interventions.	Data review teams decide how to choose, individualize, and intensify interventions for students receiving Tier III interventions.

Conclusion

RtI has the potential to help a school make better use of its resources for increasing overall student achievement and for serving students with learning disabilities by:

- Allowing for early identification of at-risk students;
- Aligning assessment procedures with instruction;
- Providing multiple data points on which decisions are based;
- Ensuring access to appropriate instruction through the use of progress monitoring; and
- Using scientifically based instruction.

When RtI is used to determine SLD it functions as an intervention-based assessment. The data generated from the RtI assessment is critical in determining the existence of SLD and the need for special education services. However, data generated from RtI should be used in conjunction with other assessment procedures such as behavioral observations, interviews with teachers and parents, review of pertinent student records, direct assessment of related academic skills, and from other sources when necessary. In the event that a disability other than a specific learning disability is suspected of contributing to the student's difficulties, including the student's lack of response to intervention, then the multidisciplinary team should use this information to recommend additional diagnostic evaluation procedures.

Parent(s) have a right to request an evaluation of their child to determine eligibility for special education programs and services if the parent(s) suspects their child has a disability. Upon such a request, the school district or public agency is required to provide parent(s) with a copy of the procedural safeguards available to them under the Individuals with Disabilities Education Act. In addition, federal and State law require that the school district or public agency respond to the parent's request for an evaluation with written notice of any proposals or refusals to conduct the evaluation requested by the parent.

Oklahoma's advisory panel is the IDEA B Advisory Panel.

What is the purpose of the IDEA B Advisory Panel?

The IDEA requires that each state establish and maintain an advisory panel for the *purpose of advising the state special education staff regarding the education of eligible children with disabilities*. This includes advising the state on the education of students with disabilities who have been convicted as adults and are incarcerated in adult prisons.

What is the Federal regulation for establishing State Special Education Advisory Panels?

34 CFR § 300.167 State advisory panel.
The State must establish and maintain an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.

(Approved by the Office of Management and Budget under control number 1820–0030)

(Authority: 20 U.S.C. 1412(a)(21)(A))

34 CFR § 300.168 Membership.
(a) General. The advisory panel must consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, be representative of the State population and be composed of individuals involved in, or concerned with the education of children with disabilities, including—
(1) Parents of children with disabilities (ages birth through 26);
(2) Individuals with disabilities;
(3) Teachers;
(4) Representatives of institutions of higher education that prepare special education and related services personnel;
(5) State and local education officials, including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, (42 U.S.C. 11431 et seq.);
(6) Administrators of programs for children with disabilities;
(7) Representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;
(8) Representatives of private schools and public charter schools;
(9) Not less than one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities;
(10) A representative from the State child welfare agency responsible for foster care; and
(11) Representatives from the State juvenile and adult corrections agencies.
(b) Special rule. A majority of the members of the panel must be individuals with disabilities or parents of children with disabilities (ages birth through 26).

(Approved by the Office of Management and Budget under control number 1820–0030)

(Authority: 20 U.S.C. 1412(a)(21)(B) and (C))

58974-OKEd-SpecialEd text.indd 367 2/10/11 11:27 AM

34 CFR § 300.169 Duties.
The advisory panel must—
(a) Advise the SEA of unmet needs within the State in the education of children with disabilities;
(b) Comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;
(c) Advise the SEA in developing evaluations and reporting on data to the Secretary under section 618 of the Act;
(d) Advise the SEA in developing corrective action plans to address findings identified in Federal monitoring reports under Part B of the Act; and
(e) Advise the SEA in developing and implementing policies relating to the coordination of services for children with disabilities.

(Approved by the Office of Management and Budget under control number 1820–0030)

(Authority: 20 U.S.C. 1412(a)(21)(D))

Establishment of the Advisory Panel

- Each state shall establish and maintain a State Advisory Panel on the education of children with disabilities.
- Oklahoma's advisory panel is appointed by the State Superintendent of Public Instruction.

What is the required membership of the State Advisory Panel?

Panel membership must be composed of individuals who are representative of the state's population and involved in, or concerned with, the education of children with disabilities. *A majority of the members of the panel must be individuals with disabilities or parents of children with disabilities*. Panel membership should include individuals who represent the following areas:

- Parents of children (aged birth through 26);
- Individuals with disabilities;
- Teachers;
- Representatives of institutions of higher education that prepare special education and related services personnel;
- State and local education officials, including officials who carry out activities under subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act;
- Administrators of programs for children with disabilities;
- Representatives of other state agencies involved in the financing or delivery of related services to children with disabilities;
- Representatives of private schools;
- Representatives of public charter schools;
- At least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities;
- Representatives from the state child welfare agency responsible for foster care; and
- Representatives from the state juvenile and adult corrections agencies.

58974-OKEd-SpecialEd text.indd 368 2/10/11 11:27 AM

Special Rule: A majority of the members of the panel must be individuals with disabilities or parents of children with disabilities.

What are the functions of State Advisory Panels?

Federal regulations define the responsibilities of State Advisory Panels as follows:

- Advise the state of unmet needs in the education of children with disabilities;
- Comment publicly on any rules or regulations proposed by the state regarding the education of children with disabilities;
- Provide advice to the state staff in developing evaluations and reporting on data to the Secretary of Education;
- Advise the state in developing corrective action plans to address findings identified in federal monitoring; and
- Advise the state in developing and implementing policies relating to the coordination of services for children with disabilities.

58974-OKEd-SpecialEd text.indd 369 2/10/11 11:27 AM

58974-OKEd-SpecialEd text.indd 370 2/10/11 11:27 AM

INDEX

Accommodations 25, 31-32, 43, 66, 115-116, 182, 216
Adaptive Behavior 68, 74, 77, 83-86, 89-94, 98-99, 105-107
Adverse Effects on Educational Performance 81, 89, 102
Age of Majority 42-43, 48-49, 55-56, 66-67, 111, 114, 121-123, 126, 158-159, 205
Assessment 24, 26, 31, 35, 37, 57-58, 69-89, 91-94, 98-99, 101, 107, 110-114, 119-120, 129
- Accommodations for Assessment 111, 113, 150-152
- Alternate Assessment 110-113, 120, 129, 132, 137, 144, 146-147, 150-152
  - OAAP and OMAAP 113, 151-152
- Participation in Assessment 150
- Regular Assessment 111, 113, 150-152

Assistive Technology 15, 17, 29-31, 81, 98, 118, 139, 141, 156
Autism 84-85, 185
Behavior Intervention Plan 81, 164
Caseload ..... 141, see appendix
Child Count 35, 91, 94, 141-142, 225-226, 228, 241-242, 248
Child Find 17, 33-35, 38-39, 43, 57, 79, 217-218, 230, 242, 245-249, 251, 253
Child Identification, Location, and Evaluation 33-34
Class Size ..... 141, see appendix
Complaint Procedures 59, 192, 209-210, 212
Confidentiality Procedures 40-42
Continuum of Alternative Placements 25, 141-145
- Regular Class Full-Time ..... 142, see appendix
  - Consultation ..... 182-183, see appendix
  - Monitoring ..... 134, see appendix
  - Collaboration/Co-Teaching ..... 183, see appendix
- Special Class Full-Time ..... 143, see appendix
- Special Class Part-Time ..... 143, see appendix
- Outside the Public School Setting
  - Home Instruction 143
  - Hospitals 143
  - Institutions 142
  - Public/Private Residential Facilities 143
  - Public/Private Separate Day School Facilities 143
  - Correctional Facilities 143
  - Parentally-Placed in Private Schools 143
- Preschool Continuum (Children Aged 3 through 5) 144
  - Early Childhood Program 144
  - Special Education Program 144-145
  - Residential Facility 143-144
  - Home 144
  - Service Provider Location 145

Corrective Action Plan 211, 217, 222
Cumulative Records 41
Curriculum Access Resource Guide (CARG) 151
- Alternate (CARG-A) 151
- Modified (CARG-M) 151

Deaf-Blindness 85-87, 185, 225

58974-OKEd-SpecialEd text.indd 1 2/10/11 11:27 AM

Deafness/Hearing Impairment 90-91
Destruction of Records 41-50
Developmental Delays 87-88
Diplomas 10, 12, 71, 73, 75, 77, 122, 132, 151, 159, 160, 188
Directory Information 40-41
Discipline Procedures 162-173
Due Process Complaints and Appeals 195-208
Due Process Hearing Procedure 25, 171, 196-208
Early Childhood 144
    Caseload ..... see appendix
    Developmental Delays 33, 36, 38-39, 87-88
    IEP Team Participants 82, 124
    Initial Evaluation 54-57, 68-71, 75, 80
    Reevaluation 12, 53-56, 58, 80, 118, 120-122, 129, 159, 164, 226
    Transition from Part C (SoonerStart) to Part B 82, 226
Educational Records 42, 46-47, 171
Elementary School Districts (Grades K-8) 13
Emancipated Children 66
Emotional Disturbance 88-90
Evaluation Assessment Components
    Comprehensive 26, 34-35, 38, 69, 74-75, 77, 81-83
    Independent Educational Evaluation 107-109
    Parent Consent 126, 156-157, 208
    Reevaluation 12, 53-56, 58, 80, 118, 120-122, 129, 159, 164, 226
Exceptions to Caseload ..... see appendix
Extended School Year (EYS) 22-23, 129, 226
Family Educational Rights and Privacy Act (FERPA) 35, 41-52, 122, 171
Forms ..... see appendix
Free Appropriate Public Education (FAPE) 6
    17-30, 38, 49, 54-58, 61-64, 71-79,
    108-110, 115-116, 119, 124, 129-130, 134-142, 147, 153, 156-157, 164,
    188, 195, 203, 212-218, 232-246, 252
Full Educational Opportunity 6, 11, 27
Functional Assessment 81, 86, 88-89, 94, 106
Functional Behavioral Assessment 81, 162-167
Funding
    Federal 25
    Medicaid 21
Maintenance of Effort 19, 22, 224, 230-232, 236
General Education Development (GED) 188
Grading 130-131
Graduation Requirements 132
Health Records 41-42
Hearing Impairments, Including Deafness 90-91
Highly Qualified (HQ) 179-182
Home Instruction (Home Based) 144
Homeschool 245-246
Individualized Educational Program (IEP) 110-139
    Accountability 120
    Content 114, 116-117, 124, 128
    Enrollment of Previously Identified Children 117

58974-OKEd-SpecialEd text.indd 2 2/10/11 11:27 AM

Initial 60, 78, 115-116, 124, 127
Instructions ..... see appendix
Interim 117
Participants 123-125
Additional Team Participants for Transition 126
Parent Participation 128-129
LEA Responsibility to Ensure Attendance 123-127
Documentation of Efforts 128
Scheduling IEP Meetings 128-129
Preschool Team Composition 126
Team Participation for Children in Private Schools/Facilities 126
Team Participation in State -Operated Facilities 126-127
Removal from Special Education 122
Review/Revisions 129
Subsequent 125
Tape Recording Meetings 122
Intellectual Disability 92-93
Interagency Coordination 17, 19
Medicaid and Other Benefits 19-21
Provision of Services 18
Learning Disability ..... see specific learning disability
Least Restrictive Environment (LRE) 140-141
Length of School Day 27
Limited English Proficiency 74-75, 101-102, 117, 119
Local Educational Agency Responsibility 7, 8, 11, 12
Mediation and Informal Dispute Resolution 192-194
Mental Retardation ..... see intellectual disability
Modifications 27, 36, 70, 72, 79-80, 86, 91, 107, 111-112, 115-116, 118-120, 125, 130, 132-134, 145-146, 162, 169-170, 186, 216, 229
Monitoring 215-224
Move-In Students 116
Multidisciplinary Evaluation and Eligibility Group Summary (MEEGS) 38, 69, 72, 75-80, 88, 99, 103
Multiple Disabilities 93-94
Notification of Meeting ..... 60-63, 117, 128, 130, 147, 156-158, see appendix
Occupational Therapist (OT) ..... 82, 135, see appendix
Billing Medicaid ..... see interagency coordination: medicaid and other benefits
Orthopedic Impairment 95
Other Health Impairment 95-97
Parental Involvement and Participation 128-129
Parents' Rights ..... see appendix
Personnel Development 191
Personnel Qualifications 184-190
Instructional Personnel ..... see appendix
Related Services Personnel ..... see appendix
Physical Education (PE) 28-29, 133-134
Physical Therapist (PT) ..... 82, 135, see appendix
Placement 113, 117-129
Priority Academic Student Skills (PASS) 151
Prior Notice ..... see written notice to parents
Private Schools/Facilities 126
Program Options 27-28

58974-OKEd-SpecialEd text.indd 3 2/10/11 11:27 AM

Qualified Diagnostic Personnel 76, 82, 89, 92, 108-109
Qualified Examiner 76, 82, 89, 92, 108-109
Record Maintenance 40-51
Reevaluation 53-59, 70-80, 118, 120-122, 129, 159, 164, 226
Related Services 134-137
Removal from Special Education Programs 122-123
Residence 127, 138, 144, 196-197, 213
Residential Placement 25-26, 238-239
Review of Existing Data (RED) ..... 36, 69-72, 75, 80, see appendix
Review of Placement/IEP ..... 122, 129, see appendix
Screening 21, 34-35, 55, 68-69, 83, 85, 99, 104, 187
SoonerStart 11, 23, 34, 36-39, 69, 82, 116, 124
Special Education - Definition 133-134
Special Education Paraprofessionals 188-189
Specific Learning Disability 97-104
Speech Language Impairment 104
Speech Language Pathologist ..... 82, 100, 125, 185, 187-188, see appendix
Staff Development ..... see personnel development
Surrogate Parents ..... 63-67, see appendix
Suspension 51, 162-165, 172-173, 216, 219-220, 223, 226-227
Teacher Certification ..... see personnel qualifications
Teacher Registry ..... 185, see appendix
Transcripts 131
Transfer of Records ..... 239, see appendix
Transfers 13-14, 115
    Emergency 14
    Open 13-14
Transportation 138-139
Transition Planning and Services 121
Transition from Part C (SoonerStart) to Part B 23, 34, 37-38, 69, 82, 226
Transportation 138-139
    Independent LEAs 13
    Preschool Children (Aged 3 to 5) 138
    Private School 138-139
    Related Service 134-138
    Residential Facilities 139
    Transfers 138
Traumatic Brain Injury 105-106
Visual Impairment 106-107
Vocational Education 153, 159
    Career and Technology Education 154, 156, 161, 189
    Work-Study 121, 159
Written Notice to Parents ..... 55-56, 58, 63, 78-80, 123-124, 128, 198, see appendix

58974-OKEd-SpecialEd text.indd 4 2/10/11 11:27 AM

58974-OKEd-SpecialEd text.indd 5 2/10/11 11:27 AM

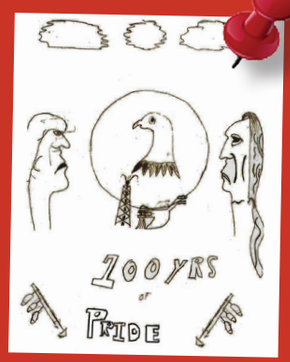
58974-OKEd-SpecialEd text.indd 6 2/10/11 11:27 AM

Celebrating 100 Years

Flynt-Age 9
Shattuck Elementary

Lili-Age 11
Shattuck Elementary

Steven-Age 16
Eufaula High School



Jolene-Age 18
Eufaula High School

Austin-Age 8
Shattuck Elementary

Franklin-Age 7
Central Elementary, Putnam City

Trinity-Age 10
Shattuck Elementary

Ty-Age 11
Sayre Elementary

Samantha-Age 10
Shattuck Elementary

Jeffery-Age 17
Eufaula High School

Connor-Age 8
Shattuck Elementary

Courtney-Age 16
Eufaula High School

Zachary-Age 8
Shattuck Elementary

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58974-OKEd-SpecialEd cover.indd 4 2/10/11 11:22 AM