

## South Dakota Comprehensive Plan/Program Narrative

### Sec. 300.201 Consistency with State policies.

The LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures, established under Secs. 300.101 through 300.163, and 300.165 through 300.174. (Authority: 20 U.S.C. 1413(a)(1))

### South Dakota Administrative Rule 24:05:21:01. Local education agency comprehensive plans- Contents.

Each local education agency must have a current comprehensive plan approved by the school board on file with the district superintendent or designee. Documentation supporting the implementation of the local school district's comprehensive plan shall be maintained by the district for review by Special Education Programs staff during onsite monitoring visits. Districts shall update comprehensive plans consistent with 24:05:21:01.02 and recertify their content annually.

The **CORE Educational Cooperative** has formally adopted the following policies and procedures as the cooperative's comprehensive plan for special education. These policies and procedures were approved by the school board on **xx/xx/xxxx**. As indicated by the signature below, the authorizing official acknowledges the cooperative will meet all requirements of the Individuals with Disabilities Education Act and Article 24:05 through the implementation of these policies and procedures and furthermore, provides assurances that it meets each of the conditions in 34 CFR 300.201 through 300.213.

CERTIFICATION- I certify that I have read and reviewed the above assurance and will comply with all provisions of applicable federal and state laws.

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Signature of Authorized Official

Date

**Renee Thomas, Director**

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Typed Name and Title

**PO Box 518 Platte, SD 57369**

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Special Education Programs  
800 Governor's Drive  
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If your coop is turning in one comprehensive plan narrative for all member districts, every district must still submit this page.

## South Dakota LEA Comprehensive Plan: Program Narrative

### SECTION I: Free and Appropriate Public Education (FAPE) 34 C.F.R. §§ 300.101-300.108, 300.110; ARSD 24:05:13:02

The cooperative and all member schools/ will make available to all children with disabilities residing in the districts(s) 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); 24:05:26 and 24:05:26.01, ARSD. Specific reference in the narrative to include:

- FAPE beginning at age 3; 300.101(b); ARSD 24:05:13:02
- Children advancing from grade to grade; 300.101(c); ARSD 24:05:13:02
- Limitations- age exceptions to FAPE; 300.102; ARSD 24:05:22:04.01
- FAPE- methods and payments; 300.103; ARSD 24:05:19:08
- Residential placement; 300.104; ARSD 24:05:19:08
- Assistive technology; 300.105; ARSD 24:05:27:20, ARSD 24:05:27:18, ARSD 24:05:27:19
- Extended school year services; 300.106; ARSD 24:05:25:26
- Nonacademic services; 300.107; ARSD 24:05:28:06
- Physical education; 300.108; ARSD 24:05:28:08
- Program options; 300.110; ARSD 24:05:28:04

Cooperative Narrative: (Review cited regulation to describe local implementation.)

- **FAPE beginning at age 3; 300.101(b); ARSD 24:05:13:02**

The cooperative will make a FAPE available to all students with disabilities who reside within the boundaries of the cooperative between the ages of 3 and 21 years of age. This includes any student with a disability who has been suspended or expelled. All eligible preschool aged students will have FAPE made available to them by their third birthday, including those whose birthdays fall during the summer months.

It is the goal of the cooperative to provide full educational opportunity to all children with disabilities, aged birth through twenty-one, consistent with the timetable established in the South Dakota Eligibility Document or Part B of the Individuals with Disabilities Act.

- **Children advancing from grade to grade; 300.101(c); ARSD 24:05:13:02**

All eligible students with disabilities, regardless of whether they are advancing from grade to grade, will have a FAPE available to them on an individualized basis as determined by the student's IEP team annually. Exceptions to FAPE for students aged 3-21 includes those students who have graduated from high school with a regular high school diploma. In addition, the cooperative will make FAPE available to children from birth to three who qualify for prolonged assistance. For students with disabilities who turn 21 during the fiscal year, the cooperative will provide FAPE during the duration of the Fiscal year in which they turn 21.

- **Limitations- age exceptions to FAPE; 300.102; ARSD 24:05:22:04.01**

The cooperative provides services to individuals age 0 – 21 who are determined eligible for special education services.

Students who have graduated from high school with a regular diploma are no longer eligible for service.

- **FAPE- methods and payments; 300.103; ARSD 24:05:19:08**

The cooperative provides services to students without cost to parents to ensure a FAPE. Member districts will utilize whatever federal, state, local and private funds are available to meet its obligations for the provision of FAPE. The cooperative may bill Medicaid for services provided for eligible students.

- **Residential placement; 300.104; ARSD 24:05:19:08.**

When an IEP team determines a residential placement is necessary in an approved public or private residential program to meet the special education and related service needs of a child with a disability, the program, including nonmedical care and room and board, will be provided at no cost to the parent of the eligible individual

- **Assistive technology; 300.105; ARSD 24:05:27:18 ARSD 24:05:27:19**

The cooperative ensures assistive technology services that are necessary for the provision of FAPE and for students to receive benefit from their special education program are provided without cost to the parent. This may include functional evaluation, acquisition of assistive technology through purchase or lease, customizing devices to benefit individual students and/or training for family, student and/or staff. The cooperative may assist districts in determining and locating appropriate assistive technology. This may also include assistive technology to be used at home, when that is determined to be essential for FAPE on a case-by-case basis.

- **Extended school year services; 300.106; ARSD 24:05:25:26**

Extended School Year services are provided to individual students to ensure the benefit of special education. The need for extended school year services is based on the IEP team's decision regarding regression/recoupment of skills, maintenance of critical life skills, and/or emerging skills. These will be provided at no cost to the parents.

- **Nonacademic services; 300.107; ARSD 24:05:28:06**

To the maximum extent possible, the cooperative will ensure that students with disabilities are allowed to participate with nondisabled peers during nonacademic services such as extracurricular activities, meals and recess. Supplementary aids and services will be provided by the member district and/or cooperative if necessary and appropriate as determined by the child's IEP team.

Annually the IEP team will consider the program options, nonacademic and extracurricular services to ensure that children in need of special education or special education and related services have such services and support available to them. Documentation will be made in the IEP.

- **Physical education; 300.108; ARSD 24:05:28:08**

The member districts will ensure that students with disabilities participate in physical education, specially designed, if necessary, consistent with their age peers. To the maximum extent possible the member districts will allow students with disabilities to participate in physical education classes with non-disabled peers.

Through the review of evaluation and progress information, the IEP team will document the need for physical education services as to assure that each child is afforded the opportunity in the grades which physical education is provided to nondisabled individuals. Based on the information, the IEP team determines if the student can benefit from participation in regular physical education courses, with or without accommodations or needs specially designed physical education.

- **Program options; 300.110; ARSD 24:05:28:04**

To the maximum extent possible and based on the individual eligible child, the member districts will ensure that students with disabilities have access to the same program options as students without disabilities.

Annually, the IEP team will consider the program options, nonacademic and extracurricular services to ensure that children in need of special education or special education and related services have such services and supports available to them. Documentation will be made in the IEP.

## SECTION II: Full educational opportunity goal (FEOG) 34 C.F.R. § 300.109; ARSD 24:05:22:04, ARSD 24:05:22:04.01

The cooperative and all member districts will have in effect policies and procedures, demonstrating that the cooperative has established a goal of providing full educational opportunity to all children with disabilities, aged birth through 21, and include a timetable for accomplishing that goal.

District Narrative: (Review cited regulation to describe local implementation.)

The CORE Educational Cooperative consistent with the timetable established by the State of South Dakota and Part B of the Individuals with Disabilities Education Act (IDEA), has a goal of providing full educational opportunity to all children with disabilities, aged birth through twenty-one. The district will review data annually to guide decisions with regard to adjustments in its programs to ensure appropriate services to all students with disabilities. The cooperative will assist member districts in adhering to the procedures outlined below.

1. The member districts will utilize a referral document and informal review of information to determine the need for special education evaluation and if so suspected areas of disability. (Utilizing forms through Sped Advantage) Districts should include any referral teams they have in place and identify them.
  - a. **Referral** – A referral includes any written request, which brings a student to the attention of a school district administrator as a student who may be in need of special education. A referral made by a parent may be submitted verbally, but it must be documented in writing by the district
2. Parents will be included in information review to determine the need for evaluation. If the district determines no need for evaluation, **Parental Prior Written Notice** will be sent documenting district's decision.
3. Based upon the skill areas affected, the eligibility guide, information obtained through the informal review and information from parents will be used to determine category(s) of disability to be considered during evaluation.
4. Parents will be contacted to gain their input into the evaluation process and the areas to be assessed.
5. **Parental Prior Notice/Consent** Form will be completed and sent to parents. (Located on DOE website and through Sped Advantage)
6. Upon receipt of the signed **Parental Prior Notice/Consent Form**, the date that permission was received by the district will be documented on the form along with the date evaluation must be completed and eligibility must be determined.
7. Upon receipt the district will complete an evaluation plan form to ensure all evaluators are provided with consent information.
8. In conjunction with CORE Educational Cooperative, the district, will secure an evaluation team to conduct a comprehensive evaluation in all areas of suspected disability that matches with the types of evaluations checked on the **Parental Prior Notice/Consent Form**. In addition to completing evaluations that will help the team determine eligibility, they will also gather functional assessment data and developmental information about the child relating to progress in the general curriculum.
9. Unless other timelines are agreed to, the evaluation will be completed within **25 school days** of receipt of the signed **Parental Prior Notice/Consent Form**.
10. Upon completion of all evaluations, the data will be analyzed and compiled into a written report(s). The report(s) will be disseminated to team members prior to the meeting (whenever possible), which will be held within **30 calendar days** from the end of the allowable evaluation period.
11. The school district, evaluators and parents will decide upon a mutually agreeable meeting date. The district will mail to the parents a completed **Meeting Notice** (Located on DOE website and through Sped Advantage) informing them of the meeting date, time, place, persons invited to attend the meeting, and other required prior notice content information.
12. At the meeting, the team will review the evaluation report(s), determine eligibility for special education and special education and related services, and, if appropriate, develop an IEP and then determine placement in the appropriate least restrictive environment.
13. The parent's consent, which is required for initial placement, will be obtained by the district prior to implementation of an IEP. (Located on DOE website and utilizing forms through Sped Advantage)
14. After placement, the IEP team will meet on at least an annual basis to review progress and goals.

## SECTION III: Child Find 34 C.F.R. § 300.111; Child Identification ARSD 24:05:22

The cooperative and all member schools must have in effect policies and procedures for ensuring that all children with disabilities who reside within the boundaries of the district/cooperative member districts, including those who are homeless children or are wards of the state, and children with disabilities who attend private schools, regardless of the severity of their disabilities, who are in need of special education and related services are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services. Specific reference in the narrative to include:

- Use of the term developmental delay; ARSD 24:05:24.01:09
- Children who may be suspected of having a disability, and in need of special education, even though they are advancing from grade to grade, 300.111(c)(1); ARSD 24:05:22:01
- Children who are highly mobile, including migrant children, 300.111(c)(2); ARSD 24:05:22:01

District Narrative: (Review cited regulation to describe local implementation.)

The cooperative has in effect policies and procedures to ensure that all children with disabilities who reside within the boundaries of the member districts and who may be in need of special education and related services are located, identified, and evaluated according to all relevant regulations. This includes those students who may be homeless or wards of the state, as well as children with disabilities who may attend private schools within the jurisdiction of the district. Child find includes our ongoing efforts to identify pre-school and school age students with disabilities through our referral and evaluation procedures, as well as our periodic screening of preschoolers who may be experiencing developmental delays.

Annually CORE Educational Cooperative assists the member districts in hosting one 0-5 screening in the fall. How this information is distributed is described below.

CORE Educational Cooperative assists district with the publishing of an annual public awareness campaign for informing the parents or guardians of children (birth through 21) residing within the legal boundaries of the member districts and other interested parties located within the jurisdiction of the member school districts, including all public and private agencies and institutions, the special education program services available within the cooperative and how to access them. Methods used to inform parents and other interested parties of the identification, location and evaluation of children in need of special education or special education and related services may include several of the following:

1. Newspaper release in the local district legal paper.
2. Radio announcements within the local district coverage area.
3. Information published in the local district handbook and newsletter.
4. Written materials will be made available to interested parties within the jurisdiction of each school district.
5. Information will be published in the local district newspaper regarding screening activities to be conducted for children aged 0 through five.
6. Written information will be displayed to make the public aware of the child find activities occurring in the district.
7. At each preschool screening, information will be available for contact information related to children age birth to three who may have delays.

The district ensures that each identified student with a disability has a current IEP in place that meets the requirements of Section 636(d) of the IDEA, and that has been developed in accordance with the requirements at 34 CFR sections 300.320 through 324. All identified students with disabilities in member districts will have a current IEP in place at the beginning of the school year, and for eligible preschool students, by their third birthday. Each eligible student's IEP will be reviewed periodically, but not less than annually, to review progress and determine whether annual goals are being met.

Referrals will be addressed on an ongoing basis throughout the year when brought to the attention of the cooperative. Referrals submitted late in the school year or during the summer months may not be acted upon until the beginning of the next school year.

Referral Process:

1. Referrals may be submitted by parents, teachers, medical personnel, school assistance team, etc.
2. All referrals must be submitted in writing.
3. Parent referral
  - a. Assist parents in completing written form.
  - b. Provide Parent with Parental Safeguards.
  - c. Create a team to review and gather information to make necessary evaluation determination.
  - d. Provide parents with prior written notice of evaluation decision.
  - e. See evaluation section referral (Page 14) for more in-depth process.
4. Referrals will be addressed on an ongoing basis throughout the year when brought to the attention of the cooperative.

5. Public school personnel referring children for evaluation shall:
  - a. Review the child's records and consult with appropriate staff to collect pertinent information, and
  - b. Refer the information to the building Student Assistant Team to accurately and in detail complete sections of the referral information, and
  - c. Confer with the Principal/designee to discuss the reasons for referral and areas that need to be assessed.

Parents/guardians and students who Initiate referrals may submit the information verbally and will be offered assistance by the principal/designee in completing the Referral documentation.

Referral from public and private agencies such as physicians, S.D. Department of Social Services, S.D. Advocacy Services, S.D. Parent Connection navigator, S.D. Department of Corrections, private non-profit special education agencies, etc. should include a written request with documentation of the basis for and suspected areas of concern. Assistance will be offered through dialogue with the principal/designee in gathering this written documentation and in seeking parent permission to release information between the agency and school. Upon receiving a referral and completion of the Referral and Parent Prior Notice documentation, the principal will promptly conduct an informal review or may proceed with the evaluation process. An informal review Includes a conference, if appropriate and necessary, either in person, by phone, or through videoconferencing with the person making the referral and a review of the student's school record. The principal may consult with staff who are knowledgeable of the student for specific information about the student. If after an informal review arising from a parental referral, the principal/designee determines that no evaluation is necessary, he/she shall:

- i. Send the parent a Parent Prior Written Notice form with reasons for declining and an Invitation to a Meeting (if necessary);
- ii. Inform the parent/s of the decision and the reasons for the decision;
- iii. Inform the parent/s of their due process rights; and
- iv. Document results of the parent conference on a Parent Prior Written Notice.

1. As designated by the Superintendent, the Special Education Director is responsible for coordination, implementation and documentation of the system and will maintain data regarding child identification activities.

2. Data will include all children screened and referred, those receiving a multidisciplinary evaluation, those referred but not evaluated, those evaluated but not placed and those receiving special education and related services.

3. The establishment of written procedures for collecting, maintaining, and reporting current and accurate data on all child identification activities which must be ongoing and include children not currently enrolled in the public-school education program.

- a. **Collecting:** The district will maintain a file documenting its child find activities. This will include:
  - i. Annual Student Information System (DDN Campus)
  - ii. Child identification news release information
  - iii. Written materials of services available
  - iv. Screening press release
  - v. Parent rights brochure
  - vi. Referral Forms
  - vii. Student Handbooks or newsletter containing pertinent data
  - viii. Any other written material developed and used to support the ongoing child identification process including information from all public and private agencies and institutions located within the jurisdiction of the district.
  - ix. Database located on Sped Advantage
- b. **Maintaining:** Member districts maintain all information through the SIMS computer program, special education records within the classrooms, a file of screening activities, the database located on Sped Advantage and announcements within the special education director's office.
- c. **Reporting:** Screening information is given directly to the parents. All reporting is also submitted to the state as well as keeping records within the school which are available upon parental request.

4. A practical method of determining which children are currently receiving needed special education or special education and related services. Documentation supporting the implementation of a local school district's child identification system shall be

maintained by the district for review by Special Education Program staff during on-site monitoring visits and must include annual child count data submitted to the division for approval.

The cooperative and member district caseloads from all related service providers and special education instructors are maintained within the Sped Advantage database and at the cooperative. They are reviewed at the end and beginning of each year. The district provides child count information to assist the cooperative in determining what services are needed within each district. Related service providers assist the member districts in determining correctness of child count.

- **Use of the term developmental delay; ARSD 24:05:24.01:09**

The cooperative utilizes the eligibility criteria of developmental delay for individuals through age 9 to receive special education services. These students include those who score at least 1.5 standard deviations below their same age peers in at least two areas of development or 2 standard deviations in at least one area of development. The areas of development are cognitive, physical, communication, social/emotional and adaptive.

- **Children who may be suspected of having a disability, and in need of special education, even though they are advancing from grade to grade, 300.111(c)(1); ARSD 24:05:22:01**
- **Children who are highly mobile, including migrant children, 300.111(c)(2).**

Children who have been identified as in need of special education are provided services based on their need and eligibility. Advancement from grade to grade and/or mobility are not used in determining eligibility for services.

#### **SECTION IV: Individualized Education Program (IEP) 34 C.F.R. 300.112; ARSD 24:05:27**

The cooperative and all member districts will ensure that an individualized education plan (IEP), or an individual family service plan (IFSP) that meets the requirements of section 636(d) of the Act, is developed, reviewed, and revised for each child with a disability in accordance with 34 C.F.R. §§ 300.320 – 300.324, except as provided in 300.300(b)(3)(ii). Specific reference must include:

- Content of the IEP; 300.320(a)(1-7); ARSD 24:05:27:01.03
- Transition services; 300.320(b); ARSD 24:05:27:13.02
- Transfer of rights at the age of majority; 300.320(c); ARSD 24:05:27:01.03
- The IEP team; 300.321; ARSD 24:05:27:01.01
- Parent participation in the IEP; 300.322; ARSD 24:05:25:16
- When the IEP must be in effect; 300.323; ARSD 24:05:25:22
- Development of the IEP; 300.324; ARSD 24:05:27:01.02
- Routine checking of hearing aids and external components of surgically implanted medical devices, 300.113; ARSD 24:05:27:05
- IEP Transfer for students in and out of state § 300.323 ARSD 24:05:27:15.01

#### District Narrative:

The member districts ensure that each identified student with a disability has a current IEP in place that meets the requirements of Section 636(d) of the IDEA, and that has been developed in accordance with the requirements at 34 CFR sections 300.320 through 324. All identified students with disabilities in our district will have a current IEP in place at the beginning of the school year, and for eligible preschool students, by their third birthday. Each eligible student's IEP will be previewed periodically, but not less than annually, to review progress and determine whether annual goals are being met.

- **Content of the IEP; 300.320(a)(1-7); ARSD 24:05:27:01.03**

The cooperative and member districts utilize the Sped Advantage database system to ensure all parts of the IEP are included. IEP process and compliance training is provided as needed through group training utilizing the state or cooperative staff. Cooperative personnel are available to assist districts with completion of IEP's to ensure appropriate content is developed.

CORE Educational Cooperative works with district to ensure that each student's individualized education program shall include:

(1) A statement of the student's present levels of academic achievement and functional performance, including:

- a. How the student's disability affects the student's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students); or
  - b. For preschool student, as appropriate, how the disability affects the student's participation in appropriate activities;
- (2) A statement of measurable annual goals, including academic and functional goals, designed to:
- a. Meet the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum; and
  - b. Meet each of the student's other educational needs that result from the student's disability; For students with disabilities who take alternate assessments aligned to alternate achievement standards, each student's IEP shall provide a description of benchmarks or short-term objectives;
- (3) 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 student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student:
- a. To advance appropriately toward attaining the annual goals;
  - b. To be involved and make progress in the general education curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and
  - c. To be educated and participate with other students with disabilities and nondisabled students in the activities described in this section;
- (4) An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in activities described in this section;
- (5) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and district-wide assessments consistent with § 24:05:14:14. If the IEP team determines that the student shall take an alternate assessment instead of a particular regular state or district-wide assessment of student achievement, a statement of why:
- (a) The student cannot participate in the regular assessment; and
  - (b) The particular alternate assessment selected is appropriate for the student;
- (6) The projected date for the beginning of the services and modification described in this section and the anticipated frequency, location, and duration of those services and modifications;
- (7) A description of how the student's progress toward the annual goals described in this section will be measured and when periodic reports on the progress the student is making toward meeting the annual goals will be provided;
- (8) Beginning not later than the first IEP to be in effect when the student turns 16, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP shall include:
- a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training or education, employment, and, if appropriate, independent living skills; and
  - b. The transition services (including courses of study) needed to assist the student in reaching those goals; and
- (9) Beginning not later than one year before a student reaches the age of majority under state law, the student's individualized education program must include a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act, if any, that will transfer to the student on reaching the age of majority consistent with § 24:05:30:16.01.

- **Transition services; 300.320(b); ARSD 24:05:27:13.02**

The cooperative and member districts require transition services to be addressed no later than age 16. These services are designed to assist the student with moving from a school-based environment to post school activities including education, employment and daily living. Several measures are utilized to assess a student's transition. Those needs will then be reported through goals and activities on the IEPs. The cooperative along with the member school districts use the state transition liaisons, school counselors and Vocational Rehabilitation to identify and implement transition services. Project Skills is also utilized.

Transition services will include a coordinated set of activities for the individual students with a disability, designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the student to facilitate the student's movement from high 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 will be based on the individual student's need taking into account the student's strengths, preferences and interests, and will include instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and provision of functional vocational evaluation.

Transition services for students with disabilities may be special education, if provided as specially designed instruction, or related services if required to assist a student with a disability to benefit from special education.

- **Transfer of rights at the age of majority; 300.320(c); ARSD 24:05:27:01.03**

Prior to age 17, The member districts provide information to parents and students concerning transfer of rights. This information includes brochures for transition information, rights and also discussion of guardianship as appropriate. Website from state is provided to parents.

- **The IEP team; 300.321; ARSD 24:05:27:01.01**

CORE Educational Cooperative will assist member districts to ensure the IEP team for each student with disabilities includes the following members as appropriate.

1. The parents of the student;
2. Not less than one regular education teacher of the student if the student is, or may be, participating in the regular education environment;
3. Not less than one special education teacher of the student or, if appropriate, at least one special education provider of the student;
4. A representative of the school district who:
  - a. Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
  - b. Is knowledgeable about the general education curriculum; and
  - c. Is knowledgeable about the availability of resources of the school district;
5. An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in subdivisions 2 to 6, inclusive, of this section;
6. At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student including related services personnel as appropriate;
7. If appropriate, the student; and
8. If appropriate, Transition services participants as described in §§ 24:05:25:16.01 and 24:05:25:16.02. The determination of the knowledge or special education expertise of any individual described in this section shall be made by the party (parents or district) who invited the individual to be a member of the IEP team.

A district may designate another district member of the IEP team to also serve as the district representative, if the criteria in this section are satisfied.

- **Parent participation in the IEP; 300.322; ARSD 24:05:25:16**

CORE Educational Cooperative will assist the member districts in ensuring that one or both parents of the child are present at each IEP team meeting or are afforded the opportunity to participate. The district shall notify parents of the meeting early enough to ensure that they will have an opportunity to attend, scheduling the meeting at a mutually agreed-upon time and place. The notice to the parents shall state the purpose, time, and location of the IEP team meeting and who will be in attendance and inform the parents of the provisions relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child, including information related 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 IDEA.

If a purpose of the IEP team meeting is the consideration of postsecondary goals and transition services for a student, the notice must also address the provisions of § 24:05:25:16.01.

If parents cannot attend, the district shall use other methods to ensure participation, including virtual and/or individual or conference telephone calls consistent with § 24:05:27:08.04.

Parent participation should be documented in written format. This may be found within the IEP or the Parental Prior Written Notice.

- **When the IEP must be in effect; 300.323; ARSD 24:05:25:22**

The cooperative works with member districts to ensure if the child is determined to be in need of special education or special education and related services, the IEP team shall develop an appropriate individual education program for the child. At the beginning of each school year thereafter, the district must have in effect an IEP for each child with disabilities within its jurisdiction. For children beginning at age three, an IEP shall be in effect by that date. If a child's third birthday occurs during the summer, the IEP team shall determine the date when services under the IEP will begin.

- **Development of the IEP; 300.324; ARSD 24:05:27:01.02**

1. The superintendent/designee will be responsible for ensuring that the proper procedures are followed in the development, review, and revision of each IEP. This would include completing and mailing parental prior notices and other correspondence relating to development, review, or revision of IEP's, adhering to timelines, composition of the IEP team, and properly completing each section of the IEP.
2. The IEP team will ensure that all appropriate special education issues are addressed and documented on the IEP. The district's Comprehensive Plan along with the IEP Technical Assistance Guide (available from Special Education Programs) will be used as references in the development, review, and revision of each IEP.
  - (a) In the case of a student whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and support and other strategies to address that behavior. Information to support positive behavior will be included within a Behavior Intervention Plan which will include the behavior, behavior supports and positive reinforcements. If restraint is addressed through the student's IEP/BIP, the team meeting will address procedures and training timelines for implementing the BIP.
  - (b) In the case of a student with limited English proficiency, consider the language needs of the student as these needs relate to the student's IEP;
  - (c) In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the team determines, after an evaluation of the students' reading and writing skills, needs and appropriate reading and writing media (including an evaluation of the student'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 student;
  - (d) Consider the communication needs of the student and, in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and
  - (e) Consider whether the student requires assistive technology devices and services.
3. All decisions of the IEP team will be made jointly by the parents and school personnel through the IEP process and specified on the child's IEP.
4. The general education teacher of a student with a disability, as a member of the individualized education program team, must, to the extent appropriate, participate in the development, review and revision of the student's IEP, including the determination of appropriate positive behavioral interventions and supports and other strategies for the student and the determination of supplementary aids and services, program modifications and supports for school personnel that will be provided for the student consistent with subdivision 24:05:27:01:03 (3).
5. The IEP will be in effect before special education and related services are provided to a child and will be implemented as soon as possible following a placement committee meeting.
6. The special educator will ensure that the parent receives a copy of the completed IEP. The district will ensure the general educators and other service providers are made aware of the sections of the IEP they are responsible for implementing in the child's program.
7. At the conclusion of each meeting or following any decision made by the IEP team, the parents will be provided with written notice of proposals or refusals and given five days to consider acceptance of said proposals or refusals.

- **Routine checking of hearing aids and external components of surgically implanted medical devices, 300.113; ARSD 24:05:27:05**

The CORE Educational Cooperative along with member districts develop procedures and a monitoring schedule as necessary for maintaining devices. The procedures and schedule will be included as a related service within the student's Individual Educational Program.

- **IEP Transfer for students in and out of state § 300.323 ARSD 24:05:27:15.01**

The districts within the CORE cooperative will develop procedures to ensure all information is obtained and eligibility is determined following the transfer of students from other districts both in-state and out-of-state. The following procedures will be utilized to assist with this process.

1. Upon enrollment of a transfer student within the state of SD, the receiving district will request the following information from the previous district.

- Referral Document
- Initial Consent for Placement
- Parental Prior Written Notice consent for most recent evaluation
- All evaluation reports from the most recent evaluation
- Medical Diagnostic reports of chronic acute health issues
- Any other evaluation report pertinent to the student's disability
- Eligibility Determination document
- Meeting Notice
- Current IEP
- All applicable amendments to the IEP
- Behavior Intervention Plan if Applicable
- Parental Prior Written Notices for current IEP and applicable amendments

2. If documents are not received within one week of requesting records from the previous district, the district will make a second contact to the previous district to expedite the transfer of records. If the records are still not received the district will contact the Department of Education's Special Education Program region representative and request an intervention to acquire the above documents.

3. The receiving district review team will examine the document to determine:

- If the IEP can be implemented (comparable services) as written
- If evaluation/eligibility documents accurately support eligibility

4. No amendment required:

- District will contact the parent by phone or in person and discuss the results of the review teams finding.
- Following the contact/discussion, parental prior written notice will be sent to the parents summarizing the IEP implementation discussion.
- District will inform all staff responsible for implementing the IEP of their responsibilities. Services will be implemented to avoid any undue interruption in the provision of special education and related services.

5. Amendment required:

- District will contact a parent prior to sending a meeting notice to explain purpose of the meeting. Then send a meeting notice to the parents setting up an IEP team meeting to discuss possible amendments recommended by the district review team.
- Amendment decisions will be documented parental prior written notice sent/given to parent and IEP implemented.
- District will inform all staff responsible for implementing the IEP of their responsibilities. Services will be implemented to avoid any undue interruption in the provision of special education and related services.
- If additional evaluation is needed to determine eligibility and education need, prior notice/consent for evaluation will be completed at the time of the meeting.
- Evaluation procedures, eligibility determination and IEP meeting will be held following completion of the evaluations(s).
- Parental prior written notice is sent.
- Complete an Initial Consent for Special Education and Related Services for the first time receiving services in South Dakota.

**SECTION V: Least Restrictive Environment (LRE), 34 C.F.R. §§ 300.114 – 300.120; ARSD 24:05:28**

The cooperative and all member districts will ensure that, to the maximum extent appropriate, children with disabilities, including those in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature and severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. Specific reference must include:

- A continuum of alternative placements; 300-115; ARSD 24:05:28:02
- Placements; 300.116; ARSD 24:05:28:03
- Non-academic settings, 300.117; ARSD 24:05:28:06
- Children in public or private institutions; 300.118; ARSD 24:05:28:07
- Teachers and administrators are provided with technical assistance and training; 300.119; ARSD 24:05:28:11
- Monitors placements, 300.120; ARSD 24:05:28:12

District Narrative: (Review cited regulation to describe local implementation.)

The CORE Educational Cooperative along with member districts ensure the availability of a continuum of alternative placements to provide each student with a disability the opportunity for education in the Least Restrictive Environment. Any removal of a student with a disability from the regular education environment may occur only when the nature and severity of the child's needs dictate that education in regular classes, with the use of supplementary aids and services cannot be achieved satisfactorily.

- **A continuum of alternative placements; 300-115; ARSD 24:05:28:02**
- **Placements; 300.116; ARSD 24:05:28:03**

Each student's placement within the continuum (1. Regular education programs with modification; 2. Resource room; 3. Self-contained program; 4. Separate day school programs; 5. Residential school programs; 6. Home and hospital programs; 7. Other settings) is determined annually by the IEP team. Decisions are based on the child's strengths and needs in the areas of eligibility. The team reviews the child's goals, mode of instruction, necessary modifications and possible harmful effects of placement along the continuum to determine the least restrictive environment for each students.

Unless a student's needs require some other arrangement, the students shall be educated in the school which that child would normally attend and the length of the school day will be equal in duration to that of a regular public school day. A child with a disability is not removed from education in age appropriate regular classrooms solely because of needed modification in the general education curriculum.

The team reviews the student's goals and determines the need for specialized instruction to meet each of them. As part of that decision the team determines the need for related service personnel to allow the child to be successful within the educational program. Related services must be directly related to the student's disability and determined on an annual basis. The IEP team shall provide for supplementary services, such as resource room or itinerant instruction to be provided in conjunction with regular class placement as applicable.

- **Non-academic settings, 300.117; ARSD 24:05:28:06**

The CORE Educational Cooperative along with member districts utilize information provided by the IEP team when providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities listed in this chapter. The district will ensure that each child in need of special education or special education and related services participates with children without disabilities in those services and activities to the maximum extent appropriate to the needs of that child. The district will 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.

- **Children in public or private institutions; 300.118; ARSD 24:05:28:07**

The special education director or superintendent designee attends the IEP meetings of students placed in other facilities to ensure the policies and procedures of educating students with children who are not disabled is met.

- **Teachers and administrators are provided with technical assistance and training; 300.119; ARSD 24:05:28:11**

The district sends personnel to state and regionally sponsored trainings to ensure continued compliance and understanding of special education procedures. Regular professional development is provided by CORE Educational Cooperative staff to staff from member districts. This training may include: IEP Process, crisis intervention, paraprofessional training, database management, or other requested trainings from member districts.

- **Monitors placements, 300.120; ARSD 24:05:28:12**

CORE Educational Cooperative will assist member districts in submitting data to the State for the purpose of monitoring educational placements for students with disabilities on an annual basis. Analysis of placement rates within the continuum is reviewed and considered through the State performance Plan process with the priority always being assuring students FAPE in the least restrictive environment.

#### **SECTION VI: Procedural Safeguards, 34 C.F.R. § 300.121; ARSD 24:05:30**

The cooperative and all member districts will ensure that all children with disabilities and their parents are afforded procedural safeguards required by 34 C.F.R. §§300.500 through 300.536, and consistent with South Dakota Administrative Rule. Specific reference must include:

- Opportunity to examine records; parent participation in meetings; 300.501(a)(b)(c); ARSD 24:05:30:02
- Independent educational evaluations; 300.502; ARSD 24:05:30:03
- Prior written notice; content of notice; 300.503; ARSD 24:05:30:04
- Procedural safeguards notice; 300.504; ARSD 24:05:30:06.01, ARSD 24:05:30:06.02
- Use of electronic mail; 300.505; ARSD 24:05:30:06.03
- Availability of mediation; 300.506; ARSD 24:05:30:09
- Filing of due process complaints; 300.507; 300.508; 300.509; ARSD 24:05:30:07.01
- Resolution process; 300.510; ARSD 24:05:30:08.09-.12
- Impartial due process hearing; 300.511; ARSD 24:05:30:09.04
- Hearing rights; 300.512; ARSD 24:05:30:12
- **Hearing decisions;** 300.513; 300.514; 300.515; 300.516; 300.517; **ARSD 24:05:30:11**
- Status of child during due process proceedings; 300.518; 24:05:30:14 ARSD.
- Surrogate parents; children who are wards of the state; homeless youth; 300.519; ARSD 24:05:30:15
- Transfer of rights at age of majority; 300.520; ARSD 24:05:30:16.01
- Discipline procedures and manifestation determination; 300.530; ARSD 24:05:26:09.03
- Determination of setting; 300.531; ARSD 24:05:26:09.2
- Right of appeal of the determination of setting; 300.532; ARSD 24:05:26:09.05
- Placement during appeals; 300.533; ARSD 24:05:26:09.06
- Protections for children not determined eligible for special education and related services; 300.534; ARSD 24:05:26:14
- Referral to action by law enforcement and judicial authorities; 300.535; ARSD 24:05:26:15
- Change of placement due to disciplinary removals; 300.536; ARSD 24:05:26:02.01

District Narrative: (Review cited regulation to describe local implementation.)

The cooperative and member districts ensure that all children with disabilities and their parents are afforded the required procedural safeguards of 34 CFR 300.500 through 300.356 as outlined in the *South Dakota Parental Rights and Procedural Safeguards* document.

CORE Educational Cooperative will provide each member district with updated copies of the procedural safeguards document. The district will provide a copy of the procedural safeguards document to the parents of an eligible child with a disability at least one time each year, in addition to the following:

- Upon initial referral or parent request for an evaluation;
- Upon request by the parent;
- In accordance with discipline procedures outline in the procedural safeguards document;
- Upon receipt of the first state complaint or first due process complaint in a given school year.

Parents of the district are also informed of the posted copy of the procedural safeguards document on the DOE website in both English and Spanish to afford access to the public.

- **Opportunity to examine records; parent participation in meetings; 300.501(a)(b)(c); ARSD 24:05:30:02**

The member districts ensure the parents of a child in need of special education or special education and related services shall be afforded an opportunity to inspect and review all education records concerning the identification, evaluation and educational placement of the child and the provisions of a free appropriate public education to the child.

- **Independent educational evaluations; 300.502; ARSD 24:05:30:03**

The member districts through the CORE Educational Cooperative has a policy in place to ensure IEE services are available to parents. Upon a parental request for an IEE the district shall provide to parents, information about where an independent educational evaluation may be obtained and the district criteria applicable for independent education evaluations specified in this section.

If a parent requests an independent educational evaluation, the district may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the district 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.

If the parent requests an independent educational evaluation at public expense, the district must, without unnecessary delay, either file a due process complaint to request a hearing under this chapter to show that its evaluation is appropriate, or ensure that an independent educational evaluation is provided at public expense unless the district demonstrates in a hearing that the evaluation obtained by the parent did not meet district criteria. If the district files a due process complaint to request a hearing under this chapter and the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense. A parent is entitled to only one independent educational evaluation at public expense each time the district conducts an evaluation with which the parent disagrees.

If a parent obtains an independent educational evaluation at public expense or shares with the district an evaluation obtained at private expense, the results of the evaluation will be considered by the district, it meets district criteria, in any decision made with respect to the provision of a free appropriate public education to the child and may be presented by any party as evidence at a hearing under this chapter regarding that child.

If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense. If an independent evaluation is made 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.

**Independent Educational Evaluations (IEE):** Evaluations provided by our school district are completed by employees from the CORE Educational Cooperative and are administered by:

- Certified School Psychologists
- Masters Level Speech Pathologist
- Masters Level Occupational Therapist
- Masters Level Physical Therapist
- Trained Academic Evaluators

Within our immediate area South Central Cooperative has agreed, if requested, to conduct an outside independent evaluation. This is done at no cost to the parent requesting this evaluation. Their staff is qualified, according to the state of South Dakota, to conduct evaluations for special education. They are comparable in their training and expertise to the CORE Educational Cooperative staff. Specific names and certifications are available through South Central Cooperative. CORE also maintains a lists of other outside agencies which are available for IEE's.

Criteria for IEE

- A. Information on how and where an IEE at public expense may be obtained will be provided to the parent of a child with a disability upon request for an IEE. E.
- B. If an IEE is at public expense, the criteria under which the IEE is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the District uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an IEE

Evaluator Criteria The following are the same criteria used to select the School District's examiner.

- A. Evaluators must possess current licensure/certification to conduct evaluations of students with disabilities.
- B. Evaluators must meet appropriate professional requirements in the State and be trained to administer the specific tests and other evaluation materials used, in conformance with the instructions provided by the producer.
- C. If the evaluator is going to be working with the student one-on-one in the school setting, the evaluator must go through the State Board of Educator Certification fingerprinting process and consent to a criminal background check.

Evaluation Criteria The following are the same requirements of a School District evaluation:

- A. Evaluations must comply with all requirements specified in state and federal law.
- B. The evaluation must be completed a reasonable time after the IEE is approved by the District, and in accordance with any timelines.
- C. The independent evaluator must furnish an original report to the District and the parent in advance of an IEP or eligibility meeting. The report must include an original signature and title of all evaluation personnel involved in the evaluation.

Criteria for Fee Setting/Reimbursement for an IEE

- A. Reimbursement/payment will be made directly to the evaluator upon receipt of an IEE which meets all District criteria.
- B. The District will pay a fee for an IEE which allows a parent to choose from qualified professionals in the area.
- C. The District will not pay unreasonably excessive fees. An unreasonably excessive fee is one which is 25% above the prevailing rate in the area for the specific test or type of evaluation being considered.
- D. Parents will be offered the opportunity to demonstrate to an IEP committee that unique circumstances justify an IEE that does not fall within the District's criteria.
- F. Travel costs for the examiners or parents will not exceed District rates for travel as established

### **Independent Autism Evaluation**

When conducting an evaluation to determine Autism, the District uses a team of professionals from an educational Cooperative that have specific training and experience with Autism. Members of the team are typically a school psychologist, or other individual, who is qualified to administer the autism specific measures as well as to interpret behavior scales, a speech/language therapist, an occupational therapist who is familiar with sensory issues, and other professionals depending on the unique needs of the specific child.

When considering the need for an independent Autism educational evaluation, both Lifescape (2501 West 26th Street *Sioux Falls, SD* 57105. Office: 605-782-2300. Toll-Free: 800-584-9294) and the Center for Disabilities (1400 West 22<sup>nd</sup> St. *Sioux Falls*; 605-357-1439) include a variety of professionals and provide a comprehensive evaluation that meets the district criteria for an Autism team. South Central Cooperative also has a team of certified individuals who can conduct an evaluation to determine educational eligibility for autism.

- **Prior written notice; content of notice; 300.503; ARSD 24:05:30:04**

The CORE Educational Cooperative along with member districts use the PPWN provided through Sped Advantage to ensure all content is appropriate. School district staff is encouraged to attend state training on appropriate completion of the PPWN and also provides training as necessary. Technical Assistance guides are available on the state website and teachers are encouraged to have them available. Parents will be given five days from receipt of the PPWN to consider proposals and refusals. The five-day notice requirement may be waived by the parents. CORE educational cooperative provides a training with review of case manager files on an annual basis to assist with training for appropriate completion of all components of the IEP.

The notice will include:

i. A description of the action proposed or refused by the district, an explanation of why the district proposes or refuses to take the action, and a description of any other options the IEP team considered and the reasons why those options were rejected; .

ii. A description of each evaluation procedure, assessment, record, or report that the district uses as a basis for the proposal or refusal;

iii. A description of any other factors which are relevant to the district's proposal or refusal;

iv. A statement that the parents of a child with a disability have protection under the procedural safeguards of this article 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

v. Sources for parents to contact to obtain assistance in understanding the provisions for 24:05.

- **Procedural safeguards notice; 300.504; ARSD 24:05:30:06.01, ARSD 24:05:30:06.02**

The member districts ensure that all children with disabilities and their parents are afforded the required procedural safeguards of 34 CFR 300.500 through 300.356 as outlined in the South Dakota Parental Rights and Procedural Safeguards document. The district will provide a copy of the procedural safeguards document to the parents of an eligible child with a disability at least

one time each year, in addition to the following:

- Upon initial referral or parent request for an evaluation;
- Upon request by the parent;
- In accordance with discipline procedures outlined in the procedural safeguards document;
- Upon receipt of the first state complaint or first due process complaint in a given school year.

- **Use of electronic mail; 300.505; ARSD 24:05:30:06.03**

Upon parent request or permission, the district may utilize electronic mail to provide prior written notice, procedural safeguards and other information.

District will maintain written verification of parent permission to utilize electronic mail. The IEP form on Sped Advantage provides a place for this documentation and it may also be obtained through:

Email

Documentation on PPWN

School form

- **Availability of mediation; 300.506; ARSD 24:05:30:09**

The CORE Educational Cooperative along with member sdistrict will provide information to parents concerning mediation for dispute resolution by providing procedural safeguards and explaining the process. Procedures for medication are as follows:

(1) Ensure that mediation is viewed as voluntary and freely agreed to by both parties and is in no way used to deny or delay an aggrieved party's right to a hearing on a parent's due process complaint, or to deny any other rights afforded under this article; and

(2) The mediation conference is an intervening, informal process conducted in a non-adversarial atmosphere that is scheduled in a timely manner and held in a location that is convenient to the parties in the dispute.

- **Filing of due process complaints; 300.507; 300.508; 300.509; ARSD 24:05:30:07.01**

A parent or the district may file a due process complaint on any matters relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child.

- **Resolution process; 300.510; ARSD 24:05:30:08.09-.12**

Within 15 days of receiving notice of the parent's due process complaint, and before the initiation of a due process hearing under this chapter, the district will 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. The meeting:

(1) Will include a representative of the district who has decision-making authority on behalf of the district; and

(2) May not include an attorney of the district unless the parent is accompanied by an attorney. The parent and district will determine the relevant members of the IEP team to attend the meeting.

The purpose of the resolution 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 district has the opportunity to resolve the dispute that is the basis for the due process complaint. The resolution meeting need not be held if:

- (1) The parent and the district agree in writing to waive the meeting; or
- (2) The parent and the district agree to use the mediation process described in this chapter.

If the district 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.

Except as provided in § 24:05:30:08.14, the timeline for issuing a final decision in a due process hearing begins at the expiration of the 30-day period.

Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding the above two paragraphs, the failure of the parent filing a due process complaint to participate in the resolution meeting delays the timelines for the resolution process and due process hearing until the meeting is held.

- Impartial due process hearing; 300.511; ARSD 24:05:30:09.04

If a due process complaint is received under this chapter, the parents or the district involved in the dispute will have an opportunity for an impartial due process hearing, consistent with the procedures in this article.

- Hearing rights; 300.512; ARSD 24:05:30:12

Any party to a hearing, under this chapter or chapters 24:05:26 and 24:05:26.01, has the right to:

- (1) Be accompanied and advised by counsel and by individuals with special knowledge or training concerning the problems of children with disabilities, except that neither party has the right to be represented by a non-attorney at a hearing;
- (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. The district will transmit those findings and decisions, after deleting any personally identifiable information, to the state advisory council and shall make those findings and decisions available to the public.

Parents involved in hearings will be given the right to have the child who is the subject of the hearing present and open the hearing to the public. The record of the hearing and the findings of fact and decisions must be provided at no cost to the parents.

- Hearing decisions; 300.513; 300.514; 300.515; 300.516; 300.517; ARSD 24:05:30:11

A parent or the district, if aggrieved by the decision of the hearing officer under this chapter or chapters 24:05:26 and 24:05:26.01, may bring a civil action with respect to a due process complaint notice requesting a due process hearing under the Individuals with Disabilities Education Act, 20 U.S.C. § 1415(1)(2). A civil action may be filed in either state or federal court without regard to the amount in controversy. The party bringing the action has 30 days from the date of a hearing officer's decision to file a civil action. In any action brought under this section, the court:

- (1) Shall review the records of the administrative proceedings;
- (2) Shall hear additional evidence at the request of a party; and
- (3) Basing its decision on the preponderance of the evidence, shall grant the relief that the court determines to be appropriate.

Nothing in Part B of the Individuals with Disabilities Education Act restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990 as amended to July 1, 2013, Title V of the Rehabilitation Act of 1973 as amended to July 1, 2013, or other federal laws protecting the rights of children with disabilities. However, before the filing of a civil action under these laws, seeking relief that is also available under section 615 of IDEA, the procedures under this chapter for filing a due process complaint must be exhausted to the same extent as would be required had the action been brought under section 615 of IDEA.

- Status of child during due process proceedings; 300.518; ARSD 24:05:30:14

Except as provided in chapters 24:05:26 and 24:05:26.01, during the pendency of any administrative hearing or judicial proceeding regarding a due process complaint notice requesting a due process hearing pursuant to this chapter, the child involved will remain in the present educational placement unless the state or school district and the parents agree otherwise. If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, will be placed in the public school program until the completion of all the proceedings. If the complaint involves an application for initial services under this article from a child who is transitioning from Part C of the IDEA to Part Band is no longer eligible for Part C services because the child has turned three, the district 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 Band the parent consents to the initial provision of special education and related services, then the district will provide those special education and related services that are not in dispute between the parent and the district. If the decision of a hearing officer in a due process hearing agrees with the child's parents that a change of placement is appropriate, that placement will be treated as an agreement between the state and the parents for purposes of pendency.

- Surrogate parents; children who are wards of the state; homeless youth; 300.519; ARSD 24:05:30:15

The district will assign a surrogate parent to ensure that the rights of a child are protected if no parent, as defined in §24:05:13:04, can be identified and the district, after reasonable effort, cannot locate a parent or if the child is a ward of the state or the child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act, as amended to January 1, 2009. A district's method for determining whether a child needs a surrogate parent will include the following:

1. The identification of staff members at the district or building level responsible for referring students in need of a surrogate parent;
2. The provision of in-service training on the criteria in this section for determining whether a child needs a surrogate parent; and
3. The establishment of a referral system within the district for the appointment of a surrogate parent.

If a child is a ward of the state, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, if the surrogate meets the requirements of this section.

The district superintendent or designee will appoint surrogate parents.

The district will ensure that a person selected as a surrogate has no personal or professional interest that conflicts with the interest of the child the surrogate represents and has knowledge and skills that ensure adequate representation of the child. The district is responsible for the training and certification of surrogate parents and shall maintain a list of persons who may serve as surrogate parents.

A person assigned as a surrogate may not be an employee of the department, district, or any other agency that is involved in the education or care of the child.

If a child 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 the nonemployee provision above, until a surrogate parent can be appointed who meets all of the requirements of this section.

A person who otherwise qualifies to be a surrogate under the provisions of this section is not an employee of the agency solely because the person is paid by the agency to serve as a surrogate parent.

The surrogate parent may represent the student in all matters relating to the identification, evaluation, educational placement, and provision of FAPE to the students.

- Transfer of rights at age of majority; 300.520; ARSD 24:05:30:16.01

Consistent with state law, when a child with a disability reaches the age of majority that applies to all children, except for an eligible child who has been determined to be incompetent, the following will occur:

- (1) The school district will provide any notice required by this article to both the individual and the parents;
- (2) All other rights accorded to parents under this article transfer to the child; and
- (3) All rights accorded to parents under this article transfer to children who are incarcerated in an adult or juvenile, state, or local correctional institution.

If a state transfers rights under this section, the district will notify the individual and the parents of the transfer of rights. If, consistent with state law, an eligible child is determined not to have the ability to provide informed consent with respect to the educational program of the child, the district will appoint the parent or, if the parent is not available, another appropriate individual to represent the educational interests of the child throughout the child's eligibility under this article.

- Discipline procedures and manifestation determination; 300.530; ARSD 24:05:26:09.03

Within ten school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, the district, the parent, and relevant members of the student's IEP team, as determined by the parent and the district, will review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- (1) Whether the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
- (2) Whether the conduct in question was the direct result of the district's failure to implement the IEP.

The conduct must be determined to be a manifestation of the student's disability if the district, the parent, and relevant members of the student's IEP team determine that a condition in either subdivision (1) or (2) of this section was met.

If the district, the parent, and relevant members of the student's IEP team determine that the condition described in subdivision (2) of this section was met, the district will take immediate steps to remedy those deficiencies.

- Determination of setting; 300.531; ARSD 24:05:26:09.2

The student's IEP team will determine the interim alternative educational setting in which a student is placed under §§24:05:26:08.01, 24:05:26:02.01, and 24:05:26:09.05.

- Right of appeal of the determination of setting; 300.532; ARSD 24:05:26:09.05

The parent of a child with a disability who disagrees with any decision regarding:

1. placement under these procedures, or
2. the manifestation determination may request a hearing by filing a due process complaint consistent with this document.

If the district believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others may request a hearing by filing a due process complaint consistent with this document.

- Placement during appeals; 300.533; ARSD 24:05:26:09.06

If an appeal under this chapter has been made by either the parent or the school district, the student 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 §§ 24:05:26:08.01 or 24:05:26:09.05, whichever occurs first, unless the parent and the state education agency or school district agree otherwise.

- Protections for children not determined eligible for special education and related services; 300.534; ARSD 24:05:26:14

A student who has not been determined to be eligible for special education and related services under this article and who has engaged in behavior that violated any rule or code of conduct of the school district, including any behavior described in this chapter, may assert any of the protections provided for in this article if the school district had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. A school district is deemed to have knowledge that a student is a student with a disability if:

1. The parent of the student has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the student, that the student is in need of special education and related services;
2. The parent of the student has requested an evaluation of the student pursuant to this article; or
3. The teacher of the student, or other personnel of the district or other public agency has expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education of the district or to other supervisory personnel of the district.

A district is not deemed to have knowledge that the student is a student with a disability under this section, if the parent of the student has not allowed an evaluation of the student pursuant to this article, or has refused services under this article, or the district conducted an evaluation consistent with this article and determined that the student was not a student with a disability.

If the district does not have knowledge that a student is a student with a disability before taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures applied to students without disabilities who engaged in comparable behaviors consistent with this chapter.

If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures under this chapter, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, the student will remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. If the student is determined to be a student with a disability taking into consideration information from the evaluation conducted by the district and information provided by the parents, the district will provide special education and related services in accordance with the provisions of this article including the discipline procedures and free appropriate public education requirements.

- Referral to action by law enforcement and judicial authorities; 300.535; ARSD 24:05:26:15

Nothing in Part B of the Individuals with Disabilities Education Act prohibits a school district from reporting a crime committed by a student with a disability to appropriate authorities or to prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student with a disability. The district reporting a crime committed by a student with a disability will ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom it reports the crime. A school district reporting a crime under this chapter may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act, as amended to January 8, 2009.

- Change of placement due to disciplinary removals; 300.536; ARSD 24:05:26:02.01

For purposes of removal of a student with a disability from the student's current educational placement under this chapter, a change of placement occurs if:

1. The removal is for more than ten consecutive school days; or
2. The student is subjected to a series of removals that constitute a pattern because:
  - a. They cumulate to more than ten school days in a school year;
  - b. Of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another; and
  - c. The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals.

The district determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

**The CORE Educational Cooperative along with district provides a copy of procedural safeguards and offers explanation of above situations when requested by parent. Information is also provided for parents to contact SD Advocacy and Parent Connection for assistance in these areas.**

## **SECTION VII: Evaluation 34 C.F.R. §300.122; ARSD 24:05:25**

The cooperative and all member districts will ensure that all children with disabilities are evaluated in accordance with 34 C.F.R. §§300.300 through 300.311. Specific references must include:

- Parental consent (for initial evaluation, services, and re-evaluations; 300.300; ARSD 24:05:25:02.01, ARSD 24:05:25:06.01
- Initial evaluations; 300.301; ARSD 24:05:25:03
- Screening for instructional purposes; 300.302; ARSD 24:05:25:03.03
- Re-evaluations; 300.303; ARSD 24:05:25:06
- Evaluation procedures; 300.304; 300.305; ARSD 24:05:25:04
- Determining eligibility; 300.306; ARSD 24:05:25:04.03
- Specific learning disabilities; 300.307 through 300.311; ARSD 24:05:25:07, ARSD 24:05:25:08, ARSD 24:05:25:11, ARSD 24:05:25:12

District Narrative: (Review cited regulation to describe local implementation.)

The CORE Educational Cooperative along with member districts ensure that all children with disabilities are evaluated in accordance with the following regulatory provisions:

The CORE Educational Cooperative along with the district utilizes the following evaluation process.

### **Referral:**

- Appropriateness of referral determined by a review of records/information
- Special education personnel or administration may assist individual with written documentation of referral
- If a parent requests an evaluation and team determines no evaluation is necessary, a PPWN (Located on the Sped Advantage Website) is completed and mailed to parents
- As soon as referral is signed create team to review information and determine necessity of evaluation.
- If consent for evaluation is going to be requested, the team determines what areas need to be evaluated (the suspected areas of disability)
  - Teacher & Parent information
  - School psychologist
  - Related service providers
  - Special Education Teacher
  - *Use the Eligibility Guide to be sure all measures are covered*

### **Permission to Evaluate (all forms are located on the Sped Advantage Website):**

Consent for initial evaluation. When proposing to conduct an initial evaluation to determine whether a child qualifies as a child with a disability, the district will provide notice consistent with chapter 24:05:30 and obtain informed consent from the parent of the child before conducting the evaluation.

Parental consent for initial evaluation may not be construed as consent for initial provision of special education and related services.

The district will make a reasonable effort to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.

To meet the reasonable efforts required in this section, the district will document its attempts to obtain parental consent using procedures in 24:05:25:17.

- Document parent input on this form regarding evaluations
- No test names, fine motor or gross motor rather than OT or PT
- Speech means articulation; Language means vocabulary, conversation, etc
- Include parent information form along with the parent rights booklet

- Give the teacher information form to the teacher(s)
- ***Once signed and returned immediately count out the 25 school days and complete evaluation plan on Sped Advantage website to ensure all evaluators have information. Also complete due date for eligibility determination***

**Evaluation:**

- Observation (LD), skill based academics during the 25 day timeline
- Written reports can be completed by each evaluator on the Sped Advantage website. Use the skill-based template and be sure to cover all referred areas.
- All checklists (Conners, BASC-2, etc.) must be returned to psych ASAP
- Parent can give permission to extend testing time line but this must be done prior to the last day of the testing time line.

**Re-evaluation:**

- Start the process at least 90 days in advance,
- Document parent input on PPWN Consent regarding evaluations
- Team determines what areas need to be evaluated, & what can be pulled forward
  - Teacher & Parent information
  - School psychologist
  - Related service providers
  - Special Education Teacher
  - ***Use the Eligibility Guide to be sure all measures are covered***
  -

**Permission to Re-evaluate (all forms are located on the Sped Advantage Website)**

**Consent for reevaluation. Before conducting a reevaluation of an eligible child, parental consent is required, unless:**

- (1) The district can demonstrate that it has taken reasonable measures to obtain consent and the child's parent has failed to respond; and
- (2) The district documents its efforts to obtain consent by using the procedures consistent with 24:05:25:17.
- (3) District will provide the parent with prior written notice that the reevaluation will commence and on what day.

- **Screening for instructional purposes; 300.302; ARSD 24:05:25:03.03**

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

- **Evaluation procedures; 300.304; 300.305; ARSD 24:05:25:04**

The district will ensure, at a minimum, that evaluation procedures include the following:

(1) Assessments and other evaluation materials are provided and administered in the child's native language or by another 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. In addition, assessments and other evaluation materials:

- (a) Are used for the purposes for which the assessments or measures are valid and reliable; and (b) Are administered by trained and knowledgeable personnel in conformance with the instructions provided by their producer;
- (2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which 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 accurately reflects the child's aptitude or achievement level or whatever other factors the assessment purports to measure, rather than the child's impaired sensory, manual, or speaking skills except where those skills are the factors which the assessment purports to measure;
- (4) No single measure or assessment is used as the sole criterion for determining eligibility or an appropriate educational program for a child; · {
- 5) A variety of assessment tools and strategies are used to gather relevant functional, developmental, and academic information about the child, including Information provided by the parents, that may assist in determining:
  - (a) Whether the child is a child with a disability; and
  - (b) The content of the child's IEP, including information related to enabling the child:

- (i) To be involved in and progress in the general education curriculum; or
  - (ii) For a preschool child, to participate in appropriate activities;
- (6) .Technically sound instruments, assessment tools, and strategies are used that:
- (a) May assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors; and
  - (b) Provide relevant information that directly assists persons in determining the educational needs of the child;
- (7) 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; and
- (8) 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. Assessments of children with disabilities who transfer from one school district to another school district in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with § 24:05:25:03.01, to ensure prompt completion of full evaluations.

#### **Cooperative Specific Procedures**

- Observation (LD) and skill based academics during the 25 day timeline
- Written reports are completed by each evaluator on the Sped Advantage website. These include all psychology, skills based, related service and academic evaluations. Use the skill-based template and be sure to cover all referred areas. All checklists (Conners, BASC-2, etc.) must be returned to the school psychologist ASAP)

Parents can give permission to extend testing time line; however you may not go past the previous eligibility date.

**If you complete the re-evaluation after the annual IEP, you must redo the IEP. The new evaluation information (especially the functional is necessary to ensure the student's present needs are being met).**

- **Determining eligibility; 300.306; ARSD 24:05:25:04.03**

Upon completing the administration of assessments and other evaluation measures as required by this chapter, the individual education program team and other qualified individuals will determine whether the student is a student with a disability, and will determine the educational needs of the child, as defined in this article. The district will provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. A student may not be determined to be a student with a disability if the determinant factor for that decision is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in ESEA, or lack of appropriate instruction in math or limited English proficiency and if the student does not otherwise meet the eligibility criteria under chapter § 24:05:24.01.

In interpreting evaluation data for the purpose of determining eligibility and determining the educational needs of the child in making placement decisions, including decisions regarding preschool children, the district will do the following:

- i. Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
- ii. Ensure that information obtained from all of these sources is documented and carefully considered;
- iii. Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options;
- iv. Ensure that the placement decision is made in conformity with the least restrictive environment rules in district policy; and
- v. 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.

If a determination is made that a child is disabled and needs special education and related services, an individual education program will be developed for the child in accordance with least restrictive environment requirements.

- **Specific learning disabilities; 300.307 through 300.311; ARSD 24:05:25:07, ARSD 24:05:25:08, ARSD 24:05:25:11, ARSD 24:05:25:12**

1. Documentation of eligibility for specific learning disabilities. For a child suspected of having a specific learning disability, the documentation of the determination of eligibility will 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 this section;
- (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:
  - (a) The child does not achieve adequately for the child's age or does not meet state-approved grade-level standards; and
  - (b) The child does not make sufficient progress to meet age or state approved grade-level standards; or 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.
- (6) The determination of the group concerning the effects of a visual, hearing, or motor disability; cognitive disability; emotional disability; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level;
- (7) If the child has participated in a process that assesses the child's response to scientific, research-based intervention:
  - (a) The instructional strategies used and the student-centered data collected; and
  - (b) The documentation that the child's parents were notified about:
    - (i) 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;
    - (ii) Strategies for increasing the child's rate of learning; and
    - (iii) The parent's right to request an evaluation;
- (8) If using the discrepancy model, the group finds that the child has a severe discrepancy of 1.5 standard deviations between achievement and intellectual ability in one or more of the eligibility areas, the group shall consider regression to the mean in determining the discrepancy; and
- (9) If using the response to intervention model for eligibility determination, the group shall demonstrate that the child's performance is below the mean compared to age or state approved grade level standards.

2. Group members to certify report in writing. Each group member will certify in writing whether the report reflects his/her conclusion. If it does not reflect a group member's conclusion, the group member will submit a separate statement presenting his/her conclusions.

3. Response to intervention model. School districts that elect to use a response to intervention model as part of the evaluation process for specific learning disabilities will submit to the state for approval a formal proposal that at a minimum addresses the provisions in district policy for documenting eligibility for specific learning disability.

The Consent for Evaluation will utilize referral documentation and informal review information to determine suspected areas of disability. Based upon the skill area/s affected, the eligibility guide will be used to determine suspected disability conditions to be assessed. Parents will be contacted to gain their input into the evaluation process and the areas being assessed. A completed Referral and Parent Prior Notice will be completed and sent to the parents. Upon receipt of a signed Consent for Evaluation form, the Principal will sign and date receipt of the signed document by the district.

Upon receipt and signature, the district will secure an evaluation team to conduct a comprehensive evaluation in all areas of suspected disability that matches with the types of evaluation necessary to comply with State criteria. In addition to completing evaluations that will help the team determine eligibility, they will also gather skill-based and functional assessment data and developmental information regarding the child's performance and progress in the general curriculum. Within 25 school days of receipt of the signed Consent for Evaluation form, the evaluation will be completed unless other timelines are agreed to by the school administration and parents.

Upon completion of all evaluation, the data will be analyzed and compiled into written reports. The reports will be disseminated to team members prior to the meeting, which will be held within 30 calendar days from the end of the allowable evaluation period. Reports will be provided prior to the meeting upon request. The district and parents will decide upon a mutually agreeable meeting date. The district will send an Invitation to Meeting and Parent Notice regarding the date, time, place, persons invited to attend the meeting, and purpose of the meeting. The Invite to a Meeting will be sent to the parent at least 5 days prior to the meeting.

At the meeting, the team will review the evaluation reports, discuss and determine eligibility for special education and special education and related services, and, if appropriate, develop an IEP and determine placement in the least restrictive environment for the individual. The parent's consent, which is required for initial placement, will be obtained by the district prior to implementation of an IEP.

#### **SECTION VIII: Confidentiality 34 C.F.R. 300.123; ARSD 24:05:29, ARSD 24:05:21:05**

The cooperative and all member districts will ensure compliance with all regulations regarding the confidentiality of records and information, as noted in 34 C.F.R. §§300.610 through 300.626. Specific references must include:

- Notice requirements to parents; 300.612; ARSD 24:05:29:18
- Access rights; 300.613; ARSD 24:05:29:04
- Record of access; 300.614; ARSD 24:05:29:05
- Records on more than one child; 300.615; ARSD 24:05:29:06
- List of types and locations of information; 300.616; ARSD 24:05:29:07
- Fees for copies of records; 300.617; ARSD 24:05:29:08
- Amendments to records at parent's request; 300.618; ARSD 24:05:29:09
- Opportunity for a hearing; 300.619; ARSD 24:05:29:10
- Result of hearing and hearing procedures; 300.620-621; ARSD 24:05:29:12
- Parental consent for the release of records; 300.622; ARSD 24:05:29:13
- Safeguarding of records; 300.623; ARSD 24:05:29:14
- Destruction of information; 300.624; ARSD 24:05:29:15
- Children's rights; transfer at the age of majority; 300.625; ARSD 24:05:29:16
- Enforcement; policies and procedures; 300.626; ARSD 24:05:29:17
- Transfer of records for migratory children with disabilities; 300.213; ARSD 24:05:21:05

District Narrative: (Review cited regulation to describe local implementation.)

The CORE Educational Cooperative along with member districts ensure the compliance with all regulations regarding the confidentiality of personally identifiable information and all records according to 34 CFR 300.610 through 300.626.

- Notice requirements to parents; 300.612; ARSD 24:05:29:18

The CORE Educational Cooperative along with member districts publish requirements in the local newspaper on an annual basis. Individual school handbooks are also handed out annually and information is posted on the district's website.

- **Access rights; 300.613; ARSD 24:05:29:04**
- **Record of access; 300.614; ARSD 24:05:29:05**
- **List of types and locations of information; 300.616; ARSD 24:05:29:07**
- **Records on more than one child; 300.615; ARSD 24:05:29:06**

The CORE Educational Cooperative along with member districts provide access to parents and their representatives upon request. A record of access and a list of types and locations of information is at the front of each student's file to maintain a list of individuals who have accessed information. A parent or eligible student may inspect this record on request.

The district will permit parents to inspect and review any education records relating to their student which are collected, maintained, or used by the agency under this section.

The district will comply with a request without unnecessary delay and before any meeting regarding an individual education program or hearing relating to the identification, evaluation, or placement of the student, or discipline hearing or resolution session and in no case more than 45 calendar days after the request has been made.

The right to inspect and review education records under this section includes the following:

- a. The right to response from the district to reasonable requests for explanations and interpretations of the records;
- b. The right to request that the district provide copies of the records containing the information if failure to provide these copies would effectively prevent the parent from exercising the right to inspect and review the records; and
- c. The right to have a representative of the parent inspect and review the records.

If any education record includes information on more than one child, the parents of those children may inspect and review only the information relating to their child or to be informed of that specific information

- **Fees for copies of records; 300.617; ARSD 24:05:29:08**

A reasonable fee may be assessed, but will be waived if it limits the parent's opportunity to obtain request records.

- **Amendments to records at parent's request; 300.618; ARSD 24:05:29:09**

A parent who believes that information in education records collected, maintained, or used under these rules is inaccurate or misleading or violates the privacy or other rights of the student may request the district which maintains the information to amend the information.

The district will determine if amendments are appropriate within a reasonable period of time following the receipt of the request. If the district decides to refuse to amend the information in accordance with the request, a Prior Written Notice will be sent to the parents explaining their rights including their right to hearing.

- **Opportunity for a hearing; 300.619; ARSD 24:05:29:10**

The district will, 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 student.

- **Result of hearing and hearing procedures; 300.620-621; ARSD 24:05:29:12**

If, as a result of the hearing, the district decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and inform the parents in writing.

If, as a result of the hearing, the district decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parents of the right to place in the records it maintains on the student a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the district.

Any explanation placed in the records of the student under this section must be maintained by the district as part of the records of the student as long as the record or contested portion is maintained by the district. If the records of the student or the contested portion is disclosed by the district to any party, the explanation must also be disclosed to the party.

- **Parental consent for the release of records, 300.622, ARSD 24:05:29:13**

Parental consent must be obtained before personally identifiable Information is disclosed to parties other than officials of participating agencies collecting or using the information under article 24:05 or used for any purpose other than meeting a requirement under this chapter, unless the information is contained in education records and the disclosure is authorized without parental consent under the Family Educational Rights Privacy Act (FERPA). The district will not release information from education records to participating agencies without parental consent except as follows:

(1) An educational agency or institution may disclose personally identifiable Information from the education records of a student without the written consent of the parent of the student or the eligible student if the disclosure is to other school officials, including teachers, within the educational institution or local educational agency who have been determined by the

agency or institution to have legitimate educational interests or to officials of another school or school system in which the student seeks or intends to enroll, subject to the requirements set forth in subdivision of this section; and

(2) An educational agency or institution that discloses the education records of a student pursuant to subdivision (1) of this section will make a reasonable attempt to notify the parent of the student or the eligible student at the last known address of the parent or eligible student, unless the disclosure is initiated by the parent or eligible student.

If the agency or institution includes in its annual notice of parent's rights that it is the policy of the public agency to forward education records on request to a school in which a student seeks or intends to enroll, then the public agency does not have to provide any further notice of the transfer of records.

Notwithstanding the FERPA exceptions for releasing information from education records without parental consent, including the annual notice provision, If a student is enrolled, or intends to \_enroll in a private school that is not located in the district of the parent's residence, parental consent must be obtained before any personally identifiable information about the student is released between officials in the school district where the private school is located and officials in the school district of the parent's residence.

An educational agency receiving personally identifiable information from another educational agency or institution may make further disclosures of the information on behalf of the educational agency without the prior written consent of the parent or eligible student if the conditions of subdivisions (1) and (2) of this section are met and if the educational agency informs the party to whom disclosure is made of these requirements.

- Safeguarding of records; 300.623; ARSD 24:05:29:14

The district will protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. One official in the district will assume responsibility for ensuring the confidentiality of any personally identifiable information. All persons collecting or using personally identifiable information will receive training or instruction regarding the provisions of this section concerning personally identifiable information.

The district will maintain for public inspection a current listing of the names and positions of those employees within the district who may have access to personally identifiable information on student in need of special education or special education and related services.

- Destruction of information; 300.624; ARSD 24:05:29:15

Special Education records related to the identification, evaluation, educational placement or the provision of Special Education, must be maintained under state and federal laws for a period of five years after Special Education Services have ended for a student. The district will inform parents when personally identifiable Information collected, maintained, or used under this section is no longer needed to provide educational services to the student. . The information no longer needed must be destroyed at the request of the parents. However, a permanent record of the student's name, address, and phone number, the student's grades, attendance record, classes attended, and grade level completed may be maintained without time limit.

- Children's rights; transfer at the age of majority; 300.625; ARSD 24:05:29:16

All of the parental rights in this section are extended to the child upon reaching the age of 18 unless the child has been declared incompetent by the courts, consistent with the transfer of student rights at age of majority, including taking into consideration the type or severity of a child's disability.

- Enforcement; policies and procedures; 300.626; ARSD 24:05:29:17

The department of education, special education programs, is the entity responsible for ensuring the district complies with the requirements on confidentiality of information through on-site monitoring, approval of comprehensive plans, and complaint resolution. Sanctions for noncompliance include the disapproval of local special education programs and the withholding of state and federal funds.

- Transfer of records for migratory children with disabilities; 300.213; ARSD 24:05:21:05

The district will cooperate in the U.S. Secretary of Education'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. The district implements policies and procedures to ensure protection of

the confidentiality of any personally identifiable information collected, used or maintained under Part B of the IDEA and FERPA. The district annually notifies parents (and students if they attend their IEP meeting) of their rights pertaining to student records and confidentiality of information through the "Parent Rights for Special Education" booklet distributed. In addition, all parents and students who reside in the district are annually notified of their rights to privacy according to FERPA in a district-wide publication, IGNITE, that is delivered to each district residence. In addition, each year parents are given an opportunity to update the information regarding their child's demographics and indicate if they want to or to refuse having their child's information disclosed in the school directory. All special education records are maintained in a secure setting with specific procedures to assure confidentiality.

The CORE Educational Cooperative along with district provides a copy of procedural safeguards and offers explanation of above situations when requested by parent. Information is also provided for parents to contact SD Advocacy and Parent Connection for assistance in these areas.

#### **SECTION IX: Transition from Part C to Part 34 C.F.R. § 300.124; ARSD 24:05:27:21**

The cooperative and all member districts will ensure that children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under Part B, experience a smooth and effective transition to those preschool programs. By the third birthday of such a child, an individualized education program (IEP) or, if consistent with 34 C.F.R. § 300.323(b), in individualized family service plan (IFSP), has been developed and is being implemented for the child. The local education agency (LEA) will participate in transition planning conferences arranged by the designated lead agency.

District Narrative: (Review cited regulation to describe local implementation.)

The CORE Educational Cooperative along with member districts ensure that children participating in early intervention programs under Part C, and who will participate in preschool programs under Part B experience a smooth and effective transition to district preschool programs. Further, each eligible child with a disability will have developed and implemented at the time of their third birthday, an appropriate IEP or IFSP for the provision of special education and related services. The district participates in transition planning conferences as coordinated by the local Part C agency.

The CORE Educational Cooperative along with member districts work with the 0-3 program to ensure all children previously identified as in need of services are screened and evaluated to determine continued eligibility. A smooth transition between eligible Part C students and determination of eligibility for preschool programs under Part B will be ensured by the following steps:

- At least 90 days prior to the child's third birthday, the district will meet with the local service coordinator and the child's parent/guardian to discuss and begin necessary steps in the transition planning. In most cases the local service coordinator will make arrangements for this meeting, however, if not, the district may make the necessary arrangements.
- The district will provide the family with information on the eligibility and evaluation requirements under Part B of IDEA, including the parents' and district's rights regarding procedural safeguards. • In addition, the district will review with the family a child's program options, for the period commencing on the day a child turns three and through the remainder of the school year regarding transition planning, including development of an IEP.
- All requirements under IDEA will be implemented in the process of determining eligibility for a child moving from the Part C to the Part B program.

#### **SECTION X: Private School Placements; 34 C.F.R. §§ 300.129 – 300.148; 24:05:31, ARSD 24:05:32**

The cooperative and all member districts will ensure that all responsibilities to children placed in private schools within the jurisdiction of the LEA are met. Consistent with the number and location of children with disabilities within the jurisdiction of the district/cooperative, such students enrolled in private elementary and secondary schools will have provisions made for the participation in programs assisted or carried out under Part B for the purpose of providing special education and related services. Specific references must include:

- Definition of parentally-placed private school children; 300.130; ARSD 24:05:32:01
- Child find for parentally-placed private school children with disabilities; 300.131; ARSD 24:05:32:01.01
- Provision of services for parentally-placed private school children with disabilities; 300.132; ARSD 24:05:32:03.01, ARSD.

- Expenditures for parentally-placed private school children with disabilities; 300.133; ARSD 24:05:32:01:02
- Consultation process with private schools attended by children with disabilities; 300.134; ARSD 24:05:32:01:05
- Written affirmation by private school officials of meaningful consultation; 300.135; ARSD 24:05:32:01:06
- Compliance; rights of private school officials to submit a state complaint; 300.136; ARSD 24:05:32:01:07
- Determination of equitable services for parentally-placed private school students with disabilities; 300.137; ARSD 24:05:32:03:02,
- Provision of equitable services for parentally-placed private school students with disabilities; 300.138; ARSD 24:05:32:03:02
- Location of services and transportation; 300.139; ARSD 24:05:32:03:03
- Due process complaints and state level complaints; 300.140; ARSD 24:05:32:03:04
- Requirements that funds not benefit a private school; 300.141; ARSD 24:05:32:12
- Use of personnel for the provision of services to parentally-placed private school students with disabilities; 300.142; ARSD 24:05:32:13
- Prohibition on separate classes; 300.143; ARSD 24:05:32:11
- Property, equipment, and supplies used to provide special education and related services to parentally-placed private school students with disabilities; 300.144; ARSD 24:05:32:15, ARSD 24:05:32:16
- Children with disabilities in private schools placed or referred by public agencies; 300.145 – 300.147; ARSD 24:05:34:02
- Placement of children with disabilities by their parents in private schools when FAPE is an issue; 300.148; ARSD 24:05:31:01-07

District Narrative: (Review cited regulation to describe local implementation.)

The cooperative along with member districts ensure compliance with 34 CFR 300.129 through 300.148, governing private school placements within the boundaries of the member districts. Through consultation with private school representatives, the district ensures would locate, identify and evaluate all children with disabilities who are enrolled by their parents in a private school within the district's boundaries. For all eligible students with disabilities enrolled in private schools by their parents, a service plan would be developed in accordance with 300.132, and records maintained documenting the number of students evaluated and served in these settings.

- **Definition of parentally-placed private school children; 300.130; ARSD 24:05:32:01**

The cooperative and member districts understand that parentally-placed private school children with disabilities are defined as children with disabilities whose parents have enrolled them in private schools (including religious schools) that meet the state definition of elementary or secondary schools, other than children with disabilities whom has available a free appropriate public education and the parents choose to place the child in a private school or facility, the public agency. In this case the public agency is not required to pay for the child's education, including special education and related services, at the private school or facility.

- **Child find for parentally-placed private school children with disabilities; 300.131; ARSD 24:05:32:01.01**

The cooperative and member districts understand that it is responsible for conducting child find activities to locate, identify, and evaluate children suspected of or having a disability in private schools that are within the boundaries of the district. The process shall be designed to ensure:

1. The equitable participation of parentally-placed private school children; and
2. An accurate count of those children.

The child find process will be completed in a time period comparable to that for students attending public schools in the district consistent with this section. The district in which private, including religious, elementary schools and secondary schools are located will, in carrying out the child find requirement 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.

The school district will maintain in its' records and provide to the State information regarding the number of parentally-placed school children evaluated, determined to be children with a disabilities, and the number of children served.

The district will locate, identify and evaluate all private school children with disabilities, including religious-school children, and children receiving alternative instruction under SDCL 13-37-1.1 residing in the jurisdiction of the district. The activities

undertaken to carry out the responsibility for private school children with disabilities must be comparable to activities undertaken for children with disabilities in public schools.

- **Provision of services for parentally-placed private school children with disabilities; 300.132; ARSD 24:05:32:03.01**

Member districts will write a services plan to guarantee the services for parentally-placed private school children with disabilities, with a representative of the private school in attendance (or participating by phone or virtual platform).

- Expenditures for parentally-placed private school children with disabilities; 300.133; ARSD 24:05:32:01:02

The member districts will spend an amount, proportional to federal subgrants received, for the special education of children with disabilities in parentally-placed private schools within the district. If there are any excess funds, they may be carried over to a maximum of one year. The district will make the final decision about services to be provided during an ISP meeting.

- Consultation process with private schools attended by children with disabilities; 300.134; ARSD 24:05:32:01:05

When deciding how to spend federal funds designated for children with disabilities parentally-placed in private schools, the member district will consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities.

- Written affirmation by private school officials of meaningful consultation; 300.135; ARSD 24:05:32:01:06

Following the consultation, the school district will seek to acquire written affirmation by private school officials of the meaningful consultation that took place. If the private school does not provide written affirmation, the school district will forward documentation of the consultation process to the department.

- Compliance; rights of private school officials to submit a state complaint; 300.136; ARSD 24:05:32:01:07

The cooperative and member districts understand that private school officials have the right to submit a state complaint about consultation or other related matters. If this occurs, the school district will forward its relevant documentation to the department.

- Due process complaints and state level complaints; 300.140; ARSD 24:05:32:03.04

The cooperative and member districts understand private schools have the right to submit state complaints and follow the due process procedure if the school feels the local district is not meeting the regulations for providing special education services within the private school.

- Determination of equitable services for parentally-placed private school students with disabilities; 300.137; ARSD 24:05:32:03.02

The member district determines the services for parentally-placed private school students with disabilities through the general process agreed through consultation with the private school officials and representative parents. Then specific services are written through the services plan created for each child.

- Provision of equitable services for parentally-placed private school students with disabilities; 300.138; ARSD 24:05:32:03.02

The member district agrees to provide the same quality of personnel and services for private school students as would have been provided for public school students. Additionally, the services, material, and equipment must be secular, neutral, and non-ideological. However, the amount of services may be less than what would have been received had the student been enrolled in the public school district.

- Location of services and transportation; 300.139; ARSD 24:05:32:03.03

During consultation, the local school district will determine equitable service, location and transportation for special education services.

- Requirements that funds not benefit a private school; 300.141; ARSD 24:05:32:12

A school district may not use IDEA Section 619 Preschool or Part B funds to finance the existing level of instruction in a private school or to otherwise benefit the private school. The school district shall use funds provided under Part B of the Individuals with Disabilities Education Act to meet the special education and related services needs of students enrolled in private schools, but not for:

- (1) The needs of a private school; or
- (2) The general needs of the students enrolled in the private school.
- Prohibition on separate classes; 300.143; ARSD 24:05:32:11

The cooperative and member districts understand IDEA funds may only be utilized to provide services to students within the private school who have been identified as in need of special education and may not be used to create separate classes to segregate children with disabilities.

- **Use of personnel for the provision of services to parentally-placed private school students with disabilities; 300.142; ARSD 24:05:32:13**

The cooperative and member districts understand that it may use funds to make personnel available for the provision of special education and related services in private schools.

- **Property, equipment, and supplies used to provide special education and related services to parentally-placed private school students with disabilities; 300.144; ARSD 24:05:32:15, ARSD 24:05:32:16**

The cooperative and member districts understand that it is still responsible to account for property, equipment, and supplies placed in private schools for parentally-placed private school students with disabilities. Such inventory will be removed from the private school when it is no longer needed there.

- **Children with disabilities in private schools placed or referred by public agencies; 300.145 – 300.147; ARSD 24:05:34:02**

The d cooperative and member districts understand understands that it is responsible for identification, evaluation and special education placement. Cost for placement in private school is the public agency's responsibility

- Placement of children with disabilities by their parents in private schools when FAPE is an issue; 300.148; ARSD 24:05:31:01-07

The cooperative and member districts understand that if a student with a disability is placed in a private school because the school district could not provide FAPE, then the school district may be responsible for the costs of the education.

Member District procedure:

1. The district will locate, identify, and evaluate all private school children with disabilities, including religious-school children, and children receiving alternative instruction under SDCL 13-37-1.1 residing in the jurisdiction of the district. The activities undertaken to carry out this responsibility for private school children with disabilities must be comparable to activities undertaken for children with disabilities in public schools.
2. The district will consult with appropriate representatives of private school children with disabilities.
3. The district will ensure that a service plan is developed and implemented for each private school child with a disability who has been designated to receive special education and related services.
4. The district will consult with representatives of private school children in deciding how to conduct the annual count of the number of private school children with disabilities.
5. The child count must be used to determine the amount that the district must spend on providing special education and related services to private school children with disabilities in the next subsequent fiscal year.
6. The district will consult with representatives of private school children with disabilities in light of the funding, the number of private school children with disabilities, the needs of private school children with disabilities and their location decide –

- a. Which children will receive services
  - b. What services will be provided
  - c. How and where the services will be provided, transportation; and
  - d. How the services provided will be evaluated.
7. If federal funds are received, the services provided to private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in public schools.
  8. Private school children with disabilities may receive a different amount of services than children with disabilities in public schools.
  9. No private school child with a disability is entitled to any service or to any amount of service the child would receive if enrolled in a public school.

**SECTION XI: Compliance with SEA General Supervision Requirements and Implementation of Procedural Safeguards; 34 C.F.R. §§ 300.149 – 300.150; ARSD 24:05:30:01, ARSD 24:05:20:18; State Complaint Procedures; 34 C.F.R. §§ 300.151 – 300.153; ARSD 24:05:15**

The cooperative and all member districts will ensure compliance with all SEA procedures under general supervision and that programs meet the standards of the SEA. Specific references must include:

- **Responsibility for general supervision and procedural safeguards; 300.149-150; ARSD 24:05:20:18; ARSD 24:05:30:01**

The cooperative and member districts shall establish, maintain, and implement procedural safeguards which meet the requirements of the chapter ARSD 24:05:30.

- **State complaint procedures; 300.151-153; ARSD 24:05:15**

A complaint is a written signed statement by an individual or organization, including an individual or organization from another state, containing a statement that the department of education or a school district has violated a requirement of federal or state statutes, rules, or regulations that apply to a program and a statement of the facts on which the complaint is based. The complaint must allege a violation that occurred not more than one year before the date the complaint is received by the department. The written signed statement shall also include:

- (1) The signature and contact information for the complainant; and
- (2) If alleging violations with respect to a specific child:
  - (a) The name and address of the residence of the child;
  - (b) The name of the school the child is attending;
  - (c) In the case of a homeless child or youth, available contact information for the child and the name of the school the child is attending;
  - (d) A description of the nature of the problem of the child, including facts related to the problem; and
  - (e) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

An organization or individual may file a written, signed complaint with the state director of special education. The party filing the complaint shall forward a copy of the complaint to the school district serving the child at the same time the party files the complaint with the department. If the complaint is against a school district, the following steps shall be taken:

- (1) The state director of special education shall appoint a complaint investigation coordinator from the department's special education programs. The coordinator and any consultants may conduct an independent on-site investigation if it determines that one is necessary;
- (2) The complainant may submit additional information, either orally or in writing, about the allegations in the complaint;
- (3) The school district may respond to the complaint, including, at a minimum:
  - (a) At the discretion of the school district, a proposal to resolve the complaint; and
  - (b) An opportunity for a parent who has filed a complaint and the school district to voluntarily engage in mediation consistent with this article; (

4) The complaint coordinator and any consultants shall make a recommendation to the state director of special education;

(5) After reviewing all relevant information, the state director of special education shall make an independent determination as to whether the complaint is valid, what corrective action is necessary to resolve the complaint, and the time limit during which corrective action is to be completed. The state director of special education shall submit a written report of the final decision to all parties involved;

(6) The written report shall address each allegation in the complaint, contain findings of fact and conclusions, and include reasons for the final decision;

(7) If the complaint is valid, the state director of special education shall find the school district out of compliance with federal and state statutes and rules;

(8) If corrective action is not completed within the time limit set, including technical assistance and negotiations, the department shall withhold all federal funds applicable to the program until compliance with applicable federal and state statutes and rules is demonstrated by the school district;

(9) When the school district demonstrates completion of required correction action, the department's Office of Finance and Management shall be notified by the state director of special education, and all moneys withheld shall be paid to the school district; and

(10) Documentation supporting the corrective actions taken by a school district shall be maintained by the department's special education programs and incorporated into the state's monitoring process.

All complaints must be resolved within 60 days after receipt of the complaint by the state director of special education except as stated in this section. The time limit of 60 days may be extended only under exceptional circumstances as determined by the state director of special education, such as the need for additional time to provide necessary information. Under these circumstances, an extension of time may not exceed 30 days in any one instance.

In addition, the 60-day time limit may be extended, if the parent, individual, or organization and the school district involved in the complaint agree to engage in mediation in order to attempt to resolve the issues specified in the complaint.

The South Dakota Department of Education, Special Education Programs, shall inform parents and other interested individuals, including parent training centers, protection and advocacy agencies, independent living centers, and other appropriate entities about the state's complaint procedures by taking the following actions:

(1) Conducting parent surveys through the state's monitoring process;

(2) Providing copies of the state's procedures to parent and advocacy groups across the state; (3) Notifying local school districts through statewide memoranda;

(4) Presenting state procedures at statewide conferences; and

(5) Disseminating copies to parent training and information centers, independent living centers, protection and advocacy agencies, and other appropriate entities.

If a written complaint is received that is also the subject of a due process hearing under this article or contains multiple issues, of which one or more are part of that hearing, the department shall 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 this chapter.

If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties the hearing decision is binding on that issue and the department shall inform the complainant to that effect. A complaint alleging a school district's failure to implement a due process decision must be resolved by the department.

District Narrative: Review cited regulation to describe local implementation.)

The member districts will comply with any and all requests for information from the South Dakota Department of Education, Special Programs Office related to its obligation to provide general supervision over LEAs in the state. This includes any and all requests for information or data related to monitoring and compliance with regulations as established by the SEA.

## **SECTION XII: FAPE Methods of Ensuring Services 34 C.F.R. § 300.154; ARSD 24:05:14:01.03, ARSD 24:05:14:01.06**

The cooperative and all member districts will ensure that public and/or private benefits available to a student with a disability are used appropriately, and that parents incur no cost in the provision of those services necessary for FAPE. Specific references must include:

- Restrictions and requirements on accessing public benefits (Medicaid); 300.154(d); ARSD 24:05:14:01.03
- Restrictions and requirements on accessing private benefits; 300.154(e); ARSD 24:05:14:01.03

- Use of Part B funds for services when parent consent is unable to be obtained; 300.154(f); ARSD 24:05:14:01.06

District Narrative: (Review cited regulation to describe local implementation.)

The cooperative and member districts ensure that public and private benefits available to a student with a disability will be used appropriately to support the provision of FAPE at no cost or harm to the parents.

- Restrictions and requirements on accessing public benefits (Medicaid); 300.154(d); ARSD 24:05:14:01.03
- Restrictions and requirements on accessing private benefits; 300.154(e); ARSD 24:05:14:01.03
- Use of Part B funds for services when parent consent is unable to be obtained; 300.154(f); ARSD 24:05:14:01.06

After initially obtaining written parental consent for accessing public benefits, the local district provides the parents with notification of continued access on an annual basis. If permission is not received only Part B funds will be utilized for provision of services.

Private benefits will not be accessed without parental consent.

#### **SECTION XIII: Hearings Related to LEA Eligibility 34C.F.R. § 300.155; ARSD 24:05:2023:01**

The cooperative and all member districts understand their right to a hearing regarding any final determination of the SEA on eligibility for funding under Part B.

District Narrative: (Review cited regulation to describe local implementation.)

The cooperative and member districts understand it has a right to a hearing before the SEA makes any final determination regarding eligibility for funding under Part B.

#### **SECTION XIV: Personnel Qualifications 34 C.F.R. § 300.156; ARSD 24:05:16:16 & ARSD 24:05:16:01**

The cooperative and all member districts will ensure that personnel necessary to carry out the provision of special education and related services are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities, including related service personnel and paraprofessionals. Each district/cooperative will take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services to children with disabilities (24:05:16:05, ARSD).

District Narrative: (Review cited regulation to describe local implementation.)

- **Personnel qualifications; ARSD 24:05:16:16**

The CORE Educational Cooperative along with member districts ensure that only appropriately certified and/or licensed professionals and paraprofessionals will be employed to provide services to students with disabilities. In addition, the district will provide ongoing training to all staff and paraprofessionals to assist all in the provision of services to students with disabilities. Further, the district ensures that each special education teacher at the elementary, middle, and high school level is highly-qualified per the standards of the ESEA. The district will take steps to recruit, hire, train and retain highly qualified personnel as specified under SD administrative rule.

CORE Educational Cooperative provides annual training to member district staff about completion of special education requirements and member districts encourage staff to also attend state sponsored IEP workshops. Cooperative and member district staff are trained as trainers to provide development of behavioral interventions and plans through Totem PD.

- Paraprofessionals and assistants; ARSD 24:05:16:16:01

Paraprofessionals and assistants who are appropriately trained and supervised in accordance with this section may be used to assist in the provision of special education and related services to children with disabilities under Part B of the Individuals with Disabilities Education Act. At a minimum, the following standards must be met:

- (1) Paraprofessionals must have a high school diploma or GED;
- (2) Paraprofessionals must work within defined roles and responsibilities as identified by the school district;
- (3) Paraprofessionals must work under the supervision of, and be evaluated by, certified staff; and

(4) Each school district must describe the training to be provided paraprofessionals

CORE Educational Cooperative provides para training through online and in person modules utilizing the paraprofessional training from Totem PD.

**SECTION XV: Performance Goals and Indicators 34 C.F.R. § 300.157; ARSD 24:05:14:13**

The district/cooperative and all member schools/districts will ensure the implementation of state established performance goals and indicators for students with disabilities within their jurisdiction. Specific reference must include:

- Student information management system (SIMS)

District Narrative: (Review cited regulation to describe local implementation.)

SIMs and SPP data

The cooperative assists member districts in analyzing data to determine need for staffing and services. This analysis also assists in identifying areas of need for professional development throughout the CORE member districts.

**SECTION XVI: Participation in Assessments 34 C.F.R. § 300.160; ARSD 24:05:14:14, ARSD 24:05:14:14.01**

The cooperative and all member districts will ensure that all children with disabilities are included in all general State and districtwide assessment programs, including those assessments described under section 1111 of the Elementary and Secondary Education Act (ESEA), with appropriate accommodations and alternate assessments where necessary, and as indicated in their respective individual education programs (IEP).

District Narrative: (Review cited regulation to describe local implementation.)

Member districts ensure that all students with disabilities will be included in state and district assessments, with appropriate accommodations and alternate assessments when necessary. Parents will be informed of their child's participation during the course of the IEP meeting, including any necessary accommodations or any assessment that will be based on alternate or modified achievement standards.

The district will provide all necessary data to the SEA on the participation of students with disabilities in state and district wide testing programs and will, to the extent possible, utilize universal design principles in the development and administration of any assessments.

**SECTION XVII: Supplementation of State, local, and other Federal Funds 34 C.F.R. §§ 300.162-163; ARSD 24:05:19:0**

The cooperative and all member districts will ensure the appropriate use of funds under Part B, consistent with 34 C.F.R. § 300.202(a)(1)(2)(3), to pay for the excess costs of providing special education and related services to children with disabilities within their jurisdiction and that such funds will be used to supplement state, local, and Federal funds, not supplant those funds.

- Maintenance of effort; 300.163; ARSD 24:05:19:08.03

District Narrative: (Review cited regulation to describe local implementation.)

Member districts ensure appropriate use of funds under Part B to pay for the excess costs of providing special education and related services to children with disabilities. Available funding will be used to supplement state, local, and federal funds, and not supplant those funds.

**SECTION XVIII: Public Information 34 C.F.R. § 300.165; ARSD 24:05:20:02**

The cooperative and all member districts will ensure that prior to the adoption of any policies necessary to comply with the requirements under Part B, including any amendments to policies and procedures, there will be public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities

and parents of individuals with disabilities. The district/cooperative will make available to parents of children with disabilities and the general public all documents relating to the district/cooperative eligibility under Part B of the IDEA.

District Narrative: (Review cited regulation to describe local implementation.)

The cooperative and member districts ensure the following documents are available to the public:

1. Comprehensive Plan for Special Education
2. . Any application, evaluation, periodic program plan or report relating to each federal program including auditor reports, statement of assurance budget and grant materials.;

The documents are available at 612 S. Main Street, Platte, SD: Monday through Friday between the hours of 8:00 am and 4:00 pm.

The cooperative and member districts ensure that prior to the adoption of any policies or procedures that are needed to comply with Part B regulations, that there will be an opportunity for public input at a hearing with adequate notice of the hearing and the opportunity to provide input.

Member district's annual submission of the Part B application will be preceded by adequate notice of a public hearing as part of the school board agenda, with an opportunity for public comment. All Part B applications are available to the public at their request through the district office and are available on the district's website.

#### **SECTION XIX: State Advisory Panel 34 C.F.R. § 300.167-169; ARSD 24:05:14:18-19**

The cooperative and all member districts support the work of the State Advisory Panel to provide policy guidance to the SEA with respect to special education and related services for children with disabilities.

District Narrative: (Review cited regulation to describe local implementation.)

The cooperative and member districts support the work of the State Special Education Advisory Panel and will refer interested parents to the appropriate state contact if they are interested in serving on the panel.

#### **SECTION XX: Other Required Provisions 34 C.F.R. § 300.170 through 300.174.**

The cooperative and all member districts will ensure the following specific provisions have consistent policies for implementation at the local level. Specific references must include:

- Suspension and expulsion rates; 300.170; ARSD 24:05:14:16
- Annual description of Part B funds; 300.171; ARSD 24:05:21:03
- Access to instructional materials (NIMAC); 300.172; ARSD 24:05:14:17
- Over-identification and disproportionality; 300.173; ARSD 24:05:17:10
- Prohibition on mandatory medication; 300.174; ARSD 24:05:14:21

District Narrative:

The district ensures that the specific provisions of 300.170 through 300.173 and 24:05:21:04, ARSD have been implemented at the district level, consistent with state policy.

The school District submits data on the suspension and/or expulsion of students with disabilities on an annual basis. If significant discrepancies are occurring, the local educational agency may be required to revise its policies, procedures and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that such policies, procedures, and practices comply with Federal and state statute, rules and regulations.

The school district submits annual child count data on the identification of students with disabilities. In the case of a determination of inappropriate over identification or significant disproportionality with respect to the identification of children

as children with disabilities, or the placement in particular settings of these children, the department shall provide for the review of and, if appropriate, revision of the policies, procedures, and practices used in the identification or placement to ensure compliance with the requirements of Part B of the Individuals with Disabilities Education Act; require any district identified under this section to reserve the maximum amount of funds allowable to provide comprehensive coordinated early intervening services to serve children in the district, particularly, but not exclusively, children in those groups that were significantly over identified under this section; and require the district to publicly report on the revision of policies, practices, and procedures described under this section.

- **Suspension and expulsion rates; 300.170; ARSD 24:05:14:16**

The district will provide the suspension and expulsion rates to the state department to assist with decision making for provision of services.

- **Annual description of Part B funds; 300.171; ARSD 24:05:21:03**

The information required in the district's comprehensive plan coupled with statements of expenditures, descriptions of the annual use of IDEA, Part B funds, and certification of federal assurances establish a district's eligibility for funds under the Individuals with Disabilities Education Act, Part B.

The district's comprehensive plan is available through the Director and will be published on the website ([core.k12.sd.us](http://core.k12.sd.us)). The comprehensive plan is reviewed annually and approved by the board on an annual basis.

- **Access to instructional materials (NIMAC); 300.172; ARSD 24:05:14:17**

In accordance with state statutes district has agreed to follow the NIMAC standards. The district shall adopt the National Instructional Materials Accessibility Standard (NIMAS), for the purposes of providing instructional materials to blind persons or other persons with print disabilities. Blind persons or other persons with print disabilities means children served under this article who qualify to receive books and other publications produced in specialized formats in accordance with the federal Act to Provide Books for Adults who are Blind, in accordance with 2 U.S.C. 135a, as amended to January 1, 2007.

In implementing NIMAS, the district shall coordinate with the National Instructional Materials Accessibility Center (NIMAC), and the department:

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

(a) 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

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

(2) Shall provide instructional materials to blind persons or other persons with print disabilities in a timely manner. In carrying out this section, the district, to the maximum extent possible, shall work collaboratively with the state agency responsible for assistive technology programs.

- **Over-identification and disproportionality; 300.173; ARSD 24:05:17:10**

Upon notification of determination of inappropriate over-identification and/or significant disproportionality with the respect to the identification of children as children with disabilities, or the placement in particular setting of these children, the district will conduct a data analysis of identification procedures to determine any inconsistencies or abnormalities that need to be addressed. If needed the district will revise policies, practices and procedures to address these difficulties.