

ILLINOIS REGISTER

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

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SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

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AUTHORITY: Implementing Article 14 and authorized by Section 2-3.6 of the School Code [105 ILCS 5].

SOURCE: Adopted August 12, 1976; rules repealed and new emergency rules adopted at 2 Ill. Reg. 37, p. 29, effective September 1, 1978, for a maximum of 150 days; rules repealed and new rules adopted at 3 Ill. Reg. 5, p. 932, effective February 1, 1979; emergency amendment at 4 Ill. Reg. 38, p. 328, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 8021, effective July 22, 1981; amended at 6 Ill. Reg. 558, effective December 23, 1981; emergency amendment at 7 Ill. Reg. 6511, effective May 6, 1983, for a maximum of 150 days; emergency amendment at 7 Ill. Reg. 8949, effective July 15, 1983, for a maximum of 150 days; codified at 8 Ill. Reg. 6669; amended at 8 Ill. Reg. 7617, effective May 17, 1984; emergency amendment at 10 Ill. Reg. 3292, effective January 27, 1986, for a maximum of 150 days; emergency expired June 24, 1986; amended at 10 Ill. Reg. 18743, effective October 22, 1986; amended at 10 Ill. Reg. 19411, effective October 31, 1986; amended at 13 Ill. Reg. 15388, effective September 14, 1989; emergency amendment at 14 Ill. Reg. 11364, effective June 26, 1990, for a maximum of 150 days; emergency expired November 23, 1990; amended at 15 Ill. Reg. 40, effective December 24, 1990; amended at 16 Ill. Reg. 12868, effective August 10, 1992; emergency amendment at 17 Ill. Reg. 13622, effective August 3, 1993, for a maximum of 150 days; emergency expired December 31, 1993; amended at 18 Ill. Reg. 1930, effective January 24, 1994; amended at 18 Ill. Reg. 4685, effective March 11, 1994; amended at 18 Ill. Reg. 16318, effective October 25, 1994; amended at 19 Ill. Reg. 7207, effective May 10, 1995; amended at 20 Ill. Reg. 10908, effective August 5, 1996; amended at 21 Ill. Reg. 7655, effective July 1, 1997; Part repealed, new Part adopted at 24 Ill. Reg. 13884, effective August 25, 2000; amended at 27 Ill. Reg. 8126, effective April 28, 2003; amended at 31 Ill. Reg. 9915, effective June 28, 2007; amended at 32 Ill. Reg. 4828, effective March 21, 2008; amended at 34 Ill. Reg. 17433, effective October 28, 2010; amended at 35 Ill. Reg. 8836, effective May 26, 2011; peremptory amendment, pursuant to PA 97-461, at 35 Ill. Reg. 14836, effective August 22, 2011; amended at 36 Ill. Reg. 12648, effective July 18, 2012; amended at 36 Ill. Reg. 12870, effective July 24, 2012; amended at 37 Ill. Reg. 16788, effective October 2, 2013; amended at 40 Ill. Reg. 2220, effective January 13, 2016; emergency amendment at 44 Ill. Reg. 5917, effective March 25, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 44 Ill. Reg. 6675, effective April 9, 2020, for the remainder of the 150 days; emergency rule effective March 25, 2020, as amended April 9, 2020, expired August 21, 2020; amended at 44 Ill. Reg. 14792,

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effective August 27, 2020; amended at 45 Ill. Reg. 1671, effective January 22, 2021; amended at 45 Ill. Reg. 3377, effective March 2, 2021; emergency amendment at 45 Ill. Reg. 11355, effective August 26, 2021, for a maximum of 150 days; emergency expired January 22, 2022; emergency amendment at 46 Ill. Reg. 3005, effective February 4, 2022, for a maximum of 150 days; emergency rule expired July 3, 2022; amended at 46 Ill. Reg. 6453, effective April 11, 2022; amended at 46 Ill. Reg. 13246, effective July 13, 2022; amended at 47 Ill. Reg. 2244, effective February 6, 2023; amended at 48 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 226.75 Definitions

"Behavioral intervention" means an intervention based on the methods and empirical findings of behavioral science that is designed to positively influence a child's actions or behaviors.

"Business day" means Monday through Friday, except for federal and State holidays.

"Common languages" means the five most commonly spoken languages other than English that are used in the State of Illinois, based on the most recent Home Language Survey results; and for a given school district, any language that is spoken by more than 20 total families in that school district.

"Day" means a calendar day.

"Disability" means the 13 disabilities identified in the federal Individuals with Disabilities Education Act for special education and related services. - These disabilities (autism, deaf-blindness, deafness, emotional disability, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment) shall be defined as set forth in 34 CFR 300.8(c). -In addition, for purposes of this Part, "autism" shall include, but not be limited to, any Autism Spectrum Disorder that adversely affects a child's educational performance.

"Domain" means an aspect of a child's functioning or performance that must be considered in the course of designing an evaluation. -The domains are health, vision, hearing, social and emotional status, general intelligence, academic performance, communication status, and motor abilities.

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"Equipment" has the meaning ascribed to that term under 34 CFR 300.14.

"Evaluation" has the meaning ascribed to that term under 34 CFR 300.15.

"Extended school year services" has the meaning ascribed to that term under 34 CFR 300.106(b).

"Functional behavioral assessment" means an assessment process for gathering information regarding the target behavior, its antecedents and consequences, controlling variables, the student's strengths, and the communicative and functional intent of the behavior, for use in developing behavioral interventions.

"General curriculum" means the curriculum adopted or used by a local school district or by the schools within a district for nondisabled students; the content of the program, as opposed to the setting in which it is offered.

"Individualized education program team" or "IEP team" has the meaning ascribed to that term under 34 CFR 300.23.

"Independent educational evaluation" has the meaning ascribed to that term under 34 CFR 300.502(a)(3)(i).

"Individualized education program" or "IEP" has the meaning ascribed to that term under 34 CFR 300.22.- An IEP shall be considered "linguistically and culturally appropriate" if it addresses the language and communication needs of a student as a foundation for learning, as well as any cultural factors that may affect the student's education.

"Individualized Family Service Plan" or "IFSP" means 20 U.S.C. 1401(15).

"Interpreter" means a person fluent in English and in the necessary language of the parent and who can accurately speak, read, and readily interpret the necessary second language, or a person who can accurately sign and read sign language.

"Interpretation services" means the verbal interpretation of English into another language and of the other language into English. "Interpretation services" may also include sight translations of written text into spoken word.

"Least Restrictive Environment" or "LRE" has the meaning ascribed in 34 CFR 300.114.

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"Less common language" means any language that is not considered a common language, as defined in this Section.

"Limited English proficient" has the meaning ascribed to that term under 34 CFR 300.27.

"Native language" has the meaning ascribed to that term under 34 CFR 300.29.

"Parent" has the meaning ascribed to that term under 34 CFR 300.30.

"Personally identifiable" has the meaning ascribed to that term under 34 CFR 300.32.

"Preferred language" means a parent's or guardian's native language or any other language with which both parents or guardians are fluent and have agreed upon. "Preferred language" does not include artificial or constructed languages, including, but not limited to, Klingon, Dothraki, Elvish, or Esperanto.

"Qualified bilingual specialist" means an individual who holds the qualifications described in Section 226.800(~~ef~~).

"Qualified interpreter" means a school staff member or other personnel who is:

bilingual and demonstrably qualified and competent to interpret;

trained in providing the interpretations requested and sufficiently knowledgeable in both languages and of any specialized terminology needed; and

trained in ethics of interpretation.

"Qualified personnel" means staff members or other individuals who hold the certificate, educator or professional license, registration, or credential that is required for the performance of a particular task.

"Qualified specialist" means an individual who holds the applicable qualifications described in Subpart I.

"Related services" has the meaning ascribed to that term under 34 CFR 300.34.

"School Code" or "Code" means 105 ILCS 5.

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"School day" means any day, including a partial day, that children are in attendance at school for instructional purposes.

"School district" means a public school district established under Article 10 or Article 34 of the School Code or a charter school established under Article 27A of the School Code.

"Special education" has the meaning ascribed to that term under 34 CFR 300.39.

"State Board" means the Illinois State Board of Education.

"Student record" has the meaning ascribed at 23 Ill. Adm. Code 375.10 (Student Records).

"Supplementary aids and services" has the meaning ascribed to that term in 34 CFR 300.42.

"Transition services" has the meaning ascribed to that term in 105 ILCS 5/14-8.03.

"Vital Documents List" includes the IEP, Parent/Guardian Notification of Conference, Parent/Guardian Notification of Conference Recommendations, Notice of Procedural Safeguards for Parents/Guardians of Students with Disabilities, Parent/Guardian Consent for Initial Evaluation, Parent Consent for Reevaluation, Evaluation Reports, Eligibility Determination, Manifestation Determination Review documents, IEP Progress Reports, and Medicaid Consent Forms.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN

Section 226.180 Independent Educational Evaluation

Parents have the right to obtain an independent educational evaluation of their child at public expense in accordance with 34 CFR 300.502 and Section [14-8.02\(b\)](#) and (g-5) of the School Code. The following rights and requirements shall also apply.

- a) If the parents disagree with the district's evaluation and wish to obtain an independent educational evaluation at public expense, their request to that effect

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shall be submitted in writing to the local school district superintendent or district special education administrator.

- b) When an independent evaluation is obtained at public expense, the party chosen to perform the evaluation shall be either:
 - 1) an individual whose name is included on the list of independent educational evaluators developed by the State Board of Education pursuant to Section 226.830 with regard to the relevant types of evaluation; or
 - 2) another individual possessing the credentials required by Section 226.840.
- c) If the parent wishes an evaluator to have specific credentials in addition to those required by Section 226.840, the parent and the school district shall agree on the qualifications of the examiner and the specific evaluations to be completed prior to the initiation of an independent educational evaluation at public expense. -If agreement cannot be reached, the school district shall initiate a due process hearing subject to the time constraints set forth in this Section, as applicable.
- d) Within 10 days after receiving a report of an independent evaluation conducted at either public or private expense, the district shall provide written notice stating the date upon which the IEP Team will meet to consider the results.- (Also see Section 226.530.)

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Section 226.220 Development, Review, and Revision of the IEP

The development, review, and revision of each child's IEP shall conform to the requirements of 34 CFR 300.324 and 300.328. -The additional requirements of this Section shall also apply.

- a) When an IEP has been developed or revised, the district shall provide notice in accordance with 34 CFR 300.503(b) and (c) immediately to the parents, unless a later date is agreed upon by the parent and documented in the IEP, and implementation of the IEP shall occur no later than 10 school days after the provision of this notice or by the beginning of the following school year if the IEP is developed or revised with fewer than 10 school days remaining in the school year. -If the new or revised IEP requires extended-year services, those services

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shall be provided in accordance with the provisions of the IEP.

- b) *If, at a meeting to develop or revise a child's individualized education program, the IEP team determines that a certain service is required in order for the child to receive a free, appropriate public education and that service is not implemented within 10 school days after the service was to be initiated as set forth by the child's IEP, then the local education agency shall provide the child's parent or guardian with written notification that the service has not yet been implemented. The notification must be provided to the child's parent or guardian within 3 school days after the local education agency's non-compliance with the child's IEP and must inform the parent or guardian about the school district's procedures for requesting compensatory services. (Section 14-8.02f(d-5) of the Code) For purposes of this Section, "school days" does not include days in which a child is absent from school for reasons unrelated to a lack of IEP services or when the service is available but the child is unavailable.*
- c) Either a child's educational provider or a child's parent may request an IEP meeting at any time. -Within 10 days after receipt of a request, the district shall either agree and notify the parent in accordance with 34 CFR 300.501(b)3 and [Section 226.530\(a\)](#) or notify the parents in writing of its refusal, including an explanation of the reason no meeting is necessary to ensure the provision of FAPE for the child.
- d) The development of an IEP for a child who has a disability on the autism spectrum shall include consideration of the factors specified in Section 14-8.02(b)(1) through (7) of the Code.
- e) *If a student has an intellectual disability or a developmental disability, as defined under Section 1-106 of the Mental Health and Developmental Disabilities Code [405 ILCS 5], the student's IEP team shall determine the student's Priority of Urgency of Need for Services (PUNS) registration status at the annual IEP review based upon information provided by the student's parents or guardian or by the student. If it is determined that the student is not registered for the PUNS database or if it is unclear whether the student is registered for the PUNS database, the parents or guardian and the student shall be referred to a designated employee of the public school who shall provide the student's parents or guardian and the student with the name, location, and contact information of the appropriate intermediate service center to contact in order to register the student for the PUNS database, as well as other relevant information provided in Section 2-3.163(c-5) of the School Code.*

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- f) *In the development of the individualized education program, if the student needs extra accommodation during emergencies, including natural disasters or an active shooter situation, then that accommodation shall be taken into account when developing the student's individualized education program (see Section 14-8.02(d) of the School Code).*

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 226.230 Content of the IEP

The content of each child's IEP shall conform to the requirements of 34 CFR 300.320. -The additional requirements of this Section shall also apply.

- a) Each IEP shall include:
- 1) A statement of measurable annual goals that reflect consideration of the State Goals for Learning and the Illinois Learning Standards (see 23 Ill. Adm. Code 1), as well as benchmarks or short-term objectives developed in accordance with the child's present levels of academic and functional performance.
 - 2) A statement regarding the child's ability to participate in State and district-wide assessments.
 - 3) A statement as to the languages or modes of communication in which special education and related services will be provided, if other than or in addition to English.
 - 4) A statement as to whether the child requires the provision of services beyond the district's normal school year in order to receive FAPE ("extended school year services") and, if so, a description of those services that includes their amount, frequency, duration, and location.
- b) The IEP of a student who requires a behavioral intervention plan shall:
- 1) Summarize the findings of the functional behavioral assessment;
 - 2) Summarize prior interventions implemented;
 - 3) Describe any behavioral interventions to be used, including those aimed at developing or strengthening alternative or more appropriate behaviors;

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- 4) Identify the measurable behavioral changes expected and methods of evaluation;
 - 5) Identify a schedule for a review of the interventions' effectiveness; and
 - 6) Identify provisions for communicating with the parents about their child's behavior and coordinating school-based and home-based interventions.
- c) Beginning not later than the first IEP to be in effect when the child turns 14½, and updated annually thereafter, the IEP shall include:
- 1) appropriate, measurable, postsecondary goals based upon age-appropriate assessments related to employment, education or training, and independent living;
 - 2) the transition services that are needed to assist the child in reaching those goals, including courses of study and any other needed services to be provided by entities other than the school district; ~~and~~
 - 3) any additional requirements set forth in Section 14-8.03 of the School Code; ~~and [105 ILCS 5/14-8.03].~~
 - 4) *if the student is enrolled in a dual credit course for dual credit or for high school credit only, the student's participation in the course shall be included (see Section 14-8.03(a-5) of the School Code).*
- d) For purposes of 34 CFR 300.320(c), the age of majority under Illinois law is 18. The IEP of a student who may, after reaching age 18, become eligible to participate in the home-based support services program for adults with intellectual disabilities that is authorized by the Developmental Disability and Mental Disability Services Act [405 ILCS 80] shall set forth specific plans related to that program that conform to the requirements of Section 14-8.02 of the School Code.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART D: PLACEMENT

Section 226.300 Continuum of Alternative Placement Options

Each local school district shall, in conformance with the requirements of 34 CFR 300.39 and

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300.115, ensure that a continuum of placements is available to meet the needs of children with disabilities for special education and related services. -With respect to the home instruction and instruction in hospitals and institutions referenced in 34 CFR 300.39 and 300.115:

- a) The child receives services at home or in a hospital or other setting because he or she is unable to attend school elsewhere due to a medical condition.
- b) When an eligible student has a medical condition that will cause an absence for two or more consecutive weeks of school or ongoing intermittent absences, as defined in Section 14-13.01(a-5) of the School Code ~~[105 ILCS 5/14-13.01(a)]~~, the IEP Team for that child shall meet to determine the type and amount of~~consider the need for~~ home or hospital services. The provision of home or hospital services- shall be based upon a written statement from a physician licensed to practice medicine in all its branches that specifies:
 - 1) the child's medical condition;
 - 2) the impact on the child's ability to participate in education ~~(the child's physical and mental level of tolerance for receiving educational services);~~
 - and
 - 3) the anticipated duration or nature of the child's absence from school.
- c) *Special education and related services required by the child's IEP must be implemented as part of the child's home or hospital instruction, unless the IEP Team determines that modifications are necessary during the home or hospital instruction due to the child's condition.* -(Section 14-13.01 of the School Code)
 - 1) The amount of instructional or related service time provided through the home or hospital program shall be determined in relation to the child's educational needs and physical and mental health needs.
 - 2) The amount of instructional time shall not be less than five hours per week unless the physician has certified in writing that the child should not receive as many as five hours of instruction in a school week. Instruction may be delivered in-person or via an online platform, as determined by the IEP team. In the event that the child's illness or a teacher's absence reduces the number of hours in a given week to which the child is entitled, the school district shall work with the IEP Team and the child's parents to provide the number of hours missed, as medically advisable for the child.

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- d) ~~A child whose home or hospital instruction is being provided via telephone or other technological device shall receive not less than two hours per week of direct instructional services.~~
- de) Instructional time shall be scheduled only on days when school is regularly in session, unless otherwise agreed to by all parties.
- ef) Home or hospital instructors shall meet the requirements of 23 Ill. Adm. Code 1.610 (Personnel Required to be Qualified).
- fg) In accordance with Section 14-13.01(a-5) of the School Code, services required by the IEP shall be implemented not later than five school days after the district receives the physician's statement.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 226.330 Placement by School District in State-Operated or Nonpublic Special Education Facilities

When an IEP Team determines that no less restrictive setting on the continuum of alternative placements will meet a child's needs, the child may be placed in a State-operated or nonpublic special education facility. ~~In such a case, use of a State-operated program should be given first consideration. However, the district shall refer the child to the agency or facility which is most appropriate to the individual situation. This determination shall be based upon recent diagnostic assessments and other pertinent evidence and made in light of such other factors as proximity to the child's home. Evidence of a condition that presents a danger to the physical well-being of the student or to other students may be taken into consideration in identifying the appropriate placement for a particular child.~~

- a) When it appears that a child will require a placement pursuant to this Section, the IEP Team shall invite representatives of potential service providers to assist in identifying or verifying the appropriate placement for that child. ~~If one or more needed representatives cannot attend, the district shall use other methods to ensure their participation.~~
- b) The school district in which the child resides is responsible for ensuring implementation of the child's IEP and convening any needed IEP meetings, including the annual review. ~~If the district allows a State-operated or nonpublic school to initiate and conduct the IEP meeting, the district must ensure that the parent and a representative of the district are invited to participate in any decision about the child's IEP and agree to any proposed changes in the program before the~~

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changes are implemented.- The district remains responsible for the development and implementation of the child's IEP and for compliance with the requirements of this Part.

- c) Except for emergency residential placements made pursuant to subsection (g) or (i), no school district shall place any child in a nonpublic special education program, nor shall any such program accept placement of any child with a disability under Section 14-7.02 of the School Code ~~[105 ILCS 5/14-7.02]~~, unless all the following conditions have been met.
- 1) The program has been approved by the State Board of Education pursuant to the criteria set forth in 23 Ill. Adm. Code 401 (Special Education Facilities Under Section 14-7.02 of the School Code) for the school year for which placement is sought.
 - 2) Pursuant to Section 14-7.02 of the School Code, the school district made referrals to in-state residential facilities prior to considering out-of-state residential facilities for placement of the child.
 - 3) The allowable costs for the program have been established pursuant to Section 14-7.02 of the School Code.
 - 4) The district has made the certification of inability to meet the student's needs to the State Superintendent of Education, if required pursuant to Section 14-7.02 of the School Code, and the State Superintendent has found the district in substantial compliance with Section 14-4.01 of the School Code.
 - 5) The State Board has approved the program for all of the disability categories applicable to the student and requiring services pursuant to the IEP.
 - 6) The program has been approved by the State Board of Education for the age range that includes the age of the student.
 - 7) The district has determined that the program will provide all educational programming and related services specified on the child's IEP. -The use of a facility or program pursuant to 23 Ill. Adm. Code 401 does not relieve the local school district of the responsibility for ensuring that the student will receive all programming and related services required by the IEP, whether from one source or from multiple sources.

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- 8) The school district and the facility have entered into the contractual agreement required by subsection (d).
- 9) The child will receive an education that meets the standards applicable to education provided by the school district.
- d) If a nonpublic school placement is chosen, the district and the facility shall enter into an agreement using a format provided by the State Board of Education.- The agreement shall provide for, but need not be limited to:
 - 1) The child's IEP, as developed by the school district in which the child resides;
 - 2) The amount of tuition that will be charged;
 - 3) Assurance that the special education staff of the placing school district may inspect the private facility and confer with the staff at reasonable times;~~and~~
 - 4) Assurances that the placement will result in no cost to parents; ~~and~~;
 - 5) Assurance that the provider that operates a nonpublic special education facility is prohibited from terminating a student's placement in that facility without first requesting an IEP meeting from the contracting school district. *If the provider elects to terminate the student's placement following the IEP meeting, the provider must give written notice to this effect to the parent or guardian, the contracting public school district, and the State Board of Education no later than 20 business days before the date of the termination, unless the health and safety of any student are endangered (see Section 14-7.02(c-5) of the School Code).*
- e) When a school district uses a nonpublic facility, the district shall be responsible for the payment of tuition and the provision of transportation as provided by Section 14-7.02 of the School Code.- (See also Section 226.750(b) of this Part.)
- f) Each school district shall be responsible for monitoring the performance of each State-operated or nonpublic facility where it has placed one or more eligible students, to ensure that the implementation of each IEP conforms to the applicable requirements of this Part.

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- g) A school district may place a student in a nonpublic special education facility (“facility”) providing educational services, but not approved by the State Board of Education pursuant to 23 Ill. Adm. Code 401 or other applicable laws or administrative rules, provided that the State Board of Education provides an emergency and student-specific approval for placement. ~~The State Board of Education shall promptly, within 10 days of the request, approve requests for emergency and student-specific approval for~~ residential placement when the following have been demonstrated to the State Board of Education:
- 1) The facility demonstrates appropriate certification of teachers for the student population;
 - 2) The facility demonstrates age-appropriate curriculum;
 - 3) The facility provides enrollment and attendance data;
 - 4) The facility demonstrates the ability to implement the child’s IEP; and
 - 5) The school district demonstrates that it made good faith efforts to place the student in an approved facility, but no approved facility has accepted and can immediately place the student.
- h) Resident district financial responsibility and reimbursement under Section 14-7.02 of the School Code applies for both nonpublic special education facilities that are approved by the State Board of Education pursuant to 23 Ill. Adm. Code 401 or other applicable laws or administrative rules and nonpublic special education facilities that receive emergency and student-specific approval for residential placement by the State Board of Education pursuant to subsection (g).
- i) When an impartial due process hearing officer contracted by the State Board of Education orders placement of a student with a disability in a residential facility that is not approved by the State Board of Education, for purposes of subsection (g), the facility shall be deemed approved for placement and resident district payments and State reimbursements shall be made accordingly.
- j) A district may continue a placement in a facility approved pursuant to subsection (g) or (i) so long as:
- 1) The student’s IEP team determines annually that such placement continues to be appropriate to meet the student’s needs, and

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- 2) At least every 3 years following the student's placement, the IEP team reviews appropriate ISBE-approved facilities under 23 Ill. Adm. Code 401 to determine whether there is any approved facility that can meet the student's needs, has accepted the student, and has availability for placement of the student.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART F: PROCEDURAL SAFEGUARDS

Section 226.520 Notification of District's Proposal

The written notice a school district is required to provide to a parent prior to a proposal or refusal to initiate or change the identification, evaluation, or educational placement of, or the provision of FAPE to, a child shall conform to the requirements of 34 CFR 300.503. "Reasonable time", for purposes of 34 CFR 300.503(a), is defined as ten school days. A parent may waive the ten-school day notice period before placement, allowing the district to place the child in the recommended program as soon as practicable. If an IEP contains a proposal or refusal to initiate or change the educational placement of a child, the Conference Recommendations must be provided in writing in the preferred language of the parent or other mode of communication used by the parent (such as orally if the parent is illiterate).

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 226.560 Mediation

- a) The procedures for mediation shall conform to the requirements of 34 CFR 300.506.
- b) The agreement of the parties to enter mediation shall allow the child to remain, or "stay put", in the child's ~~this or her~~ current placement during the pendency of the mediation. -If mediation is requested within 10 school days of the notice of proposed change in placement, the stay-put placement shall be the last placement to which the parties agreed.
- c) *If mediation fails to resolve the dispute between the parties, the parent (or student if 18 years of age or older or emancipated) shall have 10 days after the mediation concludes to file a request for a due process hearing in order to continue to invoke the "stay-put" provisions. -(Section 14-8.02a(j) of the School Code)*

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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SUBPART G: DUE PROCESS

Section 226.625 Rights of the Parties Related to Hearings

The hearing rights of parties shall conform to the requirements of 34 CFR 300.512 and Section 14-8.02a of the School Code ~~[105 ILCS 5/14-8.02a]~~. In addition, the following requirements shall apply.

- a) The parents shall have access to the district's list of independent evaluators and may obtain an independent evaluation of their child at their own expense.
 - 1) If the parents believe that acquisition of a completed independent evaluation will require a delay in convening the hearing, the parents shall request such a delay as provided in Section 226.640(~~be~~) of this Part.
 - 2) The parents may ask the hearing officer to determine whether an independent evaluation is needed. If the hearing officer concludes, after reviewing the available information, that an independent evaluation is necessary to inform the hearing officer concerning the services to which the student may be entitled, it shall be so ordered and provided at the school district's expense. ~~The hearing officer shall delay the hearing as provided for in Section 226.640(b) of this Part.~~
 - 3) This subsection (a) shall not apply to expedited hearings conducted pursuant to Section 226.655 of this Part.
- b) Either party, or any other person participating in the hearing, may request that an interpreter be available during the hearing because one of the participants is hearing impaired and/or uses a primary language other than English. ~~Interpreters shall be provided at the school district's expense.~~

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART I: PERSONNEL

Section 226.830 List of Independent Evaluators

- a) The State Board of Education shall develop a list of independent educational evaluators who hold the credentials required for the performance of the various

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evaluation components pursuant to Section 226.840 of this Part and meet the requirements of Section 14-8.02(g-5) of the School Code.

- b) No person shall be included in the State Board's list unless ~~the individual~~~~he or she~~ has provided, in writing, to the State Board the following specific information for each credential for which the Board's acknowledgment is sought:
- 1) name of license, certificate, or other credential;
 - 2) name of credentialing agency or body;
 - 3) number of certificate, license, registration, or other credential;
 - 4) date of issue; and
 - 5) period of validity.
- c) An individual who wishes to be considered a qualified bilingual specialist shall identify any languages other than English in which ~~the individual~~~~he or she~~ is proficient and identify the specific qualifications held that correspond to the relevant requirements of Section 226.800~~(e)~~.
- d) Persons wishing to be included on this list may submit the information about their credentials required under subsection (b) to the State Board at any time. - The State Board shall update the list as changes may warrant and shall provide the list to school districts.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 226.850 List of Qualified Workers

All requirements necessary for proper certification, educator or professional licensure, or approval in these work assignments are found in this Subpart I, unless otherwise noted.

WORK ASSIGNMENT

REQUIRED QUALIFICATIONS

Adapted Physical
Education

A valid Illinois professional educator license endorsed for physical education and an adapted physical education approval or endorsement encompassing the grade levels and age ranges of the students served.

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Administrator of a Special School	Must meet the requirements of Section 226.800(hi).
Art Therapist	Registration from American Art Therapy Association or a master's degree in art therapy awarded by a regionally accredited institution of higher education.
Assistant Director	A valid professional educator license with a director of special education endorsement issued pursuant to 23 Ill. Adm. Code 25.365 and 23 Ill. Adm. Code 1.705 and meets the requirements of Section 226.800(fg) of this Part.
Audiologist	Licensed to practice as an audiologist by the Department of Financial and Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110] or Certificate of Clinical Competence in Audiology from the American Speech-Language-Hearing Association.
Autism Teacher	A valid Illinois professional educator license either with an LBS I or early childhood special education endorsement or approval encompassing the grade levels and age ranges of the students served.
Behavior Analyst	Board Certified Behavior Analyst (BCBA) as evidenced by a current valid certificate awarded by the Behavior Analyst Certification Board, Inc.
Career and Technical Coordinator	Meets the requirements set forth in Section 226.800(c) of this Part and 23 Ill. Adm. Code 1.737(de).
Career and Technical Transition Specialist	Must hold a contract with the Illinois Department of Human Service-Division of Rehabilitation Services, under the Secondary Transition Experience Program (STEP).
Daily Living Skills Specialist	Certificate from the Academy for Certification of Vision Rehabilitation and Education Professionals or its predecessor organization.
Diagnostic Teacher	A valid Illinois professional educator license with an LBS I endorsement or approval.

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Early Childhood Special Education Teacher	A valid Illinois professional educator license with an early childhood endorsement and either with an early childhood special education endorsement or early childhood special education approval or with a valid Illinois professional educator license with an LBS I endorsement and early childhood special education approval.
Emotional Disability Teacher	A valid Illinois professional educator license either with an LBS I endorsement or approval encompassing the grade levels and age ranges of the students served.
Deaf and Hard of Hearing Teacher	A valid Illinois professional educator license endorsed for teacher of students who are deaf or hard of hearing pursuant to 23 Ill. Adm. Code 25.43.
Home/Hospital Instructor (see Section 226.300 of this Part)	A valid Illinois professional educator license either with an LBS I endorsement or approval, professional educator license endorsed in the area of speech and language pathologist, blind or visually impaired, or deaf or hard of hearing.
Infant/Toddler/Family Specialist	For federally funded programs serving infants and toddlers, birth through two years of age: -Completion of a degree program with evidence of specific training in child development and family development specific for children ages birth to five years.
Inservice Coordinator	A valid Illinois professional educator license with an LBS I endorsement or a valid Illinois professional educator license endorsed for school support personnel (see 23 Ill. Adm. Code 25.Subpart D).
Intellectual Disability Teacher	A valid Illinois professional educator license endorsed in a teaching field with an LBS I endorsement or approval encompassing the grade levels and age ranges of the students served.
Learning and Behavior Specialist I (LBS I)	Meets the requirements of 23 Ill. Adm. Code 25.43 appropriate to the area of responsibility or holds a valid Illinois professional educator license with an LBS I endorsement or approval encompassing the grade levels and age ranges of the students served.

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Medical Services Personnel (Diagnostics and Evaluation)	Registration with the Illinois Department of Financial and Professional Regulation.
Music Therapist	Registration from the National Music Therapy Registry, certification from the Certification Board for Music Therapists, or master's degree in music therapy from a regionally accredited institution of higher education.
Occupational Therapist	Licensed by the Illinois Department of Financial and Professional Regulation pursuant to the Illinois Occupational Therapy Practice Act [225 ILCS 75].
Orientation and Mobility Specialist	Certificate from the Academy for Certification of Vision Rehabilitation and Education Professionals or its predecessor organization or the Association for the Education and Rehabilitation of the Blind and Visually Impaired.
Orthopedic Impairment	A valid Illinois professional educator license either with a cross-categorical special education or physically handicapped endorsement or with approval encompassing the grade levels and age ranges of students served.
Physical Therapist	Licensed by the Illinois Department of Financial and Professional Regulation pursuant to the Illinois Physical Therapy Act [225 ILCS 90].
Recreational Therapist	Licensed by the National Council for Therapeutic Recreation or its predecessor organization.
Rehabilitation Counselor	Certificate from the Commission on Rehabilitation Counselor Certification (CRCC) or a master's degree in rehabilitation counseling awarded by a regionally accredited institution of higher education.
School Counselor/ Guidance Counselor	A valid Illinois professional educator license endorsed for school support personnel for school counselor issued under 23 Ill. Adm. Code 25.225.
School Nurse	Meets the requirements of Section 10-22.23 of the School Code and 23 Ill. Adm. Code 25.245.

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School Nurse (Grandfathered)	Employed as a registered school nurse prior to July 1, 1976 and continuing in the same position with the same district or joint agreement.
School Psychologist	Meets the requirements of Section 14-1.09 of the School Code and 23 Ill. Adm. Code 25.230 or 25.235, as applicable.
School Social Worker	Meets the requirements of Section 14-1.09a of the School Code, and Section 226.820(b) of this Part and 23 Ill. Adm. Code 25.215, as applicable.
Specific Learning Disability Teacher	A valid Illinois professional educator license either with an LBS I endorsement or with approval encompassing the grade levels and age ranges of the students served.
Speech-Language Pathologist	Meets the requirements of Section 14-1.09b of the School Code and 23 Ill. Adm. Code 25.252, as applicable, for speech and language pathologist.
State-Approved Director of Special Education (serving in a full-time capacity)	Meets the requirements of 23 Ill. Adm. Code 25.365 and Section 226.800(fg) of this Part.
Supervisor	Meets the requirements of Section 226.800(h) of this Part and 23 Ill. Adm. Code 1.705(ih), as applicable.
Support Teacher	A valid Illinois professional educator license either with an LBS I endorsement or with approval encompassing the grade levels and age ranges of the students served.
Teacher Coordinator	Meets the requirements of Section 226.800(d).
Visual Impairment Teacher	A valid Illinois professional educator license issued pursuant to 23- Ill. Adm. Code 25.43 and endorsed for teacher of students who are blind or visually impaired.

(Source: Amended at 48 Ill. Reg. _____, effective _____)