

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 [redacted] School District has formally adopted the following policies and procedures as the district's comprehensive plan for special education. These policies and procedures were approved by the school board on [redacted]. As indicated by the signature below, the authorizing official acknowledges the district 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.

Signature of Authorized Official

Date of Adoption

Typed Name and Title

Address/City/State/Zip

Telephone Number

This page should be signed at the time of adoption and annual recertification documented as the date(s) will be needed for the Federal IDEA Flow Through Application.

Date(s) of Recertification by School Board

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Table of Contents		Page
SECTION I: Free and Appropriate Public Education (FAPE)		1-2
FAPE beginning at age 3		1
Children advancing from grade to grade		1
Limitations - age exceptions to FAPE		1
FAPE - methods and payments		1
Residential placement		1
Assistive technology		1
Extended school year services		1
Nonacademic services		2
Physical education		2
Program options		2
SECTION II: Full Educational Opportunity Goal (FEOG)		2
SECTION III: Child Find; Child Identification		2-3
Use of the term developmental delay		2
Children who may be suspected of having a disability, and in need of special education, even though they are advancing from grade to grade		3
Children who are highly mobile, including migrant children		3
SECTION IV: Individualized Education Program (IEP)		3-4
Content of the IEP		3
Transition services		3
Transfer of rights at the age of majority		3
The IEP team		3
Parent participation in the IEP		4
When the IEP must be in effect		4
Development of the IEP		4
Routine checking of hearing aids and external components of surgically implanted medical devices.....		4
SECTION V: Least Restrictive Environment (LRE)		4-5
A continuum of alternative placements		4-5
Placements		5
Nonacademic settings		5
Children in public or private institutions		5
Teachers and administrators are provided with technical assistance and training		5
Monitors placements		5
SECTION VI: Procedural Safeguards		5-10
Independent educational evaluations		6-8
Prior written notice; content of notice		8
Procedural safeguards notice		8
Use of electronic mail		8
Availability of mediation		8
Filing of due process complaints		8
Resolution process		8
Impartial due process hearing		8
Hearing rights		8
Hearing decisions		9
Independent educational evaluations		9
Status of child during due process proceedings		9
Surrogate parents; children who are wards of the state; homeless youth		9
Transfer of rights at age of majority		9
Discipline procedures and manifestation determination		9
Determination of setting		9
Right of appeal of the determination of setting		9
Placement during appeals		9
Protections for children not determined eligible for special education and related services		10
Referral to action by law enforcement and judicial authorities		10
Change of placement due to disciplinary removals		10
SECTION VII: Evaluation		10-11
Parental consent (for initial evaluation, services, and reevaluations)		10
Initial evaluations		10
Screening for instructional purposes		10

Table of Contents

	Page
Reevaluations	11
Evaluation procedures	11
Determining eligibility	11
Specific learning disabilities	11
SECTION VIII: Confidentiality	11-14
Notice requirements to parents	12
Access rights	12
Record of access	12
Records on more than one child	12
List of types and locations of information	12
Fees for copies of records	12
Amendments to records at parent's request	12
Opportunity for a hearing	12
Result of hearing and hearing procedures	12
Parental consent for the release of records	12-13
Safeguarding of records	13
Destruction of information	13
Children's rights; transfer at the age of majority	13
Enforcement; policies and procedures	13
Transfer of records for migratory children with disabilities	13
SECTION IX: Transition from Part C	13-14
SECTION X: Private School Placements	15-16
Definition of parentally-placed private school children	15
Child find for parentally-placed private school children with disabilities	15
Provision of services for parentally-placed private school children with disabilities	15
Expenditures for parentally-placed private school children with disabilities	15
Consultation process with private schools attended by children with disabilities	15
Written affirmation by private school officials of meaningful consultation	15
Compliance; rights of private school officials to submit a state complaint	15
Determination of equitable services for parentally-placed private school students with disabilities	15
Provision of equitable services for parentally-placed private school students with disabilities	15
Location of services and transportation	15
Due process complaints and state level complaints	16
Requirements that funds not benefit a private school	16
Use of personnel for the provision of services to parentally-placed private school students with disabilities	16
Prohibition on separate classes	16
Property, equipment, and supplies used to provide special education and related services to parentally-placed private school students with disabilities	16
Children with disabilities in private schools placed or referred by public agencies	16
Placement of children with disabilities by their parents in private schools when FAPE is an issue	16
SECTION XI: Compliance with SEA General Supervision Requirements and Implementation of Procedural Safeguards	16-17
Responsibility for general supervision and procedural safeguards	17
State complaint procedures	17
SECTION XII: FAPE Methods of Ensuring Services	17
Restrictions and requirements on accessing public benefits (Medicaid)	17
Restrictions and requirements on accessing private benefits	17
SECTION XIV: Personnel Qualifications	18
Personnel qualifications	18
Paraprofessionals and assistants	18
SECTION XV: Performance Goals and Indicators	18
SECTION XVI: Participation in Assessments	18-19
SECTION XVII: Supplementation of State, Local, and other Federal Funds	19
SECTION XVIII: Public Information	19
SECTION XIX: State Advisory Panel	19
SECTION XX: Other Required Provisions	20
Suspension and expulsion rates	20
Annual description of Part B funds	20
Access to instructional materials (NIMAC)	20
Over-identification and disproportionality	20

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

The district/cooperative will make available to all children with disabilities residing in the district(s) between the ages of three (3) and twenty-one (21), inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in 300.530(d); ARSD 24:05:26; and ARSD 24:05:26.01. Specific reference in the narrative to include:

- FAPE beginning at age three (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; and
- Program options; 300.110; ARSD 24:05:28:04.

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

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

The district will make a FAPE available to all students with disabilities who reside within the boundaries of the district between the ages of three (3) and twenty-one (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 (3rd) birthday, including those whose birthdays fall during the summer months and who may need extended school year (ESY) services.

- 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 FAPE available to them on an individualized basis as determined by the student's IEP team annually. Exceptions to FAPE for students aged three (3) through twenty-one (21) include those students who have graduated from high school with the regular high school diploma.

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

One exception to the age range of FAPE is the special education student turning twenty-one (21) during the school year who would continue to have free school privileges during the duration of that school year. Another exception is that children younger than age three (3) who qualify for prolonged assistance will receive special education and related services, despite not yet being age three (3).

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

The district acknowledges that it may apply whatever Federal, State, local, and private funds are available to meet its obligations for the provision of FAPE and must ensure that FAPE is provided at no cost to parents and without delay - even if the sources of funding are still being determined. This does not relieve any insurer or similar third party from its responsibility to pay for otherwise valid obligations.

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

When necessary the district will provide FAPE to students with disabilities through a public or private residential program at no cost to the parents.

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

When necessary for FAPE, the district will provide assistive technology to students with disabilities and the evaluation for such at no cost to the parents. This may 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.

When necessary for FAPE, the district will provide extended school year services to students with disabilities at no cost to the parents.

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

To the maximum extent possible, the district will allow students with disabilities to participate with nondisabled peers during nonacademic services such as extracurricular activities, meals and recess. If supplementary aids and services are necessary to achieve this integration, then the district will provide them.

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

To the maximum extent possible, the district will allow students with disabilities to participate in physical education classes with nondisabled peers unless a student requires specially designed physical education as specified in the IEP.

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

To the maximum extent possible, the district will allow students with disabilities access to the same program options as students without disabilities, such as art, music, family and consumer sciences, and vocational education.

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 district/cooperative will have in effect policies and procedures, demonstrating that the district/cooperative has established a goal of providing full educational opportunity to all children with disabilities, aged birth through twenty-one (21), and include a timetable for accomplishing that goal.

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

_____ School District, 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 (21). The district will review data annually (such as SPP indicators and statewide testing results) to guide decisions with regard to adjustments in its programs in an effort to ensure appropriate services to all students with disabilities.

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

The district/cooperative 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; and
- 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.)

_____ School District has in effect policies and procedures to ensure that all children with disabilities who reside within the boundaries of the district 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. Our district Child Find includes ongoing efforts to identify preschool and school age students with disabilities through referral and evaluation procedures as well as annual developmental screening events.

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

The district does recognize and utilize the optional special education category of developmental delay when considering whether a student less than six (6) years of age may be a student with a disability.

- 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.

The district acknowledges that all resident children who are suspected of having a disability and being in need of special education must be subject to the requirements of Child Find, even when children are advancing from grade to grade.

- Children who are highly mobile, including migrant children; 300.111(c)(2).

The district acknowledges that all resident children who are suspected of having a disability and being in need of special education must be subject to the requirements of Child Find, even when children are wards of the state, highly mobile, or migrant.

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

The district/cooperative 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 references 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; and
- Routine checking of hearing aids and external components of surgically implanted medical devices; 300.113; ARSD 24:05:27:05.

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

School 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 will have a current IEP in place at the beginning of the school year, and for eligible preschool students, by their third (3rd) 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.

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

IEPs for students with disabilities will include a statement of present levels of performance (including a statement of how the disability affects progress and involvement in the general curriculum or in developmentally-appropriate activities), measurable annual goals (including a description of how progress will be measured), a description of the services that are necessary for FAPE (including start dates and ending dates), an explanation for why the child is being removed from nondisabled peers, any accommodations that are necessary to ensure that statewide or districtwide testing will be accurate, and the required transition portions (when appropriate).

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

For students age sixteen (16) and older, each student's IEP will include a coordinated set of transition activities, including goals and services for post-secondary education, employment, and (if necessary) independent living based upon the student's interests and needs.

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

Prior to a special education student's seventeenth (17th) birthday, the district will inform that student about the transfer of parental rights, documenting this conversation on the student's IEP.

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

When convening a meeting of the IEP team, the district will ensure that the team includes a representative of the LEA, who is qualified to supervise the unique needs of students with disabilities, is knowledgeable about the curriculum and availability of resources of the district, general education teacher (if the student is or may be participating in the general education environment), a special education teacher, the parents, the student (when appropriate), an individual who can interpret the instructional implications of evaluation results, and any outside agencies responsible to provide transition services.

The district may designate another one of its other IEP team members to also serve as the district representative on the IEP team.

A member of the IEP team can be excused from attending, provided that the parent and district consent in writing to the excusal and the member submits written input into the development of the IEP prior to the meeting.

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

The district will seek the participation of one or both parents by providing the parents with a written meeting invitation in advance of the meeting, including information about the purpose and participants in that meeting.

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

The district will develop IEPs for children determined to be in need of special education. At the beginning of each school year an IEP will be in effect for each eligible child with disabilities within the district's jurisdiction. When children turning age three (3) are in need of special education, the IEP team will determine the date services begin on a case by case basis.

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

When developing or reviewing and revising an IEP, the district will consider whether the student needs positive behavior interventions and supports, a limited English proficiency plan, instruction in Braille, a special communication plan, or assistive technology. All of these decisions will be documented within the body of the IEP.

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

When a special education student has a hearing impairment and uses hearing aids in school, the district's IEP will include a monitoring schedule for any corrective hearing devices.

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

The district/cooperative 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 references must include:

- A continuum of alternative placements; 300-115; ARSD 24:05:28:02;
- Placements; 300.116; ARSD 24:05:28:03;
- Nonacademic 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; and
- Monitors placements, 300.120; ARSD 24:05:28:12.

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

School District ensures 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.

The district will make available a variety of educational placements including:

1. Regular educational programs with modification;
2. Resource rooms;
3. Self-contained programs;
4. Separate day school programs;
5. Residential school programs;
6. Home and hospital programs; and/or
7. Other settings.

For each of the programs listed in this section, the IEP team shall determine the extent to which related services are required in order for the child to benefit from the program. The length of the school day must be equal in duration to that of a regular public school day unless an adjusted school day is required to meet the individual needs of the child. 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.

In those cases where placement is made in a separate day school program or residential school program, the district may abide by the school term of the facility in which the child is placed based on the individual needs of the child.

- Placements; 300.116; ARSD 24:05:28:03.

When determining the educational placement of a child with a disability, the district will make placement decisions through a group of people, including parents and others knowledgeable about the child, the evaluation data, and the placement options. Additionally the district's IEP team will ensure the following:

1. Each child's educational placement is individually determined at least annually and must be based on the child's IEP;
2. Provisions are made for appropriate classroom or alternative settings necessary to implement a child's IEP;
3. The child shall be educated in the same school that would normally be attended if nondisabled or as close to the child's home as possible, unless a child's IEP requires some other arrangement;
4. Consideration is given to any harmful effect on the child or on the quality of services needed; and
5. A child with a disability is not removed from the regular classroom solely because of needed modifications in the general education curriculum.

- Nonacademic settings; 300.117; ARSD 24:05:28:06.

The district will facilitate the participation of disabled students with nondisabled peers, to the maximum extent appropriate, in nonacademic settings such as meals and recess. If supplementary aids and services are found to be necessary for the child to participate in nonacademic settings, then the district will provide them.

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

The district will ensure that children placed in public or private institutions will be educated with nondisabled peers to the maximum extent appropriate.

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

Teachers and administrators in the district are committed to seeking technical assistance related to the provision of special education when necessary.

- Monitors placements; 300.120; ARSD 24:05:28:12.

The district will cooperate with monitoring activities initiated by the State Education Agency (SEA).

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

The district/cooperative 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 references 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; ARSD 24:05:30:14;
- 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; and
- Change of placement due to disciplinary removals; 300.536; ARSD 24:05:26:02.01.

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

School District ensures 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.

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

The district provides parents with the opportunity to examine records and to participate in IEP meetings and placement decisions.

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

When a parent disagrees with an evaluation conducted by the district, the district responds by ensuring that the IEE occurs without delay or by requesting a due process hearing to show that its evaluation is appropriate.

A. *Definitions:*

1. "Independent Educational Evaluation" (IEE) means an evaluation conducted by a qualified examiner who is not employed by the school district. An IEE may be either at public expense or private expense.
2. "Public expense" means that the school district shall pay the full cost of the evaluation or ensures that the evaluation components are otherwise provided at no cost to the parent.
3. "Private expense" means that the costs for the evaluation are the responsibility of the parent.

B. *Requests for an Independent Educational Evaluations at Public Expense:*

1. Before being entitled to an IEE at public expense, parents must notify the school that they disagree with the school's evaluation and request an IEE be done at public expense. Parents are not entitled to reimbursement for IEE's which were not initiated as a result of disagreement with a district's evaluation.
2. Any parental request to the school district for an IEE at public expense should be in writing. The school district shall immediately document the receipt of a parental request for an IEE at public expense.
3. Upon parent's request for an IEE, the district will provide the parents with a copy of the *South Dakota Administrative Rules* describing the required special education evaluation procedures to be followed. The school shall also provide to parents a copy of this policy which includes the criteria applicable for IEEs.
4. If parents request an IEE at public expense, the school may ask the parents why they object to the district's evaluation. Parents, however, are not required to explain their objection to the school's evaluation and the school may not unreasonably delay either providing the IEE at public expense or filing a due process complaint to request a due process hearing to defend the school's evaluation.
5. If a parent disagrees with an evaluation conducted by the district and seeks an IEE at public expense, the district will either initiate a due process hearing to show that the district's evaluation is appropriate, or will provide an IEE at public expense.
6. In the interest of consistency between public and private evaluations, if an IEE at public expense is to be requested the district encourages parents to request an IEE at public expense no later than fifteen (15) school days from the IEP meeting during which the school's evaluation was discussed.
7. If the school approves the request by a parent of an IEE at public expense the school will present to the parents a list of approved independent evaluators, none of which are employed by the district, and request the parents to select an independent evaluator within ten (10) school days. After the parents have selected an evaluator and provided the school with a written consent to initiate the IEE, the district will contact the independent evaluator within fifteen (15) school days of receipt of the written consent and contract with the independent evaluator at public expense.
8. The district will make arrangements for a new evaluation, and contract with a qualified independent evaluator who must agree to provide a written report for an IEP meeting within twenty-five (25) school days of receipt of parental consent for the evaluation. If the selected evaluator cannot meet the timeline, the school district will inform the parents and ask for agreement to an extension of the time or to select another independent evaluator.

9. If the district initiates a hearing on whether the IEE must be done at public expense and the final decision is that the district's evaluation is appropriate, the parent still has the right to an IEE but not at public expense.
10. If a hearing officer requests an IEE as part of a hearing, the cost of the evaluation must be at the district's expense.
11. Parents may only request one publicly funded independent evaluation for each evaluation completed by the district.
12. If the school district agrees to a parental request to obtain an IEE at public expense, an evaluation plan will be developed prior to the evaluation being completed which specifies those areas to be evaluated and who will complete each assessment.

C. Criteria for an Independent Educational Evaluation at Public Expense:

1. If an IEE is at the district's expense, the criteria under which the evaluation is obtained as set forth in this provision shall be the same as the criteria that the district uses when it initiates an evaluation unless the school district and parent agree otherwise. Except for these criteria and subject to the school district's right to request a due process hearing on whether an IEE must be conducted at public expense, the school district shall impose no other conditions related to obtaining an IEE at the district's expense.
2. As part of a contract between the school district and independent educational evaluator, the evaluator must agree to follow the *South Dakota Administrative Rules* for conducting evaluations, which include, but are not limited to, observing the student in an appropriate setting. Additionally, the school district may require the independent evaluator to include classroom visitation(s) and interviews with parents and staff as part of the evaluation requirements. The independent evaluator will also provide the district with a written copy of the final evaluation report with recommendations, and attend the student's IEP team meeting by phone or in person, upon request, as part of the evaluator's responsibilities.
3. The evaluator shall be located within the state of South Dakota. An evaluator outside the state may be approved only on an exceptional basis if the parents can demonstrate the necessity of using an evaluator outside the state of South Dakota.
4. The evaluator shall be licensed by the state in which the evaluator practices, and if licensed in a state other than South Dakota, the license shall be comparable to the standards established for evaluators within the state of South Dakota.
5. The evaluator fees shall be commensurate to the current rates of other local practitioners within the state of South Dakota.
6. The evaluator shall provide a final evaluation report which must include recommendations and the results of all assessment data collected, the dates of direct contact with the child, narrative description of the child, discussion and interpretation of test scores, along with diagnoses. Additionally, the report must provide scores (including subtest scores).
7. The evaluator shall use only the revised or most current version of each assessment instrument.
8. The evaluator must work primarily with children and adolescents.
9. As part of the contracted evaluation, the independent evaluator must agree to release the final evaluation report and the results of all assessment data collected to the district prior to receipt of payment for services.
10. If the district agrees to an IEE at public expense at a Diagnostic Center and the Diagnostic Center completes the evaluation, both the district and the parents shall receive a copy of the final evaluation report with recommendations and the results of all assessment data collected.
11. If the district agrees to an IEE at public expense, parents must simultaneously give their written consent for the release of the evaluation report and the results of all assessment data collected by the independent educational evaluator to the school district.

D. Consideration of the Independent Educational Evaluation:

1. IEEs are designed to determine the educational needs of students with a disability or suspected disability. The school district is responsible for determining placements and services. The school will consider recommendations obtained in the IEE at public expense or at private expense that is completed in accordance with this policy and its implementation procedures and criteria. Moreover, IEEs may not control the parent's, the IEP team's or the school district's decisions. The evaluations will be considered only if the IEE criteria have been met and the evaluation was completed by a qualified professional possessing state-approved credentials.
2. If the parents obtain an IEE at private expense, the results of the evaluation (1) must be considered by the school in any decision made with respect to the provisions of FAPE to the student, if the independent evaluation meets the district's evaluation criteria, and (2) may be presented as evidence at a due process hearing regarding that student.

****Nothing within this policy restricts the right of parents to obtain an independent educational evaluation at private (parental) expense.

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

The district will provide written notice to the parent at least five (5) days prior to proposing or refusing to initiate or change the identification, evaluation, placement, or the provision of FAPE for students with disabilities. This notice will include a description of the proposal or refusal, a description of other actions considered and rejected, the basis for the district's decision, and any other factors relevant to the proposal or refusal.

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

The district will provide a copy of the *South Dakota Parental Rights and Procedural Safeguards* document to the parents of an eligible child with a disability at least one (1) time each year, in addition to the following:

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

The district uses the *South Dakota Parental Rights and Procedural Safeguards* document which conforms with the content standards established in ARSD 24:05:30:06.02.

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

If the district chooses to make the option available, then the district will allow the parents of children with disabilities to elect to receive special education notices through electronic mail.

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

The district shall ensure that procedures are established and implemented to allow parties to disputes involving any matter under this article, including matters arising before the filing of a due process complaint, to resolve disputes through a mediation process. Procedures for mediation are as follows:

1. The district shall 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.

The state shall bear the cost of the mediation process, including the costs of meetings.

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

The district acknowledges that either it or the parent may file a due process complaint on any matters related to the identification, evaluation, placement or FAPE of a student with a disability.

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

Within fifteen (15) days of receiving notice of the parent's due process complaint and prior to the initiation of a due process hearing, the district will convene a meeting with the parent and relevant members of the IEP team who have specific knowledge of the facts identified in the complaint. The district and the parent will determine which IEP team members are relevant, but the team will include a representative of the district who has decision-making authority.

The district will not bring an attorney unless the parent is accompanied by an attorney.

During this meeting the district will attempt to resolve the dispute that is the basis for the due process complaint. The district acknowledges that this resolution meeting need not be held if the parent and the district agree to waive it or if the parent and the district agree to use mediation.

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

The district acknowledges that either the district or the parent has the right to an impartial due process hearing following a due process complaint.

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

The district acknowledges that, during the impartial due process hearing, both the district and the parent have the right to be accompanied and advised by legal counsel to present evidence, to cross-examine and compel the attendance of witnesses, to prohibit the introduction of evidence that has not been disclosed at least five (5) business days before the hearing, to obtain a written record of the hearing, and to obtain a written record of findings of fact and decisions.

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

The district acknowledges that both the district and the parent have the right to file a civil action, within ninety (90) days, to appeal the decision of the due process hearing.

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

The district acknowledges that the student in a due process complaint must remain in the present educational placement during that complaint unless the parents and district agree otherwise, with these exceptions:

1. If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school program until the completion of all the proceedings;
2. If the complaint involves an application for initial services from a child transitioning from Part C of the IDEA to Part B who is no longer eligible for Part C because the child has turned three (3), the district is not obligated to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B, and the parent consents to the initial provision of special education and related services, then the district must provide those special education and related services not in dispute; and/or
3. 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 must 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.

When no other parents (as defined in ARSD 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 if the child is an unaccompanied homeless youth, the **district superintendent or designee** will appoint surrogate parents within the following conditions:

1. The person selected as a surrogate must have no personal or professional interest in conflict with the interests of the child being represented;
2. The person selected as a surrogate must have knowledge and skills to ensure adequate representation of the child in all matters relating to identification, evaluation, educational placement, and the provision of FAPE; and
3. The person selected as a surrogate will not be an employee of the South Dakota Department of Education, **School District**, or any other agency that is involved in the education or care of the child.

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

The district informs parents and students about the transfer of student rights, documenting that notification within the body of the IEP. When a student with disabilities reaches the age of majority (unless determined to be incompetent), the district acknowledges that the parents' rights transfer to the child. If the child is determined not to have the ability to provide informed consent with respect to the educational program, the district shall appoint the parent or (if the parent is unavailable) another appropriate individual to represent the educational interest of the child.

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

The district will conduct a manifestation determination review with ten (10) days of a decision to change the placement of a student with a disability due to a violation in a code of student conduct. During this review relevant members of the student's IEP team (as determined by the district and the parents) will review all relevant information to determine the following:

1. Was the conduct in question caused by, or did it have a direct and substantial relationship to, the student's disability?
2. Was the conduct in question the direct result of the district's failure to implement the IEP?

When either condition #1 or #2 above has been met, the district acknowledges that the conduct must be determined to be a manifestation of the student's disability. If condition #2 was met, the district acknowledges that it must take immediate steps to remedy the deficiency in IEP implementation.

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

The district acknowledges that its IEP team is responsible for determining an interim alternative placement when a student's educational placement is changed for disciplinary reasons.

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

When the behavior that led to discipline is determined not to be a manifestation of the student's disability, the district acknowledges that the parent has the right to appeal that decision.

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

The district acknowledges that, during an appeal of the educational placement, the child remains in the interim alternative educational placement unless the district and the parent agree otherwise.

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

The district acknowledges that a child not yet determined eligible for special education has disciplinary protections according to ARSD 24:05:26:14 if the district had knowledge that the child might be a student with a disability.

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

The district acknowledges that a student's special education status does not prohibit the district from reporting crimes to law enforcement. If the district reports a crime, it will include copies of the special education and disciplinary records of the student for consideration by the appropriate authorities to whom the crime is reported, to the extent permitted by FERPA.

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

The district acknowledges that removals of more than ten (10) consecutive days or patterns of removal of more than ten (10) days constitute a change of placement for special education purposes.

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

The district/cooperative 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 reevaluations); 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;
- Reevaluations; 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; and
- 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.)

School District ensures that all children with disabilities are evaluated in accordance with the following regulatory provisions.

- Parental consent for initial evaluation, services, and reevaluations; 300.300; ARSD 24:05:25:02.01; ARSD 24:05:25:06.01.

The district proceeds with initial evaluations only after first acquiring the parent's written consent. When trying to acquire parental consent for reevaluations, the district proceeds without parental consent only after first exercising and documenting considerable efforts to obtain that consent.

- Initial evaluations; pre-placement evaluations; ARSD 24:05:25:03.

The district will complete a full and individual initial evaluation for special education eligibility before the initial provision of special education services. Once parental consent for the evaluation is received, the district will conclude the process within thirty (30) calendar days from the end of the twenty-five (25) school day timeline.

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

The district acknowledges that screening for instructional purposes is not considered an evaluation for special education.

- Reevaluations; 300.303; ARSD 24:05:25:06.

The district informally determines what evaluation data are needed for the following purposes:

1. Determining whether the child continues to have a disability;
2. Determining the developmental and educational needs of the child;
3. Determining whether the child continues to need special education and related services; and
4. Determining whether any additions or modifications are needed in the special education program in order to meet measurable annual goals or to make progress in the general curriculum.

If the district determines that no additional evaluation data are needed in order to establish eligibility or to determine programming needs, then the district will inform the parents of that fact and their right to request new assessment.

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

When designing an evaluation package, to the extent possible, the district selects a variety of technically sound assessments likely to yield accurate information that could fulfill eligibility requirements and provide useful information about specific areas of the child's educational need, particularly considering factors that may interfere with standardization such as limited English proficiency or interference from the child's impairment. The district ensures that its evaluations are comprehensive, and the district acknowledges that no single measure may be the sole criterion for a determination of eligibility.

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

The district determines eligibility during a formal meeting of the IEP team, providing a copy of this eligibility determination and the related evaluation reports at no cost to the parent. The district acknowledges that students may not be deemed eligible for special education when the determinant factor for underachievement is believed to be limited English proficiency or a lack of instruction in reading or math.

- 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.

When determining a student's eligibility for special education with regard to the category of specific learning disability, the districts full IEP team rules out the presence of the following:

1. a visual, hearing, or motor disability;
2. a cognitive disability;
3. an emotional disturbance;
4. cultural factors;
5. an environmental or economic disadvantage;
6. limited English proficiency; and/or
7. a lack of instruction in reading or math.

Then the district compares ability to discrepancy in achievement. When discrepancy in an allowable area of Specific Learning Disability (SLD) matches the criterion set forth in the State's discrepancy table and is further corroborated by classroom observation, the lack of achievement, and the lack of mitigating medical factors, the district finds the student eligible in the category of SLD. These SLD decisions are certified with the signatures of IEP team members, including the child's general education teacher (or a teacher qualified to teach that age) and at least one (1) person qualified to conduct individual diagnostic examinations.

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

The district/cooperative 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; and
- Transfer of records for migratory children with disabilities; 300.213; ARSD 24:05:21:05.

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

School District ensures 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 district provides parents information about the confidentiality of special education information, including the parental rights and the district's responsibility through FERPA, by providing them (at least annually) with the *South Dakota Parental Rights and Procedural Safeguards*.

- Access rights; 300.613; ARSD 24:05:29:04.

The district acknowledges the rights of parents to inspect, question, and receive copies of the special education records of their children with disabilities. The district cooperates with these inquiries, either from parents or from their representatives.

- Record of access; 300.614; ARSD 24:05:29:05.

The district keeps a record of access document for each special education file. However, parents and authorized employees of the district do not have to log their access.

- Records on more than one (1) child; 300.615; ARSD 24:05:29:06.

If any educational records include information on more than one (1) child, the parents of those children may inspect and review only the information relating to their child or may only be informed of that specific information.

- List of types and locations of information; 300.616; ARSD 24:05:29:07.

This district shall provide parents, on request, a list of the types and locations of educational records collected, maintained, or used by the district.

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

The district acknowledges that it may not charge fees to search for or to retrieve information included in the access rights of parents. However, a fee may be charged for copies.

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

If a parent requests an amendment to the educational record, the district will respond within a reasonable time following receipt of that request. If the district refuses to amend the educational record, then it will inform the parent of the refusal and advise the parent of the right to a hearing.

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

When requested, the district provides a hearing to challenge information contained in the education records, ensuring that information is not inaccurate, misleading, or otherwise in violation of the rights of a student.

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

When such a hearing is requested, the district will provide it within thirty (30) days of the request, and the parent will receive notice of the date, time, and location at least five (5) days prior to the hearing. This hearing shall be conducted by a party who does not have an interest in the hearing's outcome. During this hearing, the parent of a student with disabilities has the opportunity to present evidence and to be represented by an attorney. Following the hearing, the district will produce a written decision within thirty (30) days. This decision will be based solely upon evidence presented at the hearing and will include a summary and reasons for the decision.

As a result of the hearing, if the district decides to amend the record, it shall do so accordingly and shall notify the parents of the fact. If the district decides not to amend the record, then it will notify the parents of their right to write a statement of comment regarding the record. If the parent chooses to do so, then the district will include this statement of comment and will maintain it as part of the record.

- 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 this article 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 FERPA. The district may 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 (2) 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 shall 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 will 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 district where the private school is located and officials in the 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 has designated the special education director to maintain the records and train others in how to collect, store, disclose, and destroy the records in a manner that protects confidentiality. The special education director will also maintain a list of the names and positions of others who may have access to personally identifiable information.

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

The district will inform parents when it no longer needs to maintain personally identifiable information in order to provide educational services. In this event, when requested by the parents, the district will destroy the personally identifiable information (but may maintain contact information for the student in addition to a record of, attendance, classes taken, and grades).

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

The district acknowledges that the rights of parents normally transfer to special education students upon the age of majority, including rights related to the confidentiality of information.

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

The district agrees to cooperate with enforcement efforts by the SEA, including on-site monitoring, approval of comprehensive special education plans, and complaint resolution.

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

The district agrees to cooperate with records requests in order to establish a continuity of records for migratory students with disabilities.

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

The district/cooperative 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 (3rd) 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.)

School District ensures 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 in place at the time of their third birthday an appropriate IEP for the provision of special education and related services has been developed and implemented. The district participates in transition planning conferences as coordinated by the local Part C agency.

The state's Part C coordinator contacts the district to alert them of the child turning age three (3). Several months before a Part C child turns three (3), the district will initiate evaluation procedures to determine potential eligibility for Part B. The district will hold an eligibility meeting at least ninety (90) days but not more than nine (9) months prior to the child turning three (3). This evaluation planning includes contact and input from the child's family. When the child turns three (3), the district will begin monitoring progress through the required IEP goal progress notes.

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

The district/cooperative 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;
- 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; and
- 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.)

School District ensures compliance with 34 CFR 300.129 through 300.148 which govern private school placements within the boundaries of the district. Through consultation with private school representatives, the district will 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 will be developed in accordance with 300.132. The district will maintain records 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 district acknowledges that parentally-placed private school children with disabilities are defined as being children with disabilities whose parents have unilaterally enrolled them in private schools (including religious schools) that meet the state definition of elementary or secondary schools.

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

The district acknowledges that it is responsible for conducting Child Find activities in private schools that happen to be within the boundaries of the district and must maintain records regarding the number of children evaluated, the number of children found to have a disability, and the number of children served.

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

If a parentally-placed private school child with a disability will receive special education and related services from the district, then the district will develop (and revise, as needed) a services plan with a representative of the private school in attendance or participating by phone.

- Expenditures for parentally-placed private school children with disabilities; 300.133; ARSD 24:05:32:01.02.

The district will spend an amount, proportional to federal sub-grants 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 (1) year.

- 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 district will consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities regarding the following:

1. the Child Find process (including how private school children can participate and how people will be informed);
2. the determination of the proportionate share of federal funds available, including how the share was calculated;
3. the consultation process, including how the process will operate during the school year;
4. how, where, and by whom special education and related services will be provided, including a discussion of:
 - a. the types of services to be made available;
 - b. how special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children with disabilities; and
 - c. how and when those decisions will be made;
5. how, if the district disagrees with the private school regarding the provision or types of services, the district will provide to the private school officials a written explanation of the reasons why the district chose not to provide services.

- Written affirmation by private school officials of meaningful consultation; 300.135; ARSD 24:05:32:01.06.

Following the consultation, the 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 district will forward documentation of the consultation process to the department of education.

- Compliance; rights of private school officials to submit a state complaint; 300.136; ARSD 24:05:32:01.07.

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

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

The district determines the services generally for parentally-placed private school students with disabilities through the process agreed upon through consultation with the private school officials and representative parents. Then specific services are written through the particular 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 services that the district provides to parentally-placed private school students with disabilities are provided by personnel meeting the same standards as those providing services in the public school district. Additionally those services are 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.

The services plans developed by the district will meet the IEP content requirements with respect to the services provided and to the extent appropriate.

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

The district acknowledges that special education and related services may be provided at the private school site. The district acknowledges that, if necessary for the child to benefit from special education or related services, transportation may be necessary. However, the district will not transport students with disabilities from the home to the private school site. For specific information about the location of services and transportation please refer to the annual consultation agreement.

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

The district acknowledges that even though due process complaints and hearings would not occur related to the provision of special education services for parentally-placed private school students with disabilities, they could occur related to Child Find and the evaluation process.

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

The district acknowledges that its federal funds allocated for a private school may not benefit the private school as a whole. They may only be used for the special education and related services of particular students with disabilities enrolled in the private school.

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

The district acknowledges that it may use funds to make personnel available for the provision of special education and related services in private schools.

- Prohibition on separate classes; 300.143; ARSD 24:05:32:11.

The district acknowledges that it is not allowed to use the funds to create separate classes to segregate children on the basis of school enrollment or religion.

- 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 district acknowledges 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 and will not be provided unless it can be removed without remodeling the private school facilities.

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

The district acknowledges that it is still responsible for Child Find for students placed in private schools by state agencies, although the state is responsible for the costs of special education and related services.

- 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 district acknowledges that if a student with a disability is placed in a private school because the district could not provide FAPE in a timely manner, then the district may be responsible for the costs of the education.

SECTION XI: Compliance with State Education Agency (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 district/cooperative 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; and
- State complaint procedures; 300.151-153; ARSD 24:05:15.

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

School District 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.

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

The district will cooperate with the SEA's general supervision and procedural safeguard requirements. Procedural safeguard assurances at the district level are described in Section VI of this comprehensive special education plan.

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

When a state complaint has been filed against the school district, the district will cooperate with SEA complaint procedures, including informational requests from the investigation coordinator. The district acknowledges that either or both of the following options are available:

1. Districts may choose to propose a resolution to the complaint; and/or
2. Districts may choose to engage in voluntary mediation with parents.

The district will cooperate with any corrective actions or remedies ordered by the SEA through the state complaint process.

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 district/cooperative 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; and
- 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.)

School District ensures 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)(e); ARSD 24:05:14:01.03.

The district will not require parents to apply for public benefits or to pay an out-of-pocket expense. Further, the district will not use public benefits or insurance when doing so could result in financial cost for the parent. When accessing the parent's insurance, the district collects written consent first and provides written notice annually.

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

The district acknowledges that it is allowed to apply Part B funds to insurance costs the parents would have had to pay due to the district accessing their insurance benefits.

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

The district/cooperative understands 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.)

School District acknowledges 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 district/cooperative 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.)

School District ensures that only appropriately certified or licensed professionals will be employed to provide services to students with disabilities. Further, the district ensures that special education teachers at the elementary, middle, and high school levels are certified according to state standards.

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

The district will cooperate with the SEA's personnel qualification obligations by ensuring that staff qualifications are reviewed and appropriate licensure or certifications are in place prior to the commencement of contracted payments.

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

The district acknowledges that appropriately trained and supervised paraprofessionals and assistants may be used to assist in the provision of special education and related services, with the following minimum standards:

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

The district will take measurable steps to recruit, hire, train, and retain appropriately certified personnel to provide special education and related services to children with disabilities. Existing staff and paraprofessionals will receive ongoing training as needed.

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

The district/cooperative 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.)

School District will submit, on a timely basis, data requested by the Department of Education that is needed to monitor the performance of the children with disabilities with respect to state established performance goals and indicators.

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

The district/cooperative will ensure that all children with disabilities are included in all general state and district wide 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 IEPs.

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

 School District strives to 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 district/cooperative 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.)

 School District ensures appropriate use of funds under Part B to pay for the excess costs of providing special education and related services to children with disabilities. The district’s available funding will be used to supplement State, local, and Federal funds without supplanting those funds.

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

The district/cooperative 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.)

 School District acknowledges the SEA’s responsibility to solicit public input regarding the SEA’s Part B application and will help to provide such input whenever necessary.

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

The district/cooperative supports 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.)

 School District supports 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 district/cooperative 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; and
- Prohibition on mandatory medication; 300.174; ARSD 24:05:14:21.

District Narrative:

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

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

The district will cooperate with the SEA's effort to monitor suspension and expulsion rates, including initiating a revision of its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards as directed by the SEA.

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

The district acknowledges that the information in this comprehensive special education plan, coupled with statements of expenditures, descriptions of the annual use of IDEA, Part B funds, and certification of federal assurances are all used to establish its eligibility for funds under the Individuals with Disabilities Education Act, Part B.

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

The district acknowledges the SEA's responsibility to make instructional print materials available in a form that is accessible to students with visual or print impairments, according to the National Instructional Materials Accessibility Standard (NIMAS). When serving students with these impairments the district will consider utilizing these resources from the state library.

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

The district acknowledges the SEA's responsibility to determine whether over-identification or disproportionality may be occurring within the state's special education programs. The district will cooperate with this monitoring through timely submission of the annual child count and any additional SEA requests for information. If necessary the district will revise its policies, procedures, and practices to address over-identification and disproportionality as directed by the SEA.