

**Illinois State Board of Education  
Special Education Unit  
Review Checklist**

**of**

***Special Education Policies and Procedures Assuring the Implementation of  
Comprehensive Programming for Students with Disabilities and Suspected Disabilities***

Each local education agency must have on file with the Illinois State Board of Education special education policies and procedures assuring comprehensive programming for students with disabilities and suspected disabilities that address all legal obligations required by the Individuals with Disabilities Education Act (IDEA) and the implementing regulations and the School Code of Illinois and implementing state regulations. A comprehensive plan addressing the operational procedures contained in this checklist must be submitted and approved by the Illinois State Board of Education. The policies and procedures once approved by the Illinois State Board of Education must remain in effect until the district submits to the State Board of Education the modifications that the district decides are necessary.

It may be necessary for the district to periodically modify its policies and procedures. Such changes would only be required if: (1) amendments are made to IDEA and/or the School Code of Illinois; (2) there is a new interpretation of IDEA or regulations by a federal or Illinois court; or (3) there is an official finding of noncompliance with state or federal laws and regulations.

**Instructions:** The district must complete this checklist referencing the page number(s) in its special education policies and procedures where each requirement is addressed.

**Table of Contents**

I.	Free Appropriate Public Education and Comprehensive Programs.....	1
	300.121 Free Appropriate Public Education	
	300.121(c) FAPE for Children beginning at Age 3	
	300.121(d) FAPE for Children Suspended or Expelled from School	
	300.122(e) Children Advancing from Grade to Grade	
	300.122 Exception to FAPE for Certain Ages	
	300.300 Provision of FAPE	
	300.301 FAPE – Methods and Payments	
II.	Full Education Opportunity Goal.....	5
	300.123 Full Educational Opportunity Goal	
	300.124 Full Educational Opportunity Goal – Timetable	
III.	Confidentiality of Personally Identifiable Information.....	7
	300.127 Confidentiality Procedures	
	300.561 Notice to Parents	
	300.562 Access Rights	

	300.563	Record of Access	
	300.564	Record on More Than One Child	
	300.565	List of Types and Location of Information	
	300.566	Fees	
	300.567	Amendment of Records	
	300.568	Opportunity for a Hearing	
	300.569	Results of Hearing	
	300.570	Hearing Procedures	
	300.571	Consent	
	300.572	Safeguards	
	300.573	Destruction of Information	
	300.574	Children’s Rights	
	300.575	Enforcement	
	300.576	Disciplinary Information	
IV.		Child Identification/Child Find.....	15
	300.125	Child Find – Public Awareness	
	300.125	Screening	
	300.451	Child Find for Private School Children	
V.		Evaluation and Determination of Eligibility.....	19
	300.126	Evaluation and Determination of Eligibility	
	300.320	Initial Evaluations	
	300.321	Reevaluations	
	300.344	IEP Teams	
	300.345	Parent Participation	
	300.500	General Responsibility of Public Agencies	
	300.502	Independent Educational Evaluation	
	300.505	Parental Consent	
	300.530	Procedures for Evaluation and Determination of Eligibility	
	300.532	Evaluation Procedures	
	300.533	Determination of Needed Evaluation Data	
	300.534	Determination of Eligibility	
	300.535	Procedures or Determining Eligibility and Placement	
	300.536	Reevaluation	
	300.540-543	Additional Procedures for Evaluating Children with Specific Learning Disabilities	
	300.540	Additional Team Members	
	300.541	Criteria for Determining the Existence of a Specific Learning Disability	
	300.542	Observation	
	300.543	Written Report	

VI.	Individualized Education Programs.....	27
	300.128 Individualized Education Programs	
	300.340 Definitions Related to IEPs	
	300.341 Responsibility of SEA and other Public Agencies for IEPs	
	300.342 When IEPs Must Be in Effect	
	300.343 IEP Meetings	
	300.344 IEP Team	
	300.345 Parent Participation	
	300.346 Development, Review and Revision of IEP	
	300.347 Content of IEP	
	300.348 Agency Responsibilities for Transition Services	
	300.349 Private School Placements by Public Agencies	
	300.350 IEP Accountability	
VII.	Least Restrictive Environment.....	39
	300.130 Least Restrictive Environment	
	300.260 Submission of Information	
	300.305 Program Options	
	300.345 Parent Participation	
	300.347 Content of IEP	
	300.520 Authority of School Personnel	
	300.550 General LRE Requirements	
	300.551 Continuum of Alternative Placements	
	300.552 Placements	
	300.553 Nonacademic Settings	
VIII.	Transition of Children from Part C to Preschool Programs.....	47
	300.125 Child Find	
	300.132 Transition of Children from Part C to Preschool Programs	
	300.342 When IEPs Must Be in Effect	
	300.343 IEP Meetings	
IX.	Nonpublic Special Education Programs/Facilities and Private Schools.....	49
	300.133 Nonpublic Special Education Programs/Facilities	
	300.401 Responsibility of State Education Agency	
	300.402 Implementation by the State Education Agency	
	300.403 Placement of Children by Parents if FAPE is at Issue	
	300.450 Definition of “Private School Children with Disabilities”	
	300.451 Child-find for Private School Children	
	300.454 Services Determined	
	300.455 Services Provided	
	300.457 Complaints	
	300.458 Separate Classes Prohibited	

X.	Performance Goals.....	53
	300.137 Performance Goals and Indicators	
	300.138 Participation in Assessments	
	300.139 Reports Relating to Assessments	
XI.	Public Participation.....	55
	300.148 Public Participation	
	300.280 Public Hearings before Adopting Policies and Procedures	
	300.281 Notice	
	300.282 Opportunity to Participate, Comment Period	
	300.283 Review of Public Comments before Adopting Policies and Procedures	
	300.284 Publication and Availability of Approved Policies & Procedures	
XII.	Procedural Safeguards.....	57
	300.129 Procedural Safeguards	
	300.500 General Responsibilities of Public Agencies; Definitions	
	300.501 Opportunity to Examine Records; Parent Participation in Meetings	
	300.502 Independent Educational Evaluations	
	300.503 Prior Notice by the Public Agency; Content of Notice	
	300.504 Procedural Safeguards Notice	
	300.505 Parental Consent	
	300.506 Mediation	
	300.507 Impartial Due Process Hearing; Notice	
	300.508 Impartial Hearing Officer	
	300.509 Hearing Rights	
	300.510 Finality of Decision; Appeal; Impartial Review	
	300.511 Timelines and Convenience of Hearings and Reviews	
	300.512 Civil Action	
	300.513 Attorney Fees	
	300.514 Child's Status during Proceedings	
	300.515 Surrogate Parents	
	300.516 Transfer of Parental Rights at the Age of Majority	
	300.520 Authority of School Personnel	
	300.527 Protections for Children Not Yet Eligible for Special Education Related Services	
	300.528 Expedited Due Process Hearings	
	300.571 Consent	
XIII.	Personnel Development.....	71
	300.135 Comprehensive System of Personnel Development	
	300.381 Adequate Supply of Qualified Personnel	
	300.382 Improvement Strategy	

XIV.	Supplementation of State, Local and Other Federal Funds; Maintenance of Efforts; Use of Part B; Excess Cost; Permissive Use of Funds; Treatment of Charter Schools.....	73
300.144	Hearings Related to LEA Eligibility	
300.184	Excess Cost Requirement	
300.185	Meeting the Excess Cost Requirement	
300.230	Use of Amounts	
300.231	Maintenance of Effort	
300.232	Exception to Maintenance	
300.234	Schoolwide Programs Under Title I of ESEA	
300.235	Permissive Use of Funds	
300.458	Separate Classes Prohibited	
300.459	Requirement that Funds Not Benefit a Private School	
300.460	Use of Public School Personnel	
300.461	Use of Private School Personnel	
300.462	Requirements Concerning Property, Equipment, and Supplies for the Benefit of Private School Children with Disabilities	

**I. PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION**  
34 CFR 300.121, 300.122, 300.300, 300.301  
**COMPREHENSIVE PROGRAMS**  
IAC 226.50, 226.300, 226.700

Do the policies and procedures ensure compliance with the following?

Comprehensive Program Requirements

- A. The school district has established independently or in cooperation with other districts a comprehensive program of special education for all students with disabilities or suspected disabilities between the ages of three and twenty-one residing within the jurisdiction of the district/cooperative. As public schools, charter schools are bound by these requirements. The district's procedures describe the provision of special education and related services and shall include:
1. A viable organizational and financial structure. (226.700 d)1))
  2. Systematic procedures for identifying and evaluating the needs for special education and related services. (226.700 d)2))
  3. A continuum of program options which incorporate appropriate instructional programs, resource programs and related services. (226.300) (226.700 d)3))
  4. Qualified personnel, consistent with 226.700 d)4), who can provide:
    - a. Administration of the program
    - b. Supervisory services
    - c. Instructional programs
    - d. Related services
    - e. Transportation services
    - f. Resource programs

5. Appropriate and adequate facilities, equipment and materials. (226.700 d)5))
  6. Functional relationship with those public, nonpublic special education programs/facilities and private agencies, which can supplement or enhance the special education programs of the public schools. (226.700 d)6))
  7. Interaction with parents and with other stakeholders, which facilitates the educational development of children with disabilities. (226.700 d)7))
  8. Procedures for internal evaluation of the special education programs and services for the purpose of assessing the extent to which children with disabilities and suspected disabilities are being adequately served and the effectiveness of each special education program and service. (226.700 d)9))
  9. Continuous planning for program growth and improvement based on internal and external evaluations. (226.700 d)9))
- B. The school district provides a free appropriate public education to all children with disabilities between the ages of 3 and 21, including children with disabilities who have been suspended or expelled from school. (300.121) (226.50) (226.700 b))

#### Provision of FAPE

- A. In order to meet the requirements of FAPE to all children with disabilities between the ages of 3 and 21, the district ensures that:
1. All children birth through 21 who are suspected of having a disability, which adversely affects educational performance, are identified, located and evaluated in

accordance with the Child Identification procedures. (300.300) (226.50)

2. The services and placement needed by the student is based on the student's unique needs and not on the student's disability. (300.300a(3)(ii)) (226.50)
  3. All services identified on the student's IEP are provided at no cost to the parent. (226.50)
  4. The IEP is developed in accordance with the district's Individualized Education Procedures and must specify the special education and related services needed in order to ensure that the child receives FAPE, including any extended school year services. (300.309) (226.50)
  5. Children with disabilities shall not be excluded from services solely on the grounds that they are advancing from grade to grade. (300.121 (e))
  6. Any student excluded for more than 10 consecutive school days or for short-term removals totaling more than 10 days that represent a pattern of exclusions must be provided special education and related services identified on the IEP. (300.121) (300.300 (a)) (226.50) (226.400)
  7. The location of services during the long-term suspension/expulsion shall insure implementation of the IEP. (300.121) (226.50) (226.400)
- B. The school district shall develop and implement procedures for creating public awareness of special education and related services and the right of children with disabilities. (226.50)
- C. The school district shall ensure FAPE is made available to all children with disabilities no later than the child's third birthday. (300.121) (226.50)



- D. The school district shall ensure that special education services and placement that constitute FAPE to a particular child is based on the child's unique needs and not on the child's disability. (300.300) (226.50)
- E. The school district shall ensure that students with disabilities are afforded rights and privileges equal to those of all other children, including nonacademic and extracurricular services and activities. (300.300) (226.50)
- F. The school district shall ensure that no eligible child between the ages of 3 and 21 is permanently excluded from school. (300.121) (226.50)
- G. The school district shall ensure FAPE is provided to all students transferring from another district. (226.50)
- H. The school district shall not deny FAPE to a student due to jurisdictional disputes among agencies. (226.50)

Exceptions to a FAPE

- A. The school district shall cease to provide special education and related services to a student with a disability once the student has graduated from high school with a standard high school diploma. Students with disabilities receiving "certificates of attendance" shall remain eligible for FAPE until the student reaches the age of 21. Children who become 21 during the school year shall be allowed to complete that year. (300.122) (226.50(k)).
- B. The school district shall not provide FAPE to students who prior to their incarceration in an adult correctional facility were not identified as having a disability requiring special education and related services or did not have an IEP. (300.122) (226.50(l))

**II. FULL EDUCATIONAL OPPORTUNITY GOAL**  
34 CFR 300.123, 300.124  
IAC 226.700 b

Do the policies and procedures ensure compliance with the following?

Establishment of the Goal

- A. The school district has established a goal of providing full educational opportunity to children with disabilities ages 3 through 21. (300.123) (226.700 b))
  
- B. The school district has established a goal of providing full educational opportunity to children with disabilities ages birth through two in accordance with the PL105-17, Part C and applicable state standards.

Annual Data Collection Requirements

- A. The school district annually collections the following information regarding children with disabilities residing within the jurisdiction of the district:
  - 1. The number of children with disabilities, by race and ethnicity, who are receiving a free appropriate public education
  
  - 2. The number of children with disabilities, by race and ethnicity, who are receiving early intervention services.
  
  - 3. The number of children with disabilities, by race, ethnicity, and disability category, who are participating in regular education.
  
  - 4. The number of children with disabilities, by race, ethnicity, and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities.

5. The number of children with disabilities, by race, ethnicity, and disability category, who between the ages of 14 to 21, stopped receiving special education and related services.
  6. The number of children with disabilities, by race, ethnicity, and disability category, who under subparagraph (A)(ii) and (B) of Section 615(k)(1) of IDEA are removed to an interim alternative educational setting.
  7. The number of children with disabilities who are subject to long-term suspensions or expulsions.
  8. The number of special education teachers.
  9. The number of related services personnel.
  10. The cost of all personnel.
  11. The number of students receiving special education transportation.
  12. The types of alternative placements available for children with disabilities.
  13. The number of children served in each type of placement.
- B. The school district annually collects information regarding the facilities, personnel and services necessary to accomplish the full educational opportunity goal. (20 USC 1418, Sec. 618(a)) (34 CFR 300.125 (b)(3)(i)) (226.760).

### III. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION

34 CFR 300.127, 300.561-576  
IAC 226.740

Do the policies and procedures ensure compliance with the following?

#### Confidentiality

- A. The school district shall designate a Records Custodian to ensure compliance with the confidentiality requirements of the Illinois School Code, Illinois School Student Records Act, Individuals with Disabilities Education Act Amendments of 1997, and Family Educational Rights and Privacy Act. (105 ILCS 10/4(a)) (300.572(c)) (226.740)
- B. Each Records Custodian shall assume responsibility for insuring the confidentiality of any personally identifiable information and shall (105 ILCS 10/4(a)) (300.562) (300.572):
  - 1. Maintain, for public inspection, a current listing of the names and positions of the employees who may have access to personally identifiable information; (226.740d))
  - 2. Ensure that the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages is protected (300.572(a)) (226.740b)); and
  - 3. Train the district personnel to ensure that each person collecting or using personally identifiable information is knowledgeable of the policies and procedures governing confidentiality of personally identifiable information. (300.572(c))

- C. The school district will notify in the primary language of the parent or student at the age of majority of their right to review the education record, the types and location of information contained in the permanent and temporary records, their right to request that the record be amended and their right to request a records hearing (300.562) (300.565) (105 ILCS 10/5, 10/6, 10/7) (23 IAC Subpart K 375.30):

#### Inspection and Review of Education Records

- A. The school district shall permit an authorized person and/or a representative of the parent to inspect and review all educational records relating to their student maintained by the school district or by a party acting for the school district. (300.562(a)) (226.740e))
- B. The Records Custodian will protect the confidentiality of other children named or referred to in an education record. An authorized person will be allowed to review only those portions of an education record, which contain information on one student. Any other specific information regarding the student which is in the record, but which cannot be directly inspected or reviewed because of the confidentiality rights of other students, will be discussed and interpreted by the Records Custodian. (300.564)
- C. The Records Custodian shall comply with a request by an authorized person to inspect and review an education record without unnecessary delay and in no case later than 15 school days after the date of receipt of the request. (105 ILCS 10/5 (c)):
- D. If requested by an authorized person, the Records Custodian shall provide copies of the education record if he/she determines that the parent will be effectively prevented from exercising his/her right to inspect and review an education record at the location where it is normally maintained (or at any other location where the school district offers to produce it) without incurring significant

expense or personal hardship. The district may charge a reasonable fee for copies of records. The district shall not charge a fee when the Records Custodian determines that for the parent in question, the amount of the fee for the copying of the document would result in a significant expense or personal hardship. (300.566) (23 IAC, Subpart K Section 375.50)

#### Type of Records Entitled to Access

- A. Upon receiving a request to inspect and review a record from a person authorized to do so, the Records Custodian shall review the record and determine whether the record, which the authorized person has identified, is an educational record. (105 ILCS 10/5) (300.563)
- B. Information maintained in the "Student Temporary Record" shall include a record of release of temporary record information. (23 IAC Subchapter K 375.10)
- C. The student record shall include information regarding serious disciplinary infractions that resulted in expulsion, suspension, or the imposition of punishment or sanction. For purposes of this provision, serious disciplinary infractions means: infractions involving drugs, weapons, or bodily harm to another. (300.576)

#### Amendment of Education Records

- A. An authorized person who believes that information in the education record is inaccurate or misleading or violates the privacy or other rights of the student may request the school district to amend the information exclusive of grades of the student and references to expulsions or out-of-school suspensions. (105 ILCS 10/7) (300.567)

- B. If the Records Custodian refuses to amend the information, the Records Custodian shall inform the authorized person of the refusal and advise the authorized person of his or her right to an informal conference and hearing. (23 IAC Subchapter K 375.90) (300.568) (300.570)
- C. At the hearing, all parties shall be advised of their rights outlined in the Illinois School Student Records Act (105 ILCS 10)
- D. A verbatim record of the hearing shall be made by a tape recorder or a court reporter. The district shall provide a typewritten transcript in the event of an appeal of the hearing officer's decision. (23 IAC Subchapter K 375.90c)2D))
- E. The written decision of the hearing officer shall, no later than 10 days after the conclusion of the hearing, be transmitted to the parents and the school district. It shall be based solely on the information presented at the hearing. (23 IAC Subchapter K 375.90)
- F. The school district shall be responsible for implementing the hearing decision. (23 IAC Subchapter K 375.90) (300.574)
- G. If, as a result of the hearing, it is determined that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the Records Custodian shall amend the information within 10 days and shall provide written notice to the authorized person requesting the amendment. (300.569(a))
- H. If, as a result of the hearing, it is determined that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the Records Custodian shall inform the authorized person within 5 days of the decision of their right to place in the record a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the school district. (300.569(b))

- D. The Records Custodian shall ensure that a statement placed in an education record as described in subsection H above is maintained for the life of the record in question. (105 ILCS 10/7(d)) (300.569(c)).

#### Release of Personally Identifiable Information

- A. The Records Custodian shall obtain written parental consent or consent from the student at age of majority before permitting personally identifiable information to be used for any purpose other than meeting a requirement under these procedures. (300.571)
- B. The Records Custodian shall obtain written parental consent or consent from the student at the age of majority before permitting personally identifiable information to be disclosed to anyone other than officials of participating agencies collecting or using information for the purposes described in these procedures and only when the disclosure is consistent with all applicable federal statutes and of the Illinois School Code. (300.517)
- C. The Records Custodian shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information. (300.563)
- D. The school district may not release, transfer, disclose or otherwise disseminate information maintained in the school student record, except as specifically allowed in the Illinois School Student Records Act. (105 ILCS 10/6) (300.576)

#### Destruction of Records

- A. The Records Custodian shall send a written notice to inform parents when personally identifiable information collected, maintained, or used by the school district is no longer needed to provide educational services to the student. The determination as to whether personally identified information is needed to provide educational



services to a student shall be made by the Records Custodian after careful review of the information and with the concurrence of the student's current teacher or teachers if the student is currently enrolled in the school district. (300.573) (105ILCS 10/4)

- B. The written notice sent to the parents shall describe the personally identifiable information which the school district intends to destroy and shall inform the parents that the information will be destroyed no earlier than 60 days from the date of the notice. The notice shall also outline the procedure, which the parents may follow if they wish to formally object to the destruction of the records in question. (105 ILCS 10/4)

#### Transfer of Records

- A. The Records Custodian shall forward within 10 calendar days of notice of the student's transfer to any other private or public elementary or secondary school located in this or any other state a copy of the student's unofficial record of the student's grades to the school to which the student is transferring. The Records Custodian at the same time shall forward to the school to which the student is transferring the remainder of the student's school record and a "Certification of Good Standing" form. "In good standing" means that the student's medical records are up-to-date and complete and the student is not being disciplined by a suspension or expulsion. (23 IAC Subchapter K 375.70) (300.576)
- B. The district shall maintain a copy of the transferring student's temporary record for a period of not less than 5 years. The district shall maintain for 60 years the student's permanent record as defined in Section III.A.1.a)-e). (105 ILCS 5/4(f))

- C. Students with disabilities whose “Certificate of Good Standing” form shows incomplete medical records must be treated the same as non-transfer students regarding the October 15 date for exclusion for failure to obtain the required examinations or immunizations. Students with disabilities whose “Certificate of Good Standing” form shows that the student is currently serving a suspension or expulsion must be enrolled and FAPE must be provided in accordance with an IEP. (23 IAC Subchapter K 375.75)



**IV. CHILD IDENTIFICATION/CHILD FIND**  
34 CFR 300.125, 300.451 and IAC 226.50, 226.100, 226.110

Do the policies and procedures ensure compliance with the following?

Public Awareness and Child-Find

- A. The school district conducts activities for creating public awareness of special education programs. (300.125), (226.50), (226.100)
  
- B. The school district establishes and maintains ongoing communication with all staff, organizations, agencies, and individuals to ensure that all activities are carried out in a manner consistent with the requirements of 23 Illinois Administrative Code 226 and 34 CFR Part 300 of the IDEA Amendments of 1997.
  
- C. The school district conducts professional development activities and ongoing training for staff, organizations, agencies, and individuals to ensure that child-find, referral, and screening activities are carried out in a manner consistent with the timelines and requirements found at 23 Illinois Administrative Code 226 and 34 CFR Part 300 of the IDEA Amendments of 1997.
  
- D. The district is responsible for developing and disseminating materials to the public, organizations, agencies, and individuals. Including, the notification of the availability of special education services, children's rights to a free appropriate public education and persons to contact for initiating a referral. (226.50a2)) (226.50) (226.100).
  
- E. The school district utilizes an ongoing system to locate, identify and evaluate all children suspected of being eligible for special education who are not currently enrolled in the school's educational program, who are aged birth through 21 and who meet residency requirements. This ongoing system includes the following: (226.100)

1. Collecting, maintaining and reporting current and accurate data on all child identification activities; (300.125(b)(3)(i)(ii))
2. Evaluating the overall success and effectiveness of both the public awareness campaign and the total identification process; (300.125(b)(3)(i)(ii))
3. Modifying any of the components or procedures of the child identification process or developing new components or procedures, which are consistent with the results of such evaluation; and (300.125(b)(3)(i)(ii))
4. Utilizing data to plan for the delivery of services to students with disabilities and the general improvement of the educational program. (300.125(b)(3)(i)(ii))

### Screening

- A. Screening is an activity to locate children, birth through 21 years of age, who may need special education services to maintain satisfactory educational performance even though they are advancing grade to grade. The screening procedures shall be available to all children residing within the district including children with suspected disabilities attending private and religiously affiliated schools and highly mobile children such as migrants and homeless children. (300.125)
- B. The school district implements the following types of screenings (226.100):
  1. Annual screening of children ages birth to 5 to identify those who may need early intervention or special education and related services to maintain satisfactory educational performance; (226.100 a) 1))

2. Hearing and vision screening at regular intervals during the child's school career; (Child Vision and Hearing Test Act 410 ILCS 205 and Section 27-8 of the School Code – 105 ILCS 5/27-8)
  3. Ongoing screening by teachers and other professional personnel for referral of those children who exhibit problems which interferes with their educational progress and/or their adjustment to the educational setting; and (226.100 a) 2))
  4. Annual hearing and vision screening of all students receiving special education and related services. (77 Illinois Administrative Code 675.110 and 685.110)
- C. The district is responsible for planning and scheduling all screening activities including: (300.125) (226.100)
1. The coordination and consultation with nonpublic schools located within the district that results in child find activities comparable to those affecting students in the public schools. (226.100)
  2. Consultation with representatives of private school children in deciding how to conduct the annual child count; (300.453(b))
  3. Participating in transition planning conferences arranged by the Illinois Department of Human Services, which is the designated lead agency under Section 337(a)(8) of the Individuals with Disabilities Education Act, in order to develop a transition plan for the public school to implement the IFSP or IEP by the child's third birthday.

- D. Screenings must be performed by personnel who meet the certification or other relevant licensing standards. (77 IAC 675.110)
- E. The results of each child's screening must be communicated in writing to the parent if follow-up is required. (226.110)

### Referral

- A. The school district maintains an organized referral process that is communicated to all professional personnel within the system and to persons within the community. (226.110a))
- B. Referrals may result from child-find efforts or any concerned person, including but not limited to school district personnel, the parents of the child, or an employee of the State Board of Education may make a referral. (226.110b))
- C. Any person who chooses to make a referral shall be instructed to do so in writing. (226.110) (226.75)
- D. The date of referral, triggering the 60-school-day timeline, is the date on which written parental consent to complete an evaluation is obtained or provided, or the date of application for admittance to the public school by the parents of the child. (105 ILCS 5/14-8.02(b)) (226.75) (226.110)
- E. If it is determined that a referral for a full and individual evaluation is not warranted, the parent and the referring agent must be notified in writing using the mandated notice form. The parents must be notified of their right to challenge the district's decision not to conduct a full and individual evaluation by requesting a due process hearing. (226.110 f) (226.110 g))
- F. When a child is referred for further assessment, such assessment will be conducted in accordance with the district's evaluation and determination of eligibility procedures.

**V. EVALUATION AND DETERMINATION OF ELIGIBILITY**  
34 CFR 300.126, 300.320, 300.321, 300.344, 300.345, 300.500, 300.502, 300.505,  
300.530, 300.532-543

Do the policies and procedures ensure compliance with the following?

Establishment of an IEP/Eligibility Team and Securing Parental Consent

- A. Upon receipt of a referral for a full and individual evaluation, the district shall: (300.320) (300.531) (226.160)
1. Secure written parental consent for the full and individual evaluation utilizing the state-mandated consent form; and
  2. If consent cannot be obtained, the school district *may* request a due process hearing to secure consent. (226.110e))
- B. The district shall appoint members of the IEP team, including appropriate evaluators, convened for the student for the purposes of insuring:
1. That all of the evaluation requirements of 34 CFR 300.530 and 23 Illinois Administrative Code are met and that a full and individual evaluation is conducted for each child being considered for special education and related services. (226.120)
  2. That the IEP team convened for a student shall be formed on the basis of the student's presenting problem(s) and the suspected disability. (300.344) (300.534) (226.210)
  3. That a single member of the IEP team may meet two or more of the qualifications specified in this section with the **exception of the individual assigned to represent the student's regular classroom teacher.** (300.344 (a)(5))



- C. Prior to the conduct of the evaluation, the district shall: (300.533) (226.120)
1. Determine specifically what assessments are needed in order to determine if the child has a disability adversely affecting educational performance.
  2. Involve and notify the parents in writing of the decision not to conduct new and/or additional testing. (For those children previously diagnosed, it may be determined that no new assessments are necessary in order to establish eligibility.) (226.120 f))
  3. Ensure that the student's language use pattern and cultural background have been determined; (226.140 a) d))
  4. Ensure that the student's mode of communication has been determined. (226.140 c))
  5. If the child has a non-English-speaking background, a determination shall be made of his or her proficiency in English. (226.140)

#### Timeline for Convening the IEP Meeting

- A. The IEP meeting must be convened within 60 school days of the date written consent to conduct the evaluation is received. (105 ILCS 5/14-8.02 (b)) (226.75) (226.110 d))
- B. When there are fewer than 60 pupil attendance days left in the school year, the school district will complete the full and individual evaluation and convene the IEP meeting prior to the first day of the fall semester. (105 ILCS 5/14-8.02 (b)) (226.110)
- C. The IEP team must be convened to consider the results of a triennial reevaluation within 60 school days from the date parental consent was provided and no more than 3 years from the date of the prior

IEP meeting where the student's eligibility was establish or reaffirmed. (226.110 d))

Content of the Full and Individual Evaluation

- A. The members of the IEP team shall conduct a full and individual evaluation. (300.532) (226.120)
- B. If a needed individualized assessment cannot be completed, the district shall note the reasons for the missing assessment(s) are documented in the child's temporary record. (226.130 j))

Nondiscriminatory Assessment (Full and Individual Evaluation)

- A. A variety of assessment tools and strategies shall be utilized by the team to assess whether or not a student has a disability. (300.532) (300.535) (226.130) (226.150)
- B. The district shall ensure proper evaluation procedures are utilized. (300.532) (226.130)
- C. The district shall ensure the use of uniform nondiscriminatory criteria in order to ensure a racially and culturally nondiscriminatory full and individual evaluation process. (300.532)
- D. Tests and other evaluation procedures used by the school district to assess minority students shall measure and assess equally well all significant factors related to the learning process, including, but not limited to, consideration of sensorimotor, physical, social cultural and intellectual development, as well as adaptive behavior (i.e., the effectiveness or degree to which the individual meets the standards of personal independence and social responsibility expected of his or her age and cultural group). (300.532)
- E. If within the school district apparently valid and reliable testing and evaluation materials appear to have led to the overrepresentation of students who are members of a particular race, national origin or cultural group in any special education category,

then the school district shall conduct a thorough self-evaluation. (300.532)

### Evaluation Results

- A. Each member of the IEP team will develop and submit a written report of results within assigned timelines. The decision regarding eligibility for special education can only be made by the IEP team at the conclusion of the meeting where the evaluation results are shared and interpreted. The sources used to determine eligibility must be documented and carefully considered. (300.535)
  
- B. For the student suspected of having a specific learning disability or behavior disorder, observations of the student's academic and behavioral performance in the regular classroom setting shall be conducted by at least one member of the evaluation team, other than the student's regular teacher. In the case of a child of less than school age or a student who is out of school, a team member shall observe the child in an environment appropriate for a child of that age. (300.542) (226.130 c))

### Encouraging Parent Participation

- A. The school district shall take steps to ensure that one or both parents of the student are present at all IEP meetings. These steps must consist of reasonable efforts to convince parents to attend the meeting and must include: (300.345) (226.530)
  - 1. At least 10 days prior notice of the meeting in their native language if other than English (and other persons who will be attending) using the State-mandated notice form. (226.520)
  - 2. Affording parents the opportunity to attend through the use of individual or conference telephone calls. (226.530)
  - 3. Using reasonable efforts to convince the parents to participate. (226.530)

- B. The school district may conduct an IEP meeting without a parent in attendance if the parent(s) do not respond to the notice or, if the school district is unable to convince the parents to attend after attempts to arrange a mutually agreed upon time and place for the meeting. (300.345 (d))

Determination of Whether a Student Is Eligible

- A. On the basis of the assessment data, supporting information collected by the IEP team, and information presented during the meeting, the team shall determine whether the student: (300.534) (226.160)
  - 1. Has a disability defined in 34 C.F.R. 300.5 and Section 226.75 of the Illinois Administrative Code and meets the written eligibility criteria developed by the school district;
  - 2. Has a disability which has an adverse effect on educational performance (300.7); and
  - 3. As a result of the adverse effect on educational performance, is in need of special education and related services to minimize the adverse affects.
- B. The IEP team's determination that a student is eligible for special education and related services is not because of a lack of instruction in reading or math or limited English proficiency. (226.160b))
- C. The school district shall insure that no single procedure shall be used as the sole criterion for determining whether or not a student has a disability, which adversely affects educational performance. (300.535)
- D. If the IEP team determines that the student meets eligibility criteria and is entitled to a free appropriate public education, an IEP must be developed. (300.534) (300.7) (226.160 f))

- E. If the IEP team determines that the student does not meet eligibility criteria, the team will notify the parent using the mandated notice form that the student is not eligible for special education and related services. (105 ILCS 5/14-8.02 (g))
  
- F. If a parent disagrees with a determination made by the team the parent must be advised of his or her right to request an independent educational evaluation at public expense and/or a due process hearing to resolve the dispute. (105 ILCS 5/14-8.02 (g))

### The IEP Team Report

- A. The school district will complete, during the IEP, the portion of the IEP that addresses the following: (20 USC 1414, Section 614(b)(4)(B)) (300.534 (226.160c))
  - 1. The results and recommendations of the IEP team including a summary of all educationally relevant information collected during the evaluation;
  - 2. The summary and findings with respect to each domain assessed, identifying all evaluation data obtained as part of the full and individual evaluation;
  - 3. A description of the team's consideration of pre-existing information about the child, all new evaluation reports obtained and any other information relevant to the decision about the child's eligibility;
  - 4. The date of the meeting;
  - 5. The names, positions and signatures of those in attendance at the conference;
  - 6. Any separate written statement provided by a participant who wishes to be on record as disagreeing with the conclusions expressed in the team's report; and.

7. Special accommodations needed in curriculum, materials, or instructional practices.
- B. A copy of the IEP must be maintained in the student's education record and is subject to the school district's confidentiality procedures. (226.160e))
  - C. A copy of the IEP must be given to the parents at the conclusion of the meeting. If requested by the parent, the parent shall also be given copies of any evaluation reports. (226.160d)) (300.345(f))
  - D. The school district shall provide the parent, within 10 school days after the meeting, written notice conforming to the requirements of Section 226.520 of 23 Illinois Administrative Code. (226.160 d))
  - E. If the parents disagree with the eligibility determination, the school district will document on the IEP that the parents were advised of their right to an independent educational evaluation at public and private expense. (105 ILCS 5/14-8.02 (b)) (300.502) (226.180)

#### Reevaluation

- A. The school district shall ensure that a student with a disability receiving special education and related services receives a reevaluation every three years, or more frequently if conditions warrant, or if the student's parent or teacher requests, in writing, such an evaluation. At a minimum a reevaluation must be completed in the following instances: (300.534) (300.536) (226.190)
  1. Every three years (300.536 (b));
  2. Prior to a change in eligibility (300.534 (c)(1)); and
  3. If the child's parent or teacher requests a reevaluation. (300.536 (b))

- B. The school district must ensure that written consent for the reevaluation is obtained using the state-mandated notice and consent form. If written consent is not obtained within 10 days, the district must request a due process hearing to secure parental consent for the reevaluation. (300.505) (226.540 d))
- C. Each reevaluation, other than a regularly scheduled triennial reevaluation, shall be completed and the IEP convened within 60 school days from the date of the referral. (105 ILCS 5/14-8.02 (b))
- D. The full and individual evaluation (reevaluation) shall be carried out by an IEP team which includes as one of its members the child's parent(s) and must include a review of existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom based assessments and observations, and teacher and related service providers observation. Based on that review, and input from the child's parents, IEP team shall identify what additional data, if any are needed. (300.533) (300.536) (226.120 (226.130) (266.140) (226.150)
- E. If the district determines that a reevaluation is not warranted and three years has not elapsed since the last evaluation, the parent and the individual (if other than the parent) requesting the reevaluation must be notified of the district's decision not to evaluate using the state-mandated form and must be advised of the procedure for challenging that decision. (105 ILCS 5/14-8.02 (g))

## VI. INDIVIDUALIZED EDUCATION PROGRAMS

34 CFR 300.128, 300. 340-350

IAC 226.220, 226.230, 226.240, 226.250, 226.260, 226.300,  
226.310, 226.320, 226. 330

Do the policies and procedures ensure compliance with the following?

### Development of the IEP

- A. Within 30 days after reaching a determination that a student who is the subject of the IEP team is a student with a disability, one or more meetings must be convened for the purpose of developing an IEP (or, if consistent with IDEA an IFSP) for the student. (226.200) (300.340) 300.342) (300.343(b)(2))
- B. The specified group of persons responsible for the development of the IEP (IEP Team) is consistent with federal and state regulations. (300.344) (226.210):
- C. The school district will promote and encourage parental participation in the IEP process. (300.345) (226.530)
- D. The IEP shall include the following components: (300.347) (226.230)
  - 1. A statement of the child's *present levels of educational performance*. (300.347 (a)(1)) (226.230)
  - 2. A statement of *measurable annual goals including benchmarks or short-term objectives*. (300.347 (a)(2)) (226.230)
  - 3. *A statement of the specific special education and related services*, and a statement of the program modifications or supports and the supplementary aids and services to be provided in order for the child to advance appropriately towards attaining annual goals and for the child to be involved and progress in the general



curriculum and participant in extra-curricular and other non-academic activities. (300.347 (a)(3)) (226.230)

4. A statement of the extent to which the child will *not participate in regular educational programs* and activities with nondisabled children. (300.347 (a)(4)) (26.230)
5. A statement of any *individual modifications* in the administration of state or district-wide assessments of student achievement that are needed in order for the child to participate in assessment. If the child will not participate in a particular state or district-wide assessment of student achievement, there must be a statement as to why and a description of how the child will be assessed. (Children with disabilities who are convicted as adults under state law and are incarcerated in adult prisons will not participate in general state and district-wide assessment programs). (226.230 a)4) and g)) ((300.347 (a)(5))
6. The *projected dates for the initiation* of each specified special education or related service including the anticipated frequency, location, and duration of those services and modifications, as well as the need for ESY services. (226.230 a)8)) (300.347 (a)(6))
7. *A statement of how the child's progress toward the annual goals* and how the child's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress. (226.230 a)3)) (300.347 (a)(7))

8. A description of *transition services* to be provided for each student beginning at age 14 and younger if appropriate and at age 16, a statement of needed transition services, including a statement of interagency responsibilities or any needed linkages. (This requirement does not apply to children with disabilities whose eligibility will end, because of their age, before they will be released from prison.) (300.347 (a)(7)) (226.230 d)& g))
9. At age 17 (at least one year before the student reaches age 18 which is the age of majority) a statement that the student has been informed of his or her rights under Part B of IDEA and that the *rights formerly afforded to the parent will transfer to the student at age 18.* (300.347 (a)(7)(2)(C)) (226.230 f))
10. A statement of special factors such as any special methods, materials, equipment or procedures; positive behavior strategies and interventions; administration of medication; ongoing procedure to check to ensure that a child's hearing aid is functioning properly; provision of services by any other public agency which will be necessary to provide the student an appropriate education; language needs for students with limited English proficiency; instruction in Braille and the use of Braille; communication needs; assistive technology devices and services and for a student who is deaf or hard of hearing, the IEP must consider the student's language and communication needs; opportunities for direct communication with peers and professionals in the student's language and communication mode, academic level and full range of needs, including opportunities for direct instruction in the child's language and communication mode. (300.303) (300.346 (a)(2)) (226.220).

11. Signatures and positions of IEP members (including the parent(s) in attendance. Parents are advised that their signature on the IEP is not required in order for the IEP to be implemented.
- E. The IEP reflects consideration of the least restrictive environment options considered and the reasons the options were rejected. (226.240)
- F. The IEP placement decision is consistent with the evaluation and eligibility, and the district must insure that all services identified on the IEP are provided in accordance with the IEP. (226.240) (300.349)
- G. The IEP for a student who has reached the *age of 17* shall include documentation indicating that the student has been informed of the rights under IDEA that will transfer to the student when he or she reaches the age of 18.
- H. Before the district places a child or refers a child of a private school or facility: (300.349)
  1. The district will either convene an IEP meeting with a representative of the private school either in attendance or will ensure that the representative participate through other methods (including individual or conference telephone calls).
  2. With respect to the annual review and revision of the IEP of a child with a disability placed or referred to a private school by a school district, the school district may permit the private school to initiate IEP meetings which will be conducted as described above, provided that the parents of the child and a representative of the school district are involved in any decision about the child's IEP and agree to any proposed changes in the IEP.

- I. Each initial IEP must be completed by the IEP team no later than 30 days after the determination of eligibility and in no case later than 60 school days from the date of referral. (300.343 (b)(2)) (226.110)
- J. No school district shall provide special education or related services to a student with a disability unless and until an IEP has been completed and a placement has been made pursuant to the requirements set forth by federal and Illinois law. (300.342)
- K. The school district shall provide the parent, upon request, with a copy of the IEP at no cost to the parent. The IEP shall be provided to the parents at the conclusion of the IEP meeting. (300.345 (f)) (226.160 d))
- L. The IEP for a student who has reached the age of 17 must include a statement that the student has been informed of any rights that will transfer to him or her upon reaching the age of majority, which in the Illinois is age 18. Once the student reaches the age of majority, the district shall continue to provide written notices to the student's parent(s) if requested to do so by the student. (300.347 (c))

#### Determination of Related Services

- A. Participants in the IEP team meetings held to develop, review, or revise the IEP shall determine what related services (including transportation) are needed by a particular student in order for that student to achieve the annual goals. (300.347 (a) (3))
- B. If a related service is determined by the IEP team to be a needed service, the IEP team shall include the service in the IEP at no cost to the student or to the student's parents.
- C. The need for transportation as a special education related service shall be determined by the IEP team and will be arranged to ensure a full instructional day. (226.130))

## Implementation of the IEP

- A. Implementation of the IEP will occur within 10 days after the parents have been provided notice of the placement. The school district shall ensure that all special education and related services identified on the student's IEP are provided to the child and the amount of services provided are sufficient to allow the child to meet his or her objectives/benchmarks. (300.350) (105 ILCS 5/14-8.02 (b)) (226.200 c))
  
- B. A copy of the child's IEP or at least those portions of the IEP directly or indirectly related to the child's participation in the classroom shall be provided to all staff members responsible for implementing the IEP. All staff involved shall be fully informed of their responsibility to implement the IEP as written. (226.200 g))
  
- C. At the beginning of each school year, the school district shall have in effect for each child with a disability within its jurisdiction, an individualized education program. In the case of a child with a disability aged 3 through 5 (or, at the discretion of the school district, a 2-year-old child with a disability who will turn age 3 during **the school year**), an IFSP that contains all IEP requirements. To use the IFSP for the child instead of an IEP requires written informed consent by the parents that is based on an explanation of the differences between an IFSP and an IEP. (226.200 c)) (300.342)
  
- D. The school district is not required by the IDEA to make FAPE available to a student with a disability that has been convicted as an adult under State law and incarcerated in an adult prison. The IEP team may make modifications to the IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. (300.311)

## Manifestation Determination Review

- A. If disciplinary action is contemplated or if it involves a change of placement, an IEP team meeting must be convened to determine the relationship between the student's disability and behavior. The manifestation determination review shall take place as soon as possible, but in no event more than ten school days after the date on which the district determines that disciplinary action will be taken. The IEP team and other qualified personnel must conduct a manifestation determination review. (300.524) (226.410)
- B. When making a manifestation determination, the IEP team must determine: (226.410) (300.523)
1. If the student's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided in a manner consistent with the student's IEP and placement. (300.523(c)(2)(i))
  2. If the student's disability impaired his/her ability to control and to understand the impact and consequences of the behavior that resulted in the disciplinary action. (226.410)
- C. If the IEP team determines that the student's behavior was not a manifestation of the student's disability, the district's standard disciplinary procedures may be applied. Students with disabilities must continue to receive services as determined by the IEP team. The services to be provided must be sufficient enough to enable the student to progress in the general curriculum and advance appropriately toward achieving the goals set forth in his or her IEP. If the student's parents disagree with the manifestation determination, they may request an expedited due process hearing. (300.524) (226.410)

- D. If the IEP team determines that the student's disability was related to the misconduct which resulted in the disciplinary action, the student cannot be suspended beyond 10 days during the school year or expelled, unless the incident involved a weapons or drug violation or an impartial due process hearing officer found the student to be dangerous to himself/herself or others in which case the student would be moved to an interim alternative educational setting for not more than 45 days. (300.523) (226.410 g))
- E. The parent and the student at the age of majority must be notified in writing of all suspensions, expulsions and placements in Interim Alternative Education Settings.
- F. The school district must include in the End of the Year Report to the Illinois State Board of Education the following information regarding students with disabilities suspended or expelled from school: (300.146)

#### Consent for Initial Placement Based upon the IEP

- A. After the IEP process has been completed, the IEP team must determine the student's special education placement. (300.505).
- B. Written parental consent is required at least 10 days prior to the initiation of the recommended placement. Consent must be obtained on the state-mandated form. (105 ILCS 5/14-8.02 (g)) (226.540)

#### Review and Revision of the IEP

- A. The IEP of each student with a disability currently receiving special education and related services must be reviewed and revised (as appropriate) at least annually and before the beginning of the next school year. (300.346)

- B. The district must reconvene an IEP meeting immediately upon notice that transition services described in the IEP are not being provided. The IEP shall identify alternative strategies to meet the transition objectives set forth in the IEP. (300.348)

#### Appropriately Trained Personnel

- A. In carrying out the responsibilities of this Section, the school district will utilize only those professionals who meet the certification and licensing standards of the Illinois State Board of Education or other agencies governing the licensing of professional personnel. (226.800)

#### Compliance of Other Agencies and Accountability

- A. The local district superintendent or designee will collect data and review the services provided to each child placed in, or referred to, any organization or facility not under the direct supervision of the school district. (300.350)

#### Transfer Students

- A. If the district has a student with an IEP enrolled for the first time, the district must immediately ensure FAPE by providing special education and related services in conformity with an IEP. (Notice of Interpretation to Part 300, Question 17) (226.50 h))
- B. The district must immediately enroll and initiate education services. (226.50 h))
- C. The district may adopt the sending district's IEP. Such adoption does not require an IEP meeting if a copy of the current IEP is available, the parents indicate satisfaction with the current IEP, and the district determines that the current IEP is appropriate and can be implemented as written. (226.50 h))



- D. If the district cannot fully implement an IEP from the student's former district, the receiving district shall note in the IEP the services to be provided and shall explain what is being done to secure the remaining services, resources, or other unfulfilled portions of the IEP and how long those actions are expected to take. (226.50 h))
- E. The district may develop a new IEP for the child if the school district or the parents do not believe the current IEP is appropriate. In such a case, the district shall, within ten days after the date of the child's enrollment initiate an IEP meeting. (226.50 h))

Placements in Nonpublic Special Education Programs/Facilities by the District

- A. Before the school district places a student with a disability in, or refers a child to, a nonpublic special education program or facility, the school district shall initiate and conduct a meeting to develop an IEP in accordance with the district's IEP procedures. (300.349) (226.330)
- B. The school district shall ensure that a representative of the nonpublic special education program or facility attends the meeting or participate through other means (including individual or conference telephone calls). (300.349) (26.330)
- C. After a child with a disability enters a nonpublic special education program or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the nonpublic special education program or facility at the discretion of the school district. (226.330)
- D. Even if a nonpublic special education program or facility implements a child's IEP, responsibility for compliance remains with the school district of residence. (226.330 f))

Special Education and Related Services to Unilaterally Placed Students in Private and Religiously affiliated schools

- A. The local district is responsible for the identification, location and evaluation of all children with disabilities residing within the jurisdiction of the district including those attending private and religiously affiliated schools. (300.451)
- B. All children suspected of having a disability must be evaluated by the school district. Once an initial eligibility determination is made, children with disabilities must be reevaluated at least once every 3 years. (300.451 (a)) (300.350)
- C. After initially evaluating the child and determining that the child is eligible for special education and related services, the district must inform the parents that the district will provide the child a free appropriate public education (FAPE) if the child is enrolled in the public school. (300.403 (a)) (226.350)
- D. The determination of what services will be provided, to whom, and at which location is entirely within the discretion of the district after consultation with the private school representatives. (226.350) (300.454 (b)) (300.453)
- E. The school district shall ensure that the services provided to private school children with disabilities is comparable in quality to services provided to children with disabilities enrolled in public schools. (226.350 b))
- F. Students with disabilities unilaterally placed by their parents in private and religiously-affiliated schools who have been determined eligible for services under IDEA and for whom an IEP or services plan has been developed are entitled to receive services in an amount which need not exceed the proportional per-child amount of IDEA federal flow-through funds the district will receive under section 619(g) of the IDEA. (300.403) (300.450) (226.350)

- G. The school district shall make the final decisions with respect to the services to be provided to eligible children who are enrolled in private schools. (226.350 a)4))
- H. Transportation to and from a site other than the private school shall be provided if necessary for a child to benefit from or participate in the services offered by the district. (226.350 d))
- I. The parents of a private school child may request mediation, initiate a due process hearing or file a written complaint with the Illinois State Board of Education about matters relating to child find, evaluation and eligibility determinations including the right to an independent educational evaluation. All procedural safeguards are available to students who are enrolled in the school district. (226.350 e)) (34 CFR300.457 (b))

## VII. LEAST RESTRICTIVE ENVIRONMENT

34 CFR 300.130, 300.260, 300.305, 300.345, 300.347, 300.520, 300.550-553  
IAC 226.230, 226.240, 226.300

Do the policies and procedures ensure compliance with the following?

### Overview of Placement

- A. The district strongly supports the right of students with disabilities to be educated in regular classes with appropriate supplementary aids and services. Each IEP team clearly understand its responsibility to include in the IEP of each student placed in a regular education class the appropriate supports to ensure successful progress in the general curriculum, in state and district-wide assessment programs, achievement of the measurable goals in their IEPs, and be educated together with their nondisabled peers. (300.347) (300.550) (226.240 c))
- B. The educational placement of a student with a disability must be in the regular classroom of the public school the student would normally attend if not identified as having a disability, unless the nature or severity of the student's disability makes it impossible for the student to accomplish his/her educational goals and objectives in the IEP in the regular classroom environment, even with the use of supplementary aids and services. (300.552 (c)) (226.240)
- C. If the IEP team determines that the student's educational goals and objectives as specified in the IEP, cannot be achieved satisfactorily in the regular education environment, even with the use of supplementary aids and services, then the IEP team must recommend a special education placement in the least restrictive environment wherein the goals and objectives can be satisfactorily achieved. In determining placement, the IEP team shall place the student, if possible, in the setting the student would attend if not disabled. If not, placement of a student with a

disability shall be in a school, which is as close as possible to the student's residence. (300.552)

- D. Regardless of the IEP team's placement determination, the student must be allowed to participate with nondisabled students in nonacademic and extracurricular activities (including meals, recess periods, athletics, clubs and recreational activities) to the maximum extent appropriate to the needs of the student. (300.553) (226.240 d))
- E. Parents as members of the IEP Team are actively involved in providing information about the student and in evaluating placement alternatives. Signed parental consent using the state-mandated consent form must be obtained by the school district before the initial placement of a student into a special education program. In cases when consent is not obtained, the school district may request a due process hearing to compel placement in special education if indicated. (300.345) (226.540)

#### Participation in Regular Education Programs

- A. The school district shall take steps to ensure that students with disabilities have equal access available to the variety of educational programs and services available to nondisabled students in the areas served by the school district. (300.305)
- B. At a minimum, steps taken by the school district to ensure the availability of regular educational programs and services to students with disabilities shall include:
  - 1. Modification of instructional methodologies, staffing, materials and equipment to permit the effective participation of students; and
  - 1. Individualization of the instructional program including staffing, curriculum modifications, classroom accommodations, modified grading, assistive technology and instructional materials to permit the

effective participation of students with disabilities. (226.300)

- C. The IEP must include a statement describing how the student's disability adversely affects the student's participation in, and progress toward general education curriculum objectives, including; (300.347)
1. Student participation in extracurricular and other nonacademic activities; (300.553)
  2. The extent to which the student will be educated and participate with non-disabled students;
  3. An explanation of the extent, if any, to which the student will not participate with nondisabled students in a regular class and also in nonacademic and extracurricular activities; and
  4. A statement of any individual modifications in the administration of state or district-wide assessments of student achievement that are determined necessary in order for the student participate in the assessments. If the IEP Team determines that the student cannot participate in the state or district-wide assessments, the IEP team must explain why and describe how the student will be alternately assessed.

#### Continuum of Alternative Placements

- A. A continuum of alternative placements (including instruction in regular classes, special classes, home instruction, private facilities and instruction in hospitals and institutions) appropriate to the needs of individual children (as outlined in the IEP) will be available for children with disabilities who are not placed in the regular educational environment. (300.551 (b)) (226.300)
- B. The school district shall develop placement alternatives tailored to the needs of individuals, or

groups of students with disabilities. (300.551)  
(300.26)

### Determining Educational Placement

- A. In determining any educational placement of a student, the IEP Team shall:
1. Carefully review the completed IEP of the student;
  2. Identify and document pertinent information from a variety of sources including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
  3. Unless the IEP specifies otherwise, the student shall be educated in the school he/she would attend if nondisabled; and (226.240 c))
  4. Consider any potentially harmful effects of the placement on the student, as well as any variance in the quality of educational services that the student needs. (226.240 c) 5))(300.552)
- B. The IEP Team shall recommend placement of the student in a regular public school that the student would attend if not identified as having a disability, unless the IEP requires some other arrangement.
- C. If the IEP team determines that placement of the student should be made outside of the regular education environment, the IEP team shall review the placements set forth in Section III, Continuum of Alternative Placement in descending order and recommend the first alternative setting wherein the goals, objectives, benchmarks, accommodations, supportive services, aids and related services can be implemented. (300.551) (226.240)

- D. In recommending a placement outside of the regular educational environment, the IEP Team shall recommend placement in both chronologically age-appropriate classroom settings and chronologically age-appropriate schools. The age range of the students within a special education program or in any individual instructional group setting shall not exceed four years at the primary and intermediate level and six years at the secondary level. (300.552 (e)) (226.240)
- E. The special education placement shall be made in the school the student would attend if not disabled if possible, otherwise in a setting as close as possible to the student's residence. (300.552 (3)) (226.240)
- F. In no event may an IEP team recommend a placement of a student based solely upon the category of the student's disability or on the current configuration of the school district's service delivery system. (Notice of Interpretation to Part 300, Question #1)
- G. The IEP Team may recommend the placement of a student in a program of homebound or hospital instruction only if there is medical certification from a physician licensed to practice medicine in all of its branches.
- H. In the event that the district must remove a special education student from his/her current program because of behavior believed to be dangerous to the student or to others or due to a weapons or drug violation, the IEP team shall identify an interim alternative educational setting (IAES) that will afford the student an opportunity to participate in the general education curriculum and where the student's IEP can continue to be implemented. (300.520)
- I. The IEP team when making a placement determination on behalf of a child between the ages of 3-5 must consider the least restrictive environment needs of the child. The district must provide FAPE in the least restrictive environment to all eligible pre-



school-aged children with disabilities, even if the local education agency does not provide free preschool programs or regular education to nondisabled preschool children.

#### Placements Outside the Regular Education Environment

- A. All services and educational placements must be individually determined based upon the unique abilities and needs of each student. Before a student can be placed outside of the regular educational environment, the full range of supplementary aids and services that could facilitate the student's placement in a regular classroom setting must be considered. Following that consideration, if a determination is made that the student's disability cannot be accommodated satisfactorily in the regular education environment, even with the provision of appropriate supplementary aids and services, the student may then be considered for placement in other than a regular classroom. (Notice of Interpretation to Part 300, Question 1)
- B. In all cases, placement decisions must be individually determined. (Notice of Interpretation to Part 300, Question 1)
- C. Special Education classes, separate schooling, or other removals of children with disabilities from the regular education environment shall occur only if the nature or severity of the disability is such that education in regular classes cannot be achieved. (226.240)

#### Placements in Nonpublic Special Education Programs or Facilities

- A. An IEP team recommending placement of a student in a nonpublic or public day educational program located within the school district or else within reasonable transportation distance of the student's residence (not to exceed, if at all possible, one hour one way).

- B. An IEP team recommending placement of a student in a nonpublic or public residential education program located within or outside of the State as a means of providing the student with an appropriate education shall not recommend said placement unless the IEP team can document that appropriate educational services are not available and cannot be developed for the student, within the school district.

#### Reconsideration of Educational Placement

- A. The IEP of each student must be reviewed and revised as often as appropriate, but at least annually. (300.552) (226.240)
- B. The IEP team may recommend a placement more restrictive placement than the current placement only if a significant number of the goals, objectives and benchmarks identified in the current IEP were not successfully achieved. (300.550)
- C. Upon the written request of a parent or teacher review, the director of special education or designee shall establish, no later than 10 days after receiving such a request, an IEP meeting to reconsider the current educational placement of a student with disabilities.

#### Section VIII. Nonacademic and Extracurricular Services

- A. The placement decision made by the IEP team shall permit the child to participate as appropriate in nonacademic and extra-curricular services and activities. (226.240) (226.230)
- B. School districts may provide a nonacademic or extracurricular service to a student with disabilities in a different manner than it is provided to a nondisabled student, if such different or separate provision is necessary to provide the student with a service or activity equally effective to those provided to non-disabled students. (300.553)

## Section IX. Responsibilities of IEP Team

- A. The IEP team shall, at a minimum, include in each IEP initially prepared, reviewed or revised for a student with a disability: (300.347)
1. A statement of the annual educational goals, objectives or benchmarks; for the student in the educational performance areas which are adversely affected by the disability, expressed in terms of specific skills to be mastered and information to be acquired and/or retained;
  2. A description of the specific instructional and related services to be provided in support of each identified instructional objective including an identification of the curriculum, instructional methodologies, staffing patterns and the classroom organization approach to be used; and
  3. A description of the procedures and criteria that will be used to measure and report student progress toward the identified instructional objectives as well as analysis of failures. Student progress toward attaining the annual goals, objectives and benchmarks shall be communicated to the parents as frequently as parents of regular education students receive progress reports. (300.347)
- B. The IEP Team shall determine satisfactory educational progress based upon the application of the criteria contained in the current IEP and shall review the child's placement at least annually or anytime the IEP is revised. (226.240)

## VIII. TRANSITION OF CHILDREN FROM PART C TO PRESCHOOL PROGRAMS

34 CFR 300.125, 300.132, 300.342-343  
IAC 226.100, 226.250, 226.260

Do the procedures ensure compliance with the following?

### Identification Prior to Age 3

- A. The district shall identify, locate and evaluate all children birth through 21 years of age who are suspected of having a disability, which adversely affects educational performance. (300.125 (c)) (226.100)
- B. The district shall have in effect at age 3 an IEP or IFSP for all eligible students. (300.132 and 300.342 (c)) (226.260)

### Coordination between Part C and Part B Services

- A. Children participating in early intervention programs assisted under Part C of IDEA, and who will participate in preschool programs assisted under Part B of the Act, experience a smooth and effective transition to those preschool programs in a manner consistent with Section 637(a)(8) of IDEA. (226.260) (300.132)
- B. The school district shall have in effect at age 3 an IEP or IFSP for all eligible children. (300.132 (b)) (226.250) (226.260)
- C. The school district will participate in transition planning conferences arranged by the early intervention program. (226.260) (300.132 (c)) (303.148(b)(2)(i))
- D. The district shall initiate a referral for a case study evaluation to determine eligibility for special education and related services and develop the child's IEP prior to the child's third birthday. (300.343 (b)(2)) (226.260 b)1)2) and c))

- E. The district shall explain to the family the difference between an IFSP and an IEP. If the IEP team determines to continue the IFSP at age 3, the district must receive informed consent from the parents that document that they were provided with an explanation of the difference between and IFSP and an IEP. (226.250 a) (300.342 (c)(i) (ii))

**IX. NONPUBLIC SPECIAL EDUCATION PROGRAMS/FACILITIES AND PRIVATE SCHOOLS**

34 CFR 300.133, 300.401-403, 300.450, 300.451, 300.454-458  
IAC 226.330, 226.340, 226.350

Do the policies and procedures ensure compliance with the following?

Children Placed by the School District in a Private School or Facility

- A. The IEP team will only consider placement in a private school or facility when the nature and severity of the child's disability clearly demonstrates that the IEP cannot be implemented in a less restrictive environment. (226.330)
- B. The district is responsible for insuring that for those students placed in a private school or facility, the facility has the capacity to deliver the services identified on the IEP and the services identified on the IEP are delivered. (300.401) (300.402)
- C. The services provided to the student in the private school are at no cost to the parent. (300.401) (226.330)
- D. The private school or facility meets the standards that apply to programs operated by and in a public school setting and that the school is approved by the Governor's Purchase Care Review Board. (226.330)
- E. The rights of the student are not in any way altered because of his/her placement in the private school or facility. (226.330)

Placement of Children in Private Schools by Their Parents

- A. The school district is not responsible for educational cost, including special education and related services, of children placed in private schools and facilities by their parents if the district made FAPE available to the child, unless ordered to do so by a hearing officer or a court. (226.340) (300.403)

- B. The school district shall notify parents of the conditions under which reimbursement for the cost of a unilateral placement in a private school or facility may be reduced or denied. (300.300.403 (c))

Child Find for Private School Children with Disabilities

- A. The school district will locate, identify and evaluate all private school children, including children attending religiously affiliated schools, who have or are suspected having a disability and who reside in the district. (300.451) (226.350)
- B. The child find activities for private school children with disabilities must be comparable to those for children with disabilities in public schools. (300.451 a))
- C. The district will consult with appropriate representatives of non-public schools on how to carry out private school child find activities. (226.350) (300.451 b)

Special Education and Related Services to Children with Disabilities Unilaterally Placed in Private Schools

- A. After initially evaluating a child and determining that the child is eligible for special education and related services, the local school district will inform the parents that the district will provide the child a free and appropriate public education (FAPE) if the child is enrolled in the public school. If the child remains in the private school and will receive services from the school district, the district must develop an IEP or “services plan” for the child. The school district is not obligated to provide all the special education and related services the child would receive if enrolled in a public school. (300.403(a)) (300.455 (b)) (226.350)
- B. If a parent requests part-time attendance at a public school for a private school student, the school district where the parent resides must accept and enroll the child on a part-time basis. As such, the

child would receive an individualized education plan (IEP) and all procedural safeguards. (105 ILCS 5/14-6.01)

- C. The District shall consult annually with representatives from the private schools to determine:
  - 1. Which children will receive services;
  - 2. The special education and related services to be provided;
  - 3. Where the services will be delivered; (300.456)
  - 4. How the services will be provided; and
  - 5. How the services will be evaluated. (300.403) (226.350)
  
- D. The school district must allow eligible students from private schools to ride on its regularly scheduled bus routes. An eligible student resides at least one and one half miles from the school attended and resides on or along the regular public school bus route. The transportation should be easily accessible to the eligible student's home and the student's school. (105 ILCS 5/29-4)
  
- E. The special education and related services provided by the school district to students in private schools shall be provided by similarly qualified personnel. (300.455)
  
- F. Students with disabilities unilaterally placed by their parents in private and religiously affiliated schools who have been determined eligible for services under the Individuals with Disabilities Education Act Amendments of 1997 and for whom has been developed are entitled to receive services in an amount which need not exceed the proportional per-child amount of IDEA federal flow-through funds the district will receive. The cost of transportation shall be calculated into the total cost of the proportional share of services. The



cost of providing FAPE to those students enrolled for part-time attendance shall be used in calculating whether the district has expended its proportional share. (300.403) (300.450)

- G. The parents of a private school child who is not enrolled in the school district for part-time attendance may request mediation, initiate a due process hearing or file a written complaint with the Illinois State Board of Education about matters relating to child find, evaluation and eligibility determinations including the right to an independent educational evaluation. (34 CFR 300.457 (b))
  
- H. By December 1 of each year, the local school district will conduct an annual “child count” required by federal and state law, collected in Illinois on the Special Education Funding and Child Tracking System (FACTS), and the annual “census” of the number of non-public school children eligible under IDEA. The “census” of nonpublic students is a count of students with disabilities who may or may not be receiving special education and related services. The “child count” includes only those students for whom an IEP or services plan has been developed. (226.350)

**X. PERFORMANCE GOALS AND INDICATORS/  
PARTICIPATION IN ASSESSMENTS**

34 CFR 300.137-139

IAC 226.230

Do the policies and procedures ensure compliance with the following?

Illinois Learning Standards

- A. The school district shall maintain high expectations for all students including those with disabilities. (300.137) This includes:
1. Establishing, to the maximum extent appropriate, goals and standards for students with disabilities that are consistent with the goals and standards established for all children. (300.137 (a)).
  2. Establishing performance indicators that will assess progress toward achieving those goals that, at a minimum, address the performance of children with disabilities on statewide and local assessments, dropout rates and graduation rates. (300.137 (b))

Participation in Assessments

- A. Students with disabilities will participate in statewide and district-wide assessments in one of the following ways:
1. Without accommodations (300.139 (a)(1))
  2. With accommodations as determined by the IEP team (300.138 (a))
  3. Through alternative assessments (300.139 (a)(2)(ii))

### Reporting Assessment Results

- A. The school district shall report to the Illinois State Board of Education and to the public the number of children participating in regular assessments and alternative assessments, and the performance of those children taking the alternative assessments (July 1, 2000) and the performance of those children participating in the regular assessment (July 1, 1998). This report shall be issued with the same frequency and in the same detail as the district reports on the assessments of nondisabled children. (300.139 (a))

## **XI. PUBLIC PARTICIPATION**

34 CFR 300.148, 300.280-284

Do the policies and procedures ensure compliance with the following?

### Public Hearings

- A. The school district shall prior to the adoption of any policies and procedures needed to comply with the IDEA conduct public hearings; provide adequate notice of the hearings, and provide an opportunity for public comment, including individuals with disabilities and parents of children with disabilities. (300.148) (300.280-284)

### Publication and Availability of Approved Policies and Procedures

- A. After the district policies and procedures are approved by the Illinois State Board of Education the district shall give notice that the policies and procedures have been approved and where the policies and procedures are available for review. (300.284)



## **XII. PROCEDURAL SAFEGUARDS**

34 CFR 300.129, 300.500-516, 300.520, 300.527, 300.528, 300.571

105 ILCS 5/14-8.02

IAC 226.180, 226.500, 226.501-503, 226.520, 226.530, 226.540, 226.560, 226.600-690,  
226.740

Do the policies and procedures ensure compliance with the following?

### Notice of Proposed Action

A. The district shall provide written notice to parents of students with disabilities and suspected disabilities at least 10 calendar days prior to the following occasions (105 ILCS 5/14-8.02) (226.520) (300.503):

1. A proposal to change the identification, evaluation or placement of a child, or the provision of a free appropriate public education (FAPE) to the child; (300.503 (a)(I)) (226.520)
2. A refusal to change the identification, evaluation or placement of a child, or the provision of a free appropriate public education to the child; and (300.503 (a)(ii)) (226.520)
3. A refusal to amend the student's record or proposes to destroy unneeded records. (226.520)

B. The written notice shall include:

1. A full explanation of all of the procedural safeguards available to the parents and the student at the age of majority including: (105 ILCS 5/14-8.02 (b)) (300.503) (300.507) (226.510)
  - a. independent educational evaluations;
  - b. prior written notice;
  - c. parental consent;

- d. inspect and review all educational records
  - e. opportunity to file a written complaint with the Illinois State Board of Education;
  - f. procedures for students who are subject to placement in an interim alternative educational setting;
  - g. requirements for unilateral placements by parents of children in private schools at public expense;
  - h. mediation;
  - i. due process hearings, including requirements for disclosure of evaluation results and recommendations;
  - j. child's placement during the pendency of a due process proceeding;
  - k. civil action;
  - l. attorney fees; and
  - m. transfer of parental rights.
2. A description of the action proposed or refused by the school district. (300.503 (b)(1)) (226.520 b))
  3. An explanation of why the school district proposes or refuses to take the action. (300.503 (b)(2)) (226.520 b))
  4. A description of any options the school district considered and the reasons those options were rejected. (300.503 (b)(3)) (226.520 b))
  5. A description of each evaluation procedure, test, record, or report the school district uses as a basis for the proposal or refusal. (300.503 (b)(4)) (226.520 b))
  6. A description of any other relevant factors. (300.503 (b)(5)) (226.520 b))

7. If the native language or other mode of communication of a parent to whom notice will be given is not a written language, the school district will ensure that written evidence is available to demonstrate that the notice was translated orally (or by other means) to the parent in his or her native language (or other mode of communication) and that the parent understands the notice. (300.503 (c)) (226.503 (c)) (226.500)

#### Opportunity to Examine Records, Parent Participation

- A. The parents of a child with a disability will be afforded the opportunity to inspect and review all educational records related to the identification; evaluation; educational placement and provision of a free, appropriate public education to the child. (300.501) (226.740 d))
- B. Parents of a child with a disability are afforded an opportunity to participate in all meetings convened by the district with respect to the identification, evaluation and educational placement of the child. (226.530) (300.501)

#### Consent

- A. Parental consent will be obtained before:
  1. The conduct of an initial evaluation of the child (300.505 (a)(1)(i) or reevaluation; (300.505 (a)(1)(iii)) (226.540)  
[MANDATED FORM MUST BE USED]
  2. The initial placement of the child in a program providing special education and related services; (300.505 (a)(1)(ii)) (226.540) [MANDATED FORM MUST BE USED]
  3. The disclosure or other proposed use of personally identifiable information; (300.571 (a)) (226.540)



4. Access the parent's private insurance to pay for services required by the child's IEP; and (226.540)
  5. Using an IFSP instead of an IEP. (226.540)
- B. The parent/guardian understand that their consent is voluntary and may be revoked any time prior to the completion of the activity in which consent was given. (300.505) (226.540)

#### Request for Hearing

- A. Hearings conducted pursuant to these procedures may be initiated by: (300.507 (a)) (226.605) (226.615)
1. The parent of a student with a disability, the student at the age of majority or the parent of a student who is suspected of having a disability if the parent disagrees with any action taken by the school district for which notice to the parent is required; or
  2. The school district in any instance where a parent either fails to provide written parental consent for a proposed action. (The district shall request a hearing in any instance where a parent fails to provide written consent for a re-evaluation). No other party shall have standing to request a due process hearing.
- B. The school district shall provide the parent or the student at the age of majority with a model due process request form designed by the Illinois State Board of Education in accordance with 34 CFR 300.507© (1) (v) (3) or inform the parent that the request for a hearing must be submitted in writing and must the following information: (300.507 (b)) (226.610) (226.615)
1. The name, address, and telephone number of the student and the parent, and of the person making the request for the hearing if other than the student or the parent;

2. A description of the nature of the problem, including facts relating to such problem;
  3. The remedy being sought;
  4. If known, whether legal counsel or an advocate will represent the parent.
- C. The director of special education shall assist parents in taking whatever action is necessary to use the hearing process. (226.610)
- D. If the school district initiates a hearing, the district superintendent shall file a request with the Illinois State Board of Education. The Superintendent shall provide the parent with a copy of the request.
- E. Under no circumstance can the school district deny a request for a hearing. (300.507 (c)(4)) (226.620)
- F. Upon receipt of a written request for a hearing, the director of special education shall inform the parent in writing of any free or low-cost legal services, as well as other services relevant to mediation or a due process hearing, and the right to waive the mediation conference. (300.507 (a)(3)) (226.610)
- G. The school district insures that parents know their pre-hearing rights, which include the right to:
1. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities. (300.509)
  2. Present evidence and confront, cross-examine and compel the attendance of witnesses. (300.509)
  3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to either party at least five days before the hearing. (300.509)

4. Obtain a written or electronic transcript of the hearing. (300.509)
  5. Obtain written findings of fact and decisions. (300.509)
- H. The school district insures that parents involved in a hearing know that they have the right to:
1. Have the child who is the subject of the hearing present. (300.509)
  2. Have the hearing opened or closed to the public. (300.509)
  3. Have the hearing held at a time and place reasonably convenient to the parents and child involved. (300.509)
  4. Request extensions to due process hearings. (300.509)
- I. The school district superintendent shall within 5 days of receipt of a request for a due process hearing forward the request by certified mail to the Illinois State Board of Education, Center for Special Education. The request must include information on the racial, linguistic or cultural background of the child. A copy of the parent's request for due process must also be submitted. The district shall send to the parent by certified mail or another means providing written evidence of delivery, a copy of the request and all attachments sent to the Illinois State Board of Education. (105 ILCS 5/14-8.02 (f)) (226.615)
- J. During the pendency of any administrative or judicial proceeding initiated pursuant to this Section, except as provided in (I) below, unless the school district and the parents of the student agree otherwise, the school district may not change the student's current placement. If the hearing involves the initial admission of the student to public school, the student must be placed in the public school program pending a final determination of the matters in dispute. Any disagreement regarding the

specific location of the stay of placement during a pending due process hearing shall be placed before the hearing officer for resolution. (105 ILCS 5/14-8.02 (J)) (300.514) (226.650)

- K. School personnel have the authority to change the current educational placement of a child with a disability: (300.520)
  - 1. For not more than 10 consecutive school days for any violation of school rules and additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement as defined in IDEA); and (300.520 (a)(1))
  - 2. To an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 days if: (300.520 (a)(2))
    - a) The child carries a weapon to school or to a school function,
    - b) The child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or at a school function, or
    - c) Ordered by a hearing officer in accordance with the expedited hearing procedures found in Section VI.
- L. The school district will fully cooperate with the timelines set forth by the hearing officer to ensure that the hearing process is completed within 45 days from the date the request was received. (300.511)

- M. The parent or the school district can appeal the decision of the hearing officer within 120 days from the date the decision was issued to a court of competent jurisdiction. (105 ILCS 5/14-8.02 (i))
- N. The school district will arrange for a record of the hearing to be created and upon request, the school district will make available to the parents, at no cost, a copy of the record of the hearing (the Illinois State Board of Education shall reimburse the district for ½ of the transcription costs). (226.665) (300.509).
- O. If either party involved appeals the decision of the hearing officer, the district will within 10 days of the date of the appeal forward the transcript of the hearing to the Illinois State Board of Education, Division of Program Compliance.
- P. The decision reached by the hearing officer is final and must be complied with unless a party aggrieved by the decision appeals the decision to a court of competent jurisdiction within 120 days of receipt of the decision. (105 ILCS 5/14-8.02 (i)) (300.512).

Protections for Children Not Yet Eligible for Special Education and Related Services

- A. A student who has not been determined to be eligible for special education and related services who engages in behavior that violated any rule or code of conduct of the school district may assert any of the protections provided to students with disabilities if the school district had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred. The school district shall be deemed to have knowledge that the student is a student with a disability if: (300.527)

1. The parent has *expressed concern in writing* (unless the parent is illiterate or has a disability that would prevent his/her ability to provide such written notice) to school district personnel that the child is in need of special education and related services;
  2. The *behavior or performance of the student demonstrated the need for such services*;
  3. The parent has *requested a full and individual evaluation* of the child; and
  4. The *teacher of the child or other personnel of the school district has expressed concern about the behavior or performance* of the child to the director of special education or building administrator.
- B. If there was no basis for such “knowledge” by the school district, the student may be subjected to the same disciplinary measures as applied to students without disabilities engaged in comparable behavior. (20 U.S.C. Section 1415 (k)(8))
- C. If a request is made for an evaluation of a regular education student during the time period in which he or she is subjected to disciplinary measures, the evaluation must be conducted on an expedited basis. The child must remain in the educational placement determined by school authorities, pending the results of the evaluation. (20 U.S.C. Section 1415 (k)(8))

#### Expedited Hearings

- A. The school district may request an expedited hearing: (300.528) (105 ILCS5/14-8.02 (b)) (226.655)
1. If it believes that it is dangerous for the child to be in his/her current placement (placement prior to removal to the interim alternative education setting) during the pendency of the due process proceedings.

2. For the purpose of moving a student from his or her current placement to an Interim Alternative Educational Setting for behavior other than weapons or drugs.
- B. The parent or student at the age of majority may request an expedited hearing if he/she disagrees with the manifestation determination or the decision of the district to move the student to an Interim Alternative Educational Setting or if they disagree with the location of the IAES as determined by the IEP Team. (105 ILCS 5/14-8.02 (b)) (226.655)
- C. When requesting an expedited hearing the requesting party must provide the following documentation: (105 ILCS 5/14-8.02 (b))
1. Name of legal counsel (if known),
  2. Matters in dispute and specific relief sought,
  3. Name of all witnesses,
  4. Relevant documents.
- D. Two days prior to the hearing, both parties involved in the expedited hearing must disclose to the hearing officer and to each other any evidence to be introduced at the hearing. (105 ILCS 5/14-8.02 (b))
- E. The hearing officer presiding over the expedited hearing shall hear only that issue or issues identified, leaving all other issues to be heard according to the hearing procedures provided in 14-8.02a. of the School Code. (105 ILCS 5/14-8.02 (b))

### Mediation

- A. The district shall offer the parent(s) an opportunity to resolve differences through participation in mediation. The parent may waive the opportunity for a mediation conference. (300.506) (226.560)

- B. A copy of the written request for mediation submitted to the Illinois State Board of Education must be sent to the parent concurrently and must be accompanied by an explanation that the parent may refuse mediation. Participation in mediation must be voluntary.
- C. A written record of the parental agreement to proceed with mediation shall be maintained by the school district.
- D. The Illinois State Board of Education, Special Education Unit, shall appoint a trained mediator. (226.560 f))
- E. Mediation is voluntary and both parties must agree to participate. In no way shall mediation be used as a means to deny or delay an aggrieved party's rights to a hearing. (226.560 a))
- F. The mediation conference is an informal process conducted in a timely manner and in a location that is convenient to the parties involved. (226.560 c))
- G. Any resolution reached as part of the mediation process shall not conflict with state or federal law and shall be to the satisfaction of both parties, as indicated by the signatures of both parties on the written agreement. The district shall in good faith implement the any agreement reached during mediation.
- H. If an agreement is reached and as a result a pending due process is withdrawn, the district shall contact the hearing officer in writing that the case has been settled. The hearing officer assigned to the matter shall retain jurisdiction for one year from the date of the withdrawal. (105 ILCS 5/14-8.02 (b) and (f)).



## Complaints

- A. The school district will be responsible for informing parents of students with disabilities of their right to file a written complaint with the Illinois State Board of Education, Division of Program Compliance, should the parent or student believe that the district has violated a state or federal rule or regulations. The written complaint shall include: (300.660) (226.570)
1. The name of the child, the address of the residence of the child, and the name of the school the child is attending;
  2. A description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and
  3. A proposed resolution of the problem to the extent known and available to the parents at the time.
- B. When a complaint has been filed, the district will provide the documentation requested within the time frames identified by the State Board of Education. The complaint must be investigated and any action resulting in a citation of noncompliance must be corrected within 60 days from the date the complaint was filed with the Illinois State Board of Education. (300.661) (226.570)

## Surrogate Parent Responsibility

- A. The school district has the responsibility to take steps necessary to protect the rights of each student with a disability through the appointment of a qualified surrogate parent when: (300.515) (226.550)
1. The parent cannot be identified or located;  
or
  2. The student is a ward of the state.

- B. The term "parent" means a parent, a guardian, a person acting as a parent of a student, or a surrogate parent, who has been appointed by the State, but does not include employees of the state if the student is a ward of the state.
1. A "guardian" is a private individual who has been given the legal custody of a student by a court of this state or by the operation of the laws of this state.
  2. A "person acting as a parent" means a person who with the consent of the parent is acting in the place of the parent during the parent's absence. If a person asserting that he or she is acting, as a parent is not a member of the student's extended family, then written consent of the parent to such an arrangement must be provided to the school district.
  3. A student is a "ward of the state" when legal responsibility to make decisions regarding a student's education has been assigned to a state agency or the representative of a state agency.
- C. The school district shall undertake reasonable efforts to identify and discover the whereabouts of the parents of the student about whom such action is to be taken. At a minimum such reasonable efforts will include documented phone calls, letters, certified letters with return receipts, visits to the home, and interviews with relatives and other individuals who may have knowledge of the whereabouts of the student's parents.
- D. If, after reasonable efforts have been made, the parent cannot be located, the director or designee shall take similar steps (telephone and letter) to establish contact with a relative, or an individual with whom the student resides, and/or the individual or agency which is legally responsible for the student's care and education.

Private Evaluations and Independent Evaluation at Public Expense

- A. The school district must inform parents of their right to obtain a private evaluation at any time and their right to an independent evaluation at public expense. (300.502) (226.180) (105 ILCS 5/14-8.02)
- B. The school district must consider the results of any private evaluation provided by the parent at an IEP conference.
- C. If the district finds the private evaluation to be adequate and necessary in order to provide the student with an appropriate education, or the district chooses to use the private evaluation in lieu of conducting its own evaluation, the district must then pay for the parent's private evaluation. (105 ILCS 5/14-8.02(b)) (226.180) (300.502)
- D. Parents have the right to request an independent educational evaluation at public expense if they disagree with any aspect of the evaluation or re-evaluation conducted by the school district. Within 5 days of the date the request was received, the district must either honor the parent's request for an independent educational evaluation at public expense or request an impartial due process hearing. An independent educational evaluation at public expense must be completed within 30 days after receipt of the parent's written request, unless the district initiates a due process hearing or the parties agree that the 30-day period should be extended. (300.502(b)(2)) (105 ILCS 5/14-8.02(b)) (226.180)

### **XIII. COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT**

34 CFR 300.135, 300.381-382

IAC 226-800, 226.820

Do the policies and procedures ensure compliance with following?

#### Establishment of CSPD Plan

- A. The school district will establish a Comprehensive System for Personnel Development (CSPD) Plan that is based on an annual needs assessment. (300.381) (300.382).
- B. The school district's annual needs assessment shall include at a minimum the number of personnel providing special education and related services and relevant information on current and anticipated personnel vacancies and shortages (300.381 (a)(b)).
- C. The school district will in compliance with Part B application requirements set forth by the ISBE expend 5% of its IDEA flow-through budget on personnel development activities.
- D. The school district's CSPD Plan shall include the following components:
  - 1. Strategies for preparing general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities (300.382 (a))
  - 2. Strategies for preparing professionals and paraprofessionals in the area of early intervention with the content knowledge and collaborative skills needed to meet the needs of infants and toddlers with disabilities (300.382 (b))
  - 3. Work with institutions of higher education and other entities to prepare personnel to

work with students with disabilities.  
(300.382 (c))

4. Personnel development activities directed at enhancing the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of children with disabilities that impede the learning of children with disabilities and others. (300.382 (f))
  5. Adoption and dissemination promising practices, materials and technology to teachers, administrators, and related services personnel, significant knowledge derived from educational research and other sources. (300.382 (g))
  6. Provide for the joint training of parents and special education, related services, and general education personnel. (300.382 (j))
  7. The school district will evaluate the effectiveness of its CSPD Plan.
- E. All personnel employed by the district shall meet the personnel standards established by the ISBE for special education personnel, including certified staff and non-certified staff, administrators and support personnel. (226.800)
- F. All personnel not fully certified at the time of employment shall apply for temporary authorization, which is valid for only 2 years and nonrenewable. (226.820)

**XIV. USE OF PART B FUNDS, PRIORITIES, EXCESS COST,  
NONSUPPLANTING AND COMPARABILITY**

34 CFR 300.144, 300.184, 300.185, 300.230-232, 300.234,  
300.235, 300.458-462

Do the policies and procedures ensure compliance with the following?

Application and Use of Part B Flow-Through Funds

- A. The school district will in its application for Part B flow-through funds submit documentation insuring compliance with the IDEA requirements. Records specified by IDEA will be maintained by the district and available for audit annually.

Excess Cost Requirement

- A. The school district will only use IDEA funds to pay the "excess cost" of providing special education and related services. (300.184 and 300.185)

Nonsupplanting

- A. The school district will use IDEA funds to supplement and, to the extent practicable, increase the level of state and local funds expended for the education of children with disabilities. (300.230)

Use of Funds

- A. The school district will describe in its application for Part B funds how it will use the funds during the next school year. (300.230)

School-wide Programs under Title I

- A. The school district may use funds received under Part B of the Act for any fiscal year to carryout a school-wide program under Section 114 of the Elementary and Secondary Education Act of 1965 in accordance with the requirements set forth at 34 CFR 300.234 (300.234).

### Permissive Use of Funds

- A. The school district may use funds provided under Part B of the Act for services and aids that also benefit nondisabled children (300.235).

### Treatment of Charter Schools

- A. The school district will serve children with disabilities attending public Charter Schools in the same manner as it serves children with disabilities in other schools and provide funds under Part B of the Act to those schools in the same manner as it provided those funds to its other schools.

### The Use of Part B Funds for the Benefit of Students with Disabilities Placed in Private Schools

- A. The school district may not use funds available under section 611 or 619 of IDEA 97 for classes that are organized separately on the basis of school enrollment or religion of the students. (300.458)
- B. The school district may not use funds provided under section 611 or 619 of IDEA 97 to finance the existing level of instruction in a private school or to otherwise benefit the private schools. (300.459)
- C. The school district may use funds available under section 611 and 619 of IDEA 97 to make public school personnel available in other than public facilities to the extent necessary to provide services for private school children with disabilities; and if those services are not normally provided by the private school. (300.460)
- D. The school district may use funds available under section 611 or 619 of the IDEA 97 to pay for the services of an employee of a private school to provide services under IDEA 97 if the employee performs the services outside of his or her regular hours of duty; and the employee performs the services under public supervision and control. (300.461)

- E. The school district must keep title to and exercise continuing administrative control of all property, equipment, and supplies and public agency acquires with funds under IDEA 97 for the benefit of private school children with disabilities. (300.462)
1. The school district shall ensure that the equipment and supplies placed in a private school are used only for Part B purposes; and can be removed from the private school without remodeling the private school facility.
  2. The school district shall remove equipment and supplies from a private school if the equipment and supplies are no longer needed for Part B purposes; or removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.
  3. No funds under Part B may be used for repairs, minor remodeling, or construction of private school facilities.

Hearings Related to District Eligibility for Part B Funds

- A. The school district, upon receipt of notice that Part B funds are being reduced or denied, may request a hearing with representatives from the State Board of Education regarding the State's decision to reduce or deny the district's application for Part B Funds. (300.144)