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SPECIAL EDUCATION

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

SOURCE: Adopted August 12, 1976; rules repealed and new emergency rules adopted at 2 Ill. Reg. 37, p. 29, effective September 1, 1978, for a maximum of 150 days; rules repealed and new rules adopted at 3 Ill. Reg. 5, p. 932, effective February 1, 1979; emergency amendment at 4 Ill. Reg. 38, p. 328, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 8021, effective July 22, 1981; amended at 6 Ill. Reg. 558, effective December 23, 1981; emergency amendment at 7 Ill. Reg. 6511, effective May 6, 1983, for a maximum of 150 days; emergency amendment at 7 Ill. Reg. 8949, effective July 15, 1983, for a maximum of 150 days; codified at 8 Ill. Reg. 6669; amended at 8 Ill. Reg. 7617, effective May 17, 1984; emergency amendment at 10 Ill. Reg. 3292, effective January 27, 1986, for a maximum of 150 days; emergency expired June 24, 1986; amended at 10 Ill. Reg. 18743, effective October 22, 1986; amended at 10 Ill. Reg. 19411, effective October 31, 1986; amended at 13 Ill. Reg. 15388, effective September 14, 1989; emergency amendment at 14 Ill. Reg. 11364, effective June 26, 1990, for a maximum of 150 days; emergency expired November 23, 1990; amended at 15 Ill. Reg. 40, effective December 24, 1990; amended at 16 Ill. Reg. 12868, effective August 10, 1992; emergency amendment at 17 Ill. Reg. 13622, effective August 3, 1993, for a maximum of 150 days; emergency expired December 31, 1993; amended at 18 Ill. Reg. 1930, effective January 24, 1994; amended at 18 Ill. Reg. 4685, effective March 11, 1994; amended at 18 Ill. Reg. 16318, effective October 25, 1994; amended at 19 Ill. Reg. 7207, effective May 10, 1995; amended at 20 Ill. Reg. 10908, effective August 5, 1996; amended at 21 Ill. Reg. 7655, effective July 1, 1997; Part repealed, new Part adopted at 24 Ill. Reg. 13884, effective August 25, 2000; amended at 27 Ill. Reg. 8126, effective April 28, 2003; amended at 31 Ill. Reg. 9915, effective June 28, 2007; amended at 32 Ill. Reg. 4828, effective March 21, 2008; amended at 34 Ill. Reg. 17433, effective October 28, 2010; amended at 35 Ill. Reg. 8836, effective May 26, 2011; peremptory amendment, pursuant to PA 97-461, at 35 Ill. Reg. 14836, effective August 22, 2011; amended at 36 Ill. Reg. 12648, effective July 18, 2012; amended at 36 Ill. Reg. 12870, effective July 24, 2012; amended at 37 Ill. Reg. 16788, effective October 2, 2013; amended at 40 Ill. Reg. 2220, effective January 13, 2016; emergency amendment at 44 Ill. Reg. 5917, effective March 25, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 44 Ill. Reg. 6675, effective April 9, 2020, for the remainder of the 150 days; emergency rule effective March 25, 2020, as amended April 9, 2020, expired August 21, 2020; amended at 44 Ill. Reg. 14792, effective August 27, 2020; amended at 45 Ill. Reg. 1671, effective January 22, 2021; amended at 45 Ill. Reg. 3377, effective March 2, 2021; emergency amendment at 45 Ill. Reg. 11355, effective August 26, 2021, for a maximum of 150 days; emergency expired January 22, 2022; emergency amendment at 46 Ill. Reg. 3005, effective February 4, 2022, for a maximum of 150 days; emergency rule expired July 3, 2022; amended at 46 Ill. Reg. 6453, effective April 11, 2022; amended at 46 Ill. Reg. 13246, effective July 13, 2022; amended at 47 Ill. Reg. 2244, effective February 6, 2023.

SUBPART A: GENERAL

Section 226.10 Purpose

This Part establishes the requirements for the treatment of children and the provision of special education and related services pursuant to the Individuals with Disabilities Education Improvement Act (also referred to as "IDEA") (20 USC 1400 et seq.), its implementing regulations (34 CFR 300, as amended by 71 Fed. Reg. 46540 (August 14, 2006) and 73 Fed. Reg. 73027 (December 1, 2008), no later amendments or editions included), and Article 14 of the School Code [105 ILCS 5/Art. 14]. This Part also distinguishes between requirements derived from federal authority and those imposed additionally pursuant to Article 14 of the School Code or the authority of the State Board of Education. The requirements of IDEA, its implementing regulations, and this Part shall apply in every instance when a child is or may be eligible for special education and related services.

(Source: Amended at 40 Ill. Reg. 2220, effective January 13, 2016)

Section 226.50 Requirements for a Free Appropriate Public Education (FAPE)

A "free appropriate public education ("FAPE")" as defined at 34 CFR 300.17, must be made available by school districts to children with disabilities in accordance with 34 CFR 300.101 through 300.103, unless otherwise specified in this Section.

- a) **Transfer Students**
Provision of FAPE to students who transfer into a local school district shall be made in accordance with the requirements of 20 U.S.C. 1414(d)(2)(C). The additional requirements of this subsection (a) shall also apply.
 - 1) In the case of an eligible student transferring into a district from another district within Illinois, when the new district obtains a copy of the student's IEP before or at the time the child is presented for enrollment:
 - A) The district may adopt the IEP of the former local school district without an IEP meeting if:
 - i) the parents indicate, either orally or in writing, satisfaction with the current IEP; and
 - ii) the new district determines that the current IEP is appropriate and can be implemented as written.
 - B) If the district does not adopt the former IEP and seeks to develop a new IEP for the child, within ten days after the date of the child's enrollment the district must provide written notice to the parent, including the proposed date of the IEP meeting, in conformance with Section 226.530. While the new IEP is under development, the district shall implement services comparable to those described in the IEP from the former district.
 - 2) If the new school district does not receive a copy of the child's current IEP or a verbal or written confirmation of the requirements of that IEP from the previous school district when the child is presented for enrollment, the child shall be enrolled and served in the setting that the receiving district believes will meet the child's needs until a copy of the current IEP is obtained or a new IEP is developed by the school district.
 - A) In no case shall a child be allowed to remain without services during this interim.
 - B) The new district shall request the student's records from the

sending district or school by the end of the next business day after the date of enrollment.

- C) No later than ten days after expiration of the time allotted under Section 2-3.13a of the School Code [105 ILCS 5/2-3.13a] for the sending district or school to forward the child's records, the new district shall provide written notice to the parent of an IEP meeting for the purpose of developing a new IEP, unless the sending district's or school's IEP arrives before this time elapses, the student has transferred from a district within Illinois, and the new district adopts the previously held IEP.

b) Jurisdictional Disputes

Each school district is responsible for ensuring that no eligible child for whom services are sought is denied FAPE due to jurisdictional disputes among Illinois agencies. Provision of FAPE to such a student shall not preclude a district from seeking repayment for costs incurred from any other school district or entity that is determined responsible for such costs.

c) Eligibility; Graduation or Completion of Program

- 1) An eligible student who requires continued public school educational experience to facilitate that student's integration into society shall be eligible for such services through age 21. If the eligible student reaches the age of 22 during the school year, the student is eligible for such services through the end of the school year.
- 2) The provision of FAPE is not required with respect to a student with a disability who has graduated with a regular high school diploma.
- 3) A student with a disability who has fulfilled the minimum State graduation requirements set forth in Section 27-22 of the School Code [105 ILCS 5/27-22] shall be eligible for a regular high school diploma.
 - A) If the student's individualized education program prescribes special education, transition planning, transition services, or related services beyond that point, issuance of that diploma shall be deferred so that the student will continue to be eligible for those services.
 - B) If the student is to receive a regular high school diploma, at least one year prior to the anticipated date of its issuance, both the parent and the student shall receive written notification in

conformance with the requirements of 34 CFR 300.503 that eligibility for public school special education services ends following the granting of a diploma and that the parent (or the student, if Section 226.690 applies) may request an IEP meeting to review the recommendation that the student receive a regular diploma.

- 4) Students who have participated in a graduation ceremony but have not been awarded regular high school diplomas continue to be eligible to receive FAPE through age 21. If the student reaches the age of 22 during the school year, the student is eligible for such services through the end of the school year.
- d) **Exception for Certain Students Incarcerated as Adults**
The right to receive FAPE does not extend to students from 18 through 21 or, if applicable, 22 years of age who are incarcerated and who were not identified as eligible and did not have IEPs in their educational placements immediately prior to incarceration.

(Source: Amended at 46 Ill. Reg. 6453, effective April 11, 2022)

Section 226.60 Charter Schools

For purposes of the federal Individuals with Disabilities Education Act and this Part, charter schools established pursuant to Article 27A of the School Code shall be treated either as schools within school districts or as local educational agencies in their own right.

- a) When a school's charter is issued by a local board of education pursuant to Section 27A-8 of the School Code, that charter school shall be considered as a school within the district over which that board of education exercises jurisdiction.
- b) When a school's charter is issued by the State Board of Education pursuant to Section 27A-7.5 of the School Code, that charter school shall be considered as a local educational agency.

(Source: Amended at 45 Ill. Reg. 3377, effective March 2, 2021)

Section 226.75 Definitions

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

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

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

"Day" means a calendar day.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

bilingual and demonstrably qualified and competent to interpret;

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

trained in ethics of interpretation.

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

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

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

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

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

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

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

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

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

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

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

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

(Source: Amended at 47 Ill. Reg. 2244, effective February 6, 2023)

SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN

Section 226.100 Child Find Responsibility

This Section implements the requirements of 34 CFR 300.111.

- a) Each school district shall be responsible for actively seeking out and identifying all children from birth through age 21 within the district (and those parentally-placed private school children for whom the district is responsible under 34 CFR 300.131) who may be eligible for special education and related services. Procedures developed to fulfill the child find responsibility shall include:
 - 1) Annual and ongoing screenings of children under the age of five for the purpose of identifying those who may need early intervention or special education and related services.
 - 2) Ongoing review of each child's performance and progress by teachers and other professional personnel, in order to refer those children who exhibit problems that interfere with their educational progress or their adjustment to the educational setting, suggesting that they may be eligible for special education and related services.
 - 3) Ongoing coordination with early intervention programs to identify children from birth through two years of age who have or are suspected of having disabilities, in order to ensure provision of services in accordance with applicable timelines. Each local school district shall participate in transition planning conferences arranged by the designated lead agency under 20 U.S.C. 1437(a)(9) in order to develop a transition plan enabling the public school to implement an IFSP or IEP by the third birthday of each eligible child or, for a child with a birthday between May 1 and August 31 who continues to receive early intervention services past the third birthday, by the beginning of the school year following that birthday.
- b) When the responsible school district staff members conclude that an individual evaluation of a particular child is warranted based on factors such as a child's educational progress, interaction with others, or other functioning in the school environment, the requirements for evaluation set forth in this Subpart B shall apply.

(Source: Amended at 47 Ill. Reg. 2244, effective February 6, 2023)

Section 226.110 Evaluation Procedures

Procedures for requesting and conducting initial evaluations of children who are suspected of requiring special education and related services shall conform to the requirements of 34 CFR 300.301, 300.304, 300.305, 300.306 and 300.309. For purposes of this Section, the "date of referral" shall be understood to be the date of written parental consent for an evaluation, and screening procedures done in accordance with 34 CFR 300.302 shall not be considered an evaluation. Written consent for the initial evaluation shall be obtained in conformance with the requirements of 34 CFR 300.300. In addition, the following requirements shall apply.

a) Procedures for Requesting an Initial Evaluation

Each school district shall develop and make known to all concerned persons procedures by which an evaluation may be requested. These procedures shall:

- 1) Designate the steps to be taken in making a request for an evaluation;
- 2) Designate the persons to whom a request may be made;
- 3) Identify the information that must be provided;
- 4) Provide any assistance that may be necessary to enable persons making requests to meet any related requirements established by the district; and
- 5) Identify the process for providing the parents with notice of their rights with respect to procedural safeguards.

b) A request may be made by a parent of a child or by an employee of a State educational agency, another State agency, a local educational agency, or a community service agency.

c) District's Response to Request

- 1) The school district shall be responsible for processing the request, deciding what action should be taken, and initiating the necessary procedures.
- 2) To determine whether the child requires an evaluation, the district may utilize screening data and conduct preliminary procedures, such as observation of the child, assessment for instructional purposes, consultation with the teacher or other individual making the request, and a conference with the child.

- 3) Within 14 school days after receiving a request for an evaluation, the district shall determine whether an evaluation is warranted. If the district determines not to conduct an evaluation, it shall provide written notice to the parents in accordance with 34 CFR 300.503(b). If an evaluation is to be conducted:
 - A) The district shall convene a team of individuals (including the parent) having the knowledge and skills necessary to administer and interpret evaluation data. The composition of the team will vary depending upon the nature of the child's symptoms and other relevant factors.
 - B) The team shall identify the assessments necessary to complete the evaluation in accordance with 34 CFR 300.305 and shall prepare a written notification for the parents as required under 34 CFR 300.304(a). For each domain, the notification shall either describe the needed assessments or explain why none are needed.
 - C) The district shall ensure that the notification of the team's conclusions is transmitted to the parents within the 14-school-day timeline applicable under this subsection (c)(3), along with the district's request for the parents' consent to conduct the needed assessments.
- d) Upon completion of the assessments identified pursuant to subsection (c)(3), but no later than 60 school days following the date the parent signs the written consent to perform the needed assessments, the determination of eligibility shall be made and the IEP meeting shall be completed. If fewer than 60 school days remain in a school year after the date of parental consent, *the eligibility determination shall be made and the IEP meeting shall be completed prior to the first day of the following school year.* (Section 14-8.02(b) of the School Code)
- e) At the conclusion of the meeting convened pursuant to subsection (d), the team shall prepare a report describing its 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. This description shall relate the information considered to the child's needs and shall further conform to the requirements of Section 226.130 if applicable. The IEP Team's report shall also include:
 - 1) the date of the meeting;

- 2) the signatures of the participants, indicating their presence at the meeting; and
 - 3) 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.
- f) The school district shall provide a copy of the IEP Team's report to the parent at the conclusion of the team's meeting. In addition, the district shall provide to the parent written notice conforming to the requirements of Section 226.520 as to the eligibility determination reached with respect to the child. The parent shall also be entitled to receive copies of any evaluation reports upon request.
 - g) A copy of the IEP Team's report, together with all documentation upon which it is based, shall become a part of the child's temporary student record.
 - h) If an assessment is conducted under nonstandard conditions, a description of the extent to which the assessment varied from standard conditions shall be included in the evaluation report. This information is needed so that the team of evaluators can assess the effects of these variances on the validity and reliability of the information reported and determine whether additional assessments are needed. For example, the use of a translator when a qualified bilingual specialist is not available may create nonstandard conditions.
 - i) If any needed portion of the evaluation cannot be completed due to lack of parental involvement, religious convictions of the family, or inability of the child to participate in an evaluative procedure, the district shall note the missing portions in the child's evaluation report and state the reasons why those portions could not be completed.
 - j) In the event that the student is determined to be eligible for special education and related services pursuant to the procedures described in subsections (d) and (e), the IEP meeting shall be conducted within 30 days after the date of that determination.
 - k) If a district fails to conduct the evaluation, the parent of the child in question (or the student, if Section 226.690 applies) may appeal this failure in an impartial due process hearing or request consideration of this failure using the State complaint procedures set forth at Section 226.570.

(Source: Amended at 40 Ill. Reg. 2220, effective January 13, 2016)

Section 226.120 Reevaluations

Procedures for the completion of reevaluations of children for whom special education and related services are currently being provided shall conform to the requirements of 34 CFR 300.303, 300.304, 300.305, 300.306 and 300.309, as well as Section 226.110 of this Part.

(Source: Amended at 40 Ill. Reg. 2220, effective January 13, 2016)

Section 226.125 Specific Learning Disability: Dyslexia

- a) For the purposes of this Section, dyslexia means a specific learning disability that is neurobiological in origin. It is characterized by difficulties with accurate and/or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge. (Definition from the Board of Directors of the International Dyslexia Association.)
- b) In accordance with 34 CFR 300.8(b)(10), dyslexia is one of a number of disorders included as a specific learning disability that may adversely affect the student's educational performance and result in the child's eligibility for special education and related services.
- c) Each child suspected of having dyslexia or identified as dyslexic shall be referred for an evaluation in accordance with the requirements of 34 CFR 300.304 through 300.311 and Subpart B of this Part.

(Source: Added at 40 Ill. Reg. 2220, effective January 13, 2016)

Section 226.130 Additional Procedures for Students Suspected of or Having a Specific Learning Disability

- a) In addition to the requirements set forth in Sections 226.110 and 226.120 of this Part, the district shall adhere to the procedures set forth at 34 CFR 300.307, 300.308, 300.309, 300.310, and 300.311 when evaluating a student who is suspected of, or who has previously been identified as having, a specific learning disability as described in 34 CFR 300.8.
- b) Provided that the requirements of this subsection (b) are met, each district shall implement the use of a process that determines how the child responds to scientific, research-based interventions or multi-tiered systems of support as part of the evaluation procedure described in 34 CFR 300.304. When a district implements the use of a process of this type, the district shall not use any child's participation in the process as the basis for denying a parent's request for an evaluation.
 - 1) The State Superintendent of Education shall disseminate a plan outlining the nature and scope of the professional development that is necessary to permit implementation of a process of this type and describing any additional activities or resources that the Superintendent finds to be essential. Any amendments to the plan will be made in consultation with the statewide teacher organizations, statewide school management organizations, and State Advisory Council on Education of Students with Disabilities.
 - 2) The plan shall quantify the estimated cost of the professional development and other necessary resources and shall identify sources of funding that are or may become available to the State Superintendent for these purposes.
 - 3) The plan shall include:
 - A) a method of identifying school districts that are less able than others to implement a process of the required type without technical or financial assistance from the State;
 - B) a timeframe for the provision of training, other technical assistance and materials, or financial resources for related purposes that demonstrates the State Superintendent's best efforts to secure and provide relevant support to districts; and

- C) a method of allocating resources that affords first consideration to districts that may otherwise be unable to implement a process of the required type without diverting necessary support from other aspects of the educational program.
- c) Each district shall have a plan for the use of a process that determines how the child responds to scientific, research-based interventions as part of the evaluation procedure described in 34 CFR 300.304. Each district's plan shall identify the resources the district will devote to this purpose and include an outline of the types of State-level assistance the district expects to need, with particular reference to the professional development necessary for its affected staff members to implement this process. The plan developed pursuant to this subsection (c) may be incorporated into a district's district improvement plan (see 23 Ill. Adm. Code 1.85(b)) if one exists.
- d) In addition to using an identification process of the type required by subsection (b), a district may use a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability.

(Source: Amended at 45 Ill. Reg. 3377, effective March 2, 2021))

Section 226.135 Additional Procedures for Students Suspected of or Having an Intellectual Disability

In addition to the requirements set forth in Sections 226.110 and 226.120, the district shall ensure that a psychological evaluation has been conducted and a recommendation for eligibility made by a school psychologist for any child who is suspected of or determined to have an intellectual disability.

(Source: Amended at 40 Ill. Reg. 2220, effective January 13, 2016)

Section 226.140 Modes of Communication and Cultural Identification

Before a child is given an evaluation, the local school district shall ensure compliance with the requirements of Section 14-8.02 of the School Code by determining the primary language of the child's home, general cultural identification, and mode of communication.

- a) Determination of the child's language use pattern and general cultural identification shall be made by determining the languages spoken in the child's home and the languages used most comfortably and frequently by the child.
- b) If the child has a non-English-speaking background, a determination shall be made of his or her proficiency in English. This determination shall be conducted in accordance with the provisions of 23 Ill. Adm. Code 228 (Bilingual Education), which specifies the assessment procedures and eligibility criteria for bilingual education programs (see 23 Ill. Adm. Code 228.15).
- c) Determination of the child's mode of communication shall be made by assessing the extent to which the child uses verbal expressive language and the use he or she makes of other modes of communication (e.g., gestures, signing, unstructured sounds) as a substitute for verbal expressive language.
- d) The child's language use pattern, proficiency in English, mode of communication, and general cultural identification shall be noted in the child's temporary student record, and this information shall be used in the evaluation and in the development and implementation of the individualized education program.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.150 Evaluation to be Nondiscriminatory

Each evaluation shall be conducted so as to ensure that it is nondiscriminatory with respect to language, culture, race, and gender. (See also 34 CFR 300.304(c).)

- a) The languages used to evaluate a child shall be consistent with the child's primary language or other mode of communication. (See Section 226.140.) If the language use pattern involves two or more languages or modes of communication, the child shall be evaluated by qualified specialists or, when needed, qualified bilingual specialists using each of the languages or modes of communication used by the child. The provisions of subsections (b) and (c) of this Section shall apply when a qualified bilingual specialist is needed but unavailable.
- b) If documented efforts to locate and secure the services of a qualified bilingual specialist are unsuccessful, the district shall use an individual who possesses the professional credentials required under Section 226.840 to complete the specific components of the evaluation. This qualified specialist shall be assisted by a school district employee holding an educator license issued pursuant to Article 21B of the School Code [105 ILCS 5/Art. 21B] or other individual who has demonstrated competencies in the language or modes of communication of the child.
- c) If documented efforts to locate and secure the services of a qualified bilingual specialist or a qualified specialist assisted by another individual as provided in subsection (b) are unsuccessful, the district shall conduct assessment procedures which do not depend upon language. Any special education resulting from these alternative procedures shall be reviewed annually until the student's proficiency is determined no longer to be limited pursuant to 23 Ill. Adm. Code 228.25 (Program Options, Placement, and Assessment).
- d) Tests given to a child whose primary language is other than English shall be relevant, to the maximum extent possible, to his or her culture.
- e) If the child's receptive and/or expressive communication skills are impaired due to hearing and/or language deficits, the district shall utilize test instruments and procedures that do not stress spoken language and one of the following:
 - 1) Visual communication techniques in addition to auditory techniques.
 - 2) An interpreter to assist the evaluative personnel with language and testing.

(Source: Amended at 40 Ill. Reg. 2220, effective January 13, 2016)

Section 226.160 Medical Review

- a) In accordance with 34 CFR 300.304(c)(4), any student who is being evaluated or re-evaluated for special education services shall be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, communicative status, and motor abilities. The results of the medical review shall be used by the IEP team to address any educationally relevant medical findings or other health concerns that may affect the provision of FAPE to students with disabilities. The medical review shall consist of the following components.
 - 1) Subjective information, if relevant, which may include:
 - A) a description of the perceptions that the parents and student, as applicable, have regarding the student's health;
 - B) a health history of the student from the parents; and
 - C) a description of perceptions of the student's teachers relative to how the student's health may be affecting his or her academic performance or access to the curriculum.
 - 2) Objective information, if relevant, which shall include:
 - A) a summary of information contained in the student's health record and the record of other health-related information, as defined at 23 Ill. Adm. Code 375.10 (Definitions), about his or her prior and current health conditions; and
 - B) a summary of any relevant health-related information obtained from records provided by or requested from the student's parent, health care provider, or health facility where the student has received services, which may address prenatal and birth history; early growth and development; medical issues the child has experienced; hospitalizations and significant injuries; medical diagnosis, if any; and medications or treatments the child currently receives.
 - 3) Nursing services, if relevant, which shall include the identification of the school health services or school nurse services necessary to enable a student with a disability to receive FAPE as described in his or her IEP. (See 34 CFR 300.34(c)(13).)

- 4) Educationally relevant medical findings, which shall include the identification of the medical conditions and other health-related issues that are likely to adversely affect a child's educational performance.
 - 5) Recommendations, which shall include an analysis of the information gathered for the purpose of:
 - A) determining the medical, school health, and/or school nurse services that should be provided during the school day; and
 - B) developing a proposed plan that provides for specific accommodations, modifications, or interventions to be implemented when educationally relevant medical, school health, and/or school nurse findings are made, which shall include annual goals, short-term objectives, and ongoing evaluation.
- b) Qualifications of Personnel
- 1) Until June 30, 2016, the practitioners who are qualified to conduct a medical review that addresses each of the components listed in subsection (a) shall be limited to:
 - A) An individual who holds a professional educator license endorsed for school support personnel for school nurse, pursuant to 23 Ill. Adm. Code 25.245 (Endorsement for School Nurses); or
 - B) An individual licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987 [225 ILCS 60]; or
 - C) An individual licensed as a registered professional nurse pursuant to Article 60 of the Nurse Practice Act [225 ILCS 65/Art. 60]; or
 - D) An individual licensed as an advanced practice nurse pursuant to Article 65 of the Nurse Practice Act [225 ILCS 65/Art. 65].
 - 2) Beginning July 1, 2016, the practitioners who are qualified to conduct certain components of the medical review, as identified in this subsection (b)(2), shall be limited to:
 - A) An individual who holds a professional educator license with a school support personnel endorsement for school nurse, pursuant to 23 Ill. Adm. Code 25.245 (Endorsement for School Nurses),

- who may conduct any of the components listed in subsections (a)(1) through (5); or
- B) An individual licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987 [225 ILCS 60], who may conduct any of those components listed in subsections (a)(1) through (4); or
 - C) An individual licensed as a registered professional nurse pursuant to Article 60 of the Nurse Practice Act [225 ILCS 65/Art. 60] and who also holds a bachelor's degree in nursing, education or a related field, who may conduct any of those components listed in subsections (a)(1) through (4); or
 - D) An individual licensed as an advanced practice nurse pursuant to Article 65 of the Nurse Practice Act [225 ILCS 65/Art. 65], who may conduct any of those components listed in subsections (a)(1) through (4).
- c) Certain exceptions shall apply to the personnel qualifications set forth in subsection (b).
- 1) After July 1, 2016, an individual meeting the qualifications set forth in subsection (b)(1)(B), (b)(1)(C) or (b)(1)(D) who is currently employed by a school district or special education cooperative also may continue to conduct activities described in subsection (a)(5), provided that no later than June 30, 2016, he or she:
 - A) successfully completes a training course specific to special education laws and regulations and students with disabilities that is approved by the State Board of Education; or
 - B) passes the content-area test for the school nurse endorsement authorized under 105 ILCS 5/21B-30.
 - C) Any practitioner receiving authorization under subsection (c)(1) to conduct activities set forth in subsection (a)(5) retains that authorization provided he or she completes the professional development required at 23 Ill. Adm. Code 25.Subpart J (Renewal of Professional Educator Licenses).
 - 2) Beginning on July 1, 2016, a school district or special education cooperative may first employ a practitioner who meets the qualifications

set forth in subsection (b)(2)(B), (b)(2)(C) or (b)(2)(D) to conduct the activities described in subsection (a)(5), provided that each of the conditions listed in this subsection (c)(2) are met.

- A) A school district or special education cooperative has not been able to recruit an individual meeting the qualifications set forth in subsection (b)(1)(A) due to a shortage of these individuals.
- B) The school district or special education cooperative must be actively engaged in the recruitment process, as evidenced by written documentation such as notices on the agency's website, postings with professional organizations, or personnel notices placed in newspapers, either online or in print. The school district or special education cooperative shall retain this documentation, which must include the date of publication or notice, for the duration of the employment of the practitioner recruited under the provisions of subsection (c)(2), and make it available upon request to the State Board of Education or its designee.
- C) Any individual hired pursuant to subsection (c)(2) shall meet the qualifications of subsection (b)(2)(B), (b)(2)(C) or (b)(2)(D) and meet either of the requirements stated in subsection (c)(1) as soon as is practicable, but in no case longer than 12 months from the date of hire.
- D) Any practitioner receiving authorization under this subsection (c)(2) to conduct activities set forth in subsection (a)(5) retains that authorization provided he or she completes the professional development required at 23 Ill. Adm. Code 25.Subpart J (Renewal of Professional Educator Licenses).

(Source: Amended at 40 Ill. Reg. 2220, effective January 13, 2016)

**Section 226.170 Criteria for Determining the Existence of a Specific Learning Disability
(Repealed)**

(Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.180 Independent Educational Evaluation

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

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

(Source: Amended at 40 Ill. Reg. 2220, effective January 13, 2016)

Section 226.190 Reevaluation (Repealed)

(Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)

SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Section 226.200 General Requirements

Each school district shall provide special education and related services to eligible children in accordance with their IEPs.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.210 IEP Team

The composition of the IEP Team for a particular child, and the participation, attendance, and excusal of the team members and other individuals in the IEP meeting, shall conform to the requirements of 34 CFR 300.321, 300.322, 300.324, and 300.325. The additional requirements of this Section shall also apply.

- a) The general education teacher who serves as a member of a child's IEP Team shall be a teacher who is, or may be, responsible for implementing a portion of the IEP, so that the teacher can participate in discussions about how best to instruct the child.
- b) For a child age three through five years who has not yet entered the primary grades, the team shall include an individual qualified to teach preschool children without identified disabilities.
- c) If the child is receiving only speech and language services, the speech and language pathologist shall fulfill the role of the special education teacher set forth at 34 CFR 300.321(a)(3).
- d) The representative of the public agency required by 34 CFR 300.321(a)(4) must, in addition to the requirements set forth in that portion of the federal regulations, have the authority to make commitments for the provision of resources and be able to ensure that the services set out in the IEP will be implemented.
- e) The IEP Team shall include a qualified bilingual specialist or bilingual teacher, if the presence of such a person is needed to assist the other participants in understanding the child's language or cultural factors as they relate to the child's instructional needs. If documented efforts to locate and secure the services of a qualified bilingual specialist are unsuccessful, the district shall instead meet the requirements set forth in Section 226.150(b) of this Part.
- f) In the case of a child whose behavior impedes his or her learning or the learning of others, the team shall include a person knowledgeable about positive behavior strategies.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.220 Development, Review, and Revision of the IEP

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

- a) When an IEP has been developed or revised, the district shall provide notice in accordance with 34 CFR 300.503(b) and (c) immediately to the parents, and implementation of the IEP shall occur no later than 10 school days after the provision of this notice or by the beginning of the following school year if the IEP is developed or revised with fewer than 10 school days remaining in the school year. If the new or revised IEP requires extended-year services, those services shall be provided in accordance with the provisions of the IEP.
- b) *If, at a meeting to develop or revise a child's individualized education program, the IEP team determines that a certain service is required in order for the child to receive a free, appropriate public education and that service is not implemented within 10 school days after the service was to be initiated as set forth by the child's IEP, then the local education agency shall provide the child's parent or guardian with written notification that the service has not yet been implemented. The notification must be provided to the child's parent or guardian within 3 school days after the local education agency's non-compliance with the child's IEP and must inform the parent or guardian about the school district's procedures for requesting compensatory services. (Section 14-8.02f(d-5) of the Code) For purposes of this Section, "school days" does not include days in which a child is absent from school for reasons unrelated to a lack of IEP services or when the service is available but the child is unavailable.*
- c) Either a child's educational provider or a child's parent may request an IEP meeting at any time. Within 10 days after receipt of a request, the district shall either agree and notify the parent in accordance with 34 CFR 300.503 or notify the parents in writing of its refusal, including an explanation of the reason no meeting is necessary to ensure the provision of FAPE for the child.
- d) The development of an IEP for a child who has a disability on the autism spectrum shall include consideration of the factors specified in Section 14-8.02(b)(1) through (7) of the Code.

(Source: Amended at 45 Ill. Reg. 3377, effective March 2, 2021)

Section 226.230 Content of the IEP

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

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

- c) Beginning not later than the first IEP to be in effect when the child turns 14½, and updated annually thereafter, the IEP shall include:
- 1) appropriate, measurable, postsecondary goals based upon age-appropriate assessments related to employment, education or training, and independent living;
 - 2) the transition services that are needed to assist the child in reaching those goals, including courses of study and any other needed services to be provided by entities other than the school district; and
 - 3) any additional requirements set forth in Section 14-8.03 of the School Code [105 ILCS 5/14-8.03].
- d) For purposes of 34 CFR 300.320(c), the age of majority under Illinois law is 18. The IEP of a student who may, after reaching age 18, become eligible to participate in the home-based support services program for adults with intellectual disabilities that is authorized by the Developmental Disability and Mental Disability Services Act [405 ILCS 80] shall set forth specific plans related to that program that conform to the requirements of Section 14-8.02 of the School Code.

(Source: Amended at 40 Ill. Reg. 2220, effective January 13, 2016)

Section 226.240 Determination of Placement

The determination of placement shall conform to the requirements of 34 CFR 300.114 through 300.116, 300.327, and 300.501(c), and the IEP Team shall take into consideration the student's eligibility for other educational programs and services such as bilingual education, career and technical education, gifted education, and federal Title I programs. The placement determination shall be reviewed at least annually or any time the IEP is revised.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.250 Child Aged Three Through Five

In the case of an eligible child three through five years of age, an IFSP that contains the material described in 34 CFR 300.323(b) may serve as a child's IEP if using that plan is agreed to by the local school district and the child's parents. If a district proposes to use an IFSP, the local school district shall:

- a) Provide a detailed explanation of the differences between an IFSP and an IEP to the child's parents;
- b) Obtain informed, written consent from the parents for the use of the IFSP; and
- c) Ensure that the IFSP is developed in accordance with the IEP requirements found in Subpart C of this Part.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.260 Child Reaching Age Three

- a) **Child with an Individualized Family Service Plan (IFSP)**
For each child who will be making the transition from an early intervention program into the special education program of a school district at age three, the district shall ensure that either an IEP or the child's IFSP is in effect on the child's third birthday. A representative of the school district shall participate in the transition meeting scheduled by the early intervention team. If a child continues to receive early intervention services until the beginning of the school year following the child's third birthday, the district shall ensure that either an IEP or the child's IFSP is in effect on the first day of the following school year.
- b) **Child Without an IFSP**
 - 1) For each child who is referred to a school district at least 60 school days prior to the child's third birthday and determined eligible, the district shall ensure that either an IEP or an IFSP is in effect on the third birthday.
 - 2) For each child who is referred with fewer than 60 school days remaining before the third birthday, or after that date, the district shall comply with the requirements of Section 226.110(c) through (j) of this Part.
- c) If a child's third birthday occurs during the summer, the IEP Team for that child shall determine when the district's services to the child will begin. If the child's *birthday falls between May 1 and August 31*, the child *may continue to receive early intervention services until the beginning of the school year following the child's third birthday.* [325 ILCS 20/11(b)]

(Source: Amended at 47 Ill. Reg. 2244, effective February 6, 2023)

SUBPART D: PLACEMENT

Section 226.300 Continuum of Alternative Placement Options

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

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

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

(Source: Amended at 40 Ill. Reg. 2220, effective January 13, 2016)

Section 226.310 Related Services

Each school district shall ensure that related services are provided if necessary to assist an eligible child in benefiting from his or her special education. *Local education agencies must make service logs that record the delivery of related services administered under the child's IEP and the minutes of each type of related service that has been administered available to the child's parent or guardian at any time upon request of the child's parent or guardian. Related services for which a log must be made are: speech and language services, occupational therapy services, physical therapy services, school social work services, school counseling services, school psychology services, and school nursing services. The local education agency must inform the child's parent or guardian, within 20 school days from the beginning of the school year or upon establishment of an IEP, of his or her ability to request those service logs.* (Section 14-8.02f(d) of the Code)

(Source: Amended at 45 Ill. Reg. 3377, effective March 2, 2021)

Section 226.320 Service to Students Living in Residential Care Facilities

Children with disabilities may be placed into public or nonpublic residential facilities for reasons other than education by various public entities, such as the Department of Corrections, the Department of Children and Family Services, or the juvenile courts. Except as provided in Section 14-8.01 of the School Code, the school district within whose boundaries a public or nonpublic residential facility is located is responsible for ensuring special education and related services in the least restrictive environment to those students who are eligible pursuant to this Part. "Residential facilities" refers to any of the following.

- a) "Children's Home" or "Orphanage": any licensed residential institution, other than those directly operated by the State of Illinois, that cares for disabled, neglected, delinquent, and/or dependent children.
- b) "Foster Family Home": an individual residential unit that cares for one or more disabled, neglected, delinquent, or dependent children who are not members of the primary family. A home of this type accepts foster children for care under specific and written authority of a municipal, county, or State agency authorized to make the placement.
- c) "State Residential Units": residential housing units that are directly operated by the State of Illinois, on property owned by the State, and primarily funded by an agency of the State.

(Source: Amended at 40 Ill. Reg. 2220, effective January 13, 2016)

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

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

- a) When it appears that a child will require a placement pursuant to this Section, the IEP Team shall invite representatives of potential service providers to assist in identifying or verifying the appropriate placement for that child. If one or more needed representatives cannot attend, the district shall use other methods to ensure their participation.
- b) The school district in which the child resides is responsible for ensuring implementation of the child's IEP and convening any needed IEP meetings, including the annual review. If the district allows a State-operated or nonpublic school to initiate and conduct the IEP meeting, the district must ensure that the parent and a representative of the district are invited to participate in any decision about the child's IEP and agree to any proposed changes in the program before the changes are implemented. The district remains responsible for the development and implementation of the child's IEP and for compliance with the requirements of this Part.
- c) Except for emergency placements made pursuant to subsection (g) or (i), no school district shall place any child in a nonpublic special education program, nor shall any such program accept placement of any child with a disability under Section 14-7.02 of the School Code [105 ILCS 5/14-7.02], unless all the following conditions have been met.
 - 1) The program has been approved by the State Board of Education pursuant to the criteria set forth in 23 Ill. Adm. Code 401 (Special Education Facilities Under Section 14-7.02 of the School Code) for the school year for which placement is sought.
 - 2) Pursuant to Section 14-7.02 of the School Code, the school district made referrals to in-state residential facilities prior to considering out-of-state residential facilities for placement of the child.

- 3) The allowable costs for the program have been established pursuant to Section 14-7.02 of the School Code.
 - 4) The district has made the certification of inability to meet the student's needs to the State Superintendent of Education, if required pursuant to Section 14-7.02 of the School Code, and the State Superintendent has found the district in substantial compliance with Section 14-4.01 of the School Code.
 - 5) The State Board has approved the program for all of the disability categories applicable to the student and requiring services pursuant to the IEP.
 - 6) The program has been approved by the State Board of Education for the age range that includes the age of the student.
 - 7) The district has determined that the program will provide all educational programming and related services specified on the child's IEP. The use of a facility or program pursuant to 23 Ill. Adm. Code 401 does not relieve the local school district of the responsibility for ensuring that the student will receive all programming and related services required by the IEP, whether from one source or from multiple sources.
 - 8) The school district and the facility have entered into the contractual agreement required by subsection (d).
 - 9) The child will receive an education that meets the standards applicable to education provided by the school district.
- d) If a nonpublic school placement is chosen, the district and the facility shall enter into an agreement using a format provided by the State Board of Education. The agreement shall provide for, but need not be limited to:
- 1) The child's IEP, as developed by the school district in which the child resides;
 - 2) The amount of tuition that will be charged;
 - 3) Assurance that the special education staff of the placing school district may inspect the private facility and confer with the staff at reasonable times; and

- 4) Assurances that the placement will result in no cost to parents.
- e) When a school district uses a nonpublic facility, the district shall be responsible for the payment of tuition and the provision of transportation as provided by Section 14-7.02 of the School Code. (See also Section 226.750(b) of this Part.)
- f) Each school district shall be responsible for monitoring the performance of each State-operated or nonpublic facility where it has placed one or more eligible students, to ensure that the implementation of each IEP conforms to the applicable requirements of this Part.
- g) A school district may place a student in a nonpublic special education facility (“facility”) providing educational services, but not approved by the State Board of Education pursuant to 23 Ill. Adm. Code 401 or other applicable laws or administrative rules, provided that the State Board of Education provides an emergency and student-specific approval for placement. The State Board of Education shall promptly, within 10 days of the request, approve requests for emergency and student-specific approval for placement when the following have been demonstrated to the State Board of Education:
 - 1) The facility demonstrates appropriate certification of teachers for the student population;
 - 2) The facility demonstrates age-appropriate curriculum;
 - 3) The facility provides enrollment and attendance data;
 - 4) The facility demonstrates the ability to implement the child's IEP; and
 - 5) The school district demonstrates that it made good faith efforts to place the student in an approved facility, but no approved facility has accepted and can immediately place the student.
- h) Resident district financial responsibility and reimbursement under Section 14-7.02 of the School Code applies for both nonpublic special education facilities that are approved by the State Board of Education pursuant to 23 Ill. Adm. Code 401 or other applicable laws or administrative rules and nonpublic special education facilities that receive emergency and student-specific approval for placement by the State Board of Education pursuant to subsection (g).
- i) When an impartial due process hearing officer contracted by the State Board of Education orders placement of a student with a disability in a residential facility that is not approved by the State Board of Education, for purposes of subsection

(g), the facility shall be deemed approved for placement and resident district payments and State reimbursements shall be made accordingly.

- j) A district may continue a placement in a facility approved pursuant to subsection (g) or (i) so long as:
- 1) The student's IEP team determines annually that such placement continues to be appropriate to meet the student's needs, and
 - 2) At least every 3 years following the student's placement, the IEP team reviews appropriate ISBE-approved facilities under 23 Ill. Adm. Code 401 to determine whether there is any approved facility that can meet the student's needs, has accepted the student, and has availability for placement of the student.

(Source: Amended at 47 Ill. Reg. 2244, effective February 6, 2023)

Section 226.335 Nonpublic Special Education Placement of Public School Students During a Gubernatorial Disaster Proclamation

During a mandated suspension of in-person instruction upon a gubernatorial declaration of a disaster under Section 7 of the Illinois Emergency Management Agency Act [20 ILCS 3305], and for the duration of that gubernatorial disaster proclamation, all approved special education private facilities may continue to invoice school districts and school districts shall continue to pay the per diem approved by the Illinois Purchased Care Review Board under Section 14-7.02 of the School Code. The State Board of Education will reimburse school districts for all approved special education private facility expenditures. School districts will be reimbursed for special education private facility tuition expenditures per the statutory formula under Section 14-7.02 of the School Code. School districts will be reimbursed for special education room and board expenditures under Part B of the federal Individuals with Disabilities Education Act, as prescribed in Section 14-8.01 of the School Code.

(Source: Added at 44 Ill. Reg. 14792, effective August 27, 2020)

Section 226.340 Nonpublic Placements by Parents Where FAPE is at Issue

This Section shall apply to students with disabilities who have been, or are to be, placed in a non-public facility by their parents following the parents' refusal to accept an offer of FAPE by a school district. For such students, the reimbursement obligations and other requirements set forth at 34 CFR 300.148 shall be applicable. If a determination is made by a hearing officer or court of law that the school district is not obligated to provide special education or reimbursement to such a student, the school district shall treat the student as a student defined by Section 226.350 of this Part.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.350 Service to Parentally-Placed Private School Students

“Parentally-Placed Private School Students” shall be defined as set forth in 34 CFR 300.130. As noted in Section 226.100 of this Part, school districts shall conduct child find for parentally-placed private school students in conformance with the requirements of 34 CFR 300.131. Each school district shall also conform to the requirements of 34 CFR 300.132 through 300.144. In fulfilling the requirements of 34 CFR 300.134 (Consultation) and 300.135 (Affirmation), school districts that are members of the same special education joint agreement are permitted to conduct jointly their consultation with private school and parent representatives. However, even when multiple districts’ funds are pooled by a joint agreement, the amounts that are required to be used for services to parentally-placed private school students must be spent in accordance with each member district’s “proportionate share” obligation. School districts that are members of the same special education joint agreement shall be prohibited from aggregating proportionate share funds when determining services for parentally-placed private school students.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.360 Placement by School Districts in Remote Educational Programs

A school district that places a student into a remote educational program authorized under Section 10-29 of the School Code [105 ILCS 5/10-29] shall ensure that the educational programming and related services as specified in the child's IEP are provided to the student. The placement of the student in a remote educational program does not relieve the school district of the responsibility for ensuring that the student will receive all programming and related services required by the IEP, whether from one source or from multiple sources. Each local school district shall be responsible for monitoring the performance of the remote educational program to ensure that the implementation of each IEP conforms to the applicable requirements of this Part.

(Source: Added at 34 Ill. Reg. 17433, effective October 28, 2010)

SUBPART E: DISCIPLINE

Section 226.400 Disciplinary Actions

With respect to disciplinary action concerning children with disabilities, school districts shall conform to the requirements of 34 CFR 300.530 through 300.536, as well as Section 10-22.6 of the School Code [105 ILCS 5/10-22.6]. In addition, upon the occurrence of any act that may subject the student either to expulsion from school or suspension resulting in more than ten cumulative days of suspension during any one school year, the district shall be required to convene a meeting of the IEP Team to review the student's behavioral intervention plan or, if a behavioral intervention plan has not yet been developed, to develop one.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.410 Manifestation Determination Review (Repealed)

(Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.420 Appeals (Repealed)

(Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.430 Protection for Children Not Yet Eligible for Special Education (Repealed)

(Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)

**Section 226.440 Referral to and Action by Law Enforcement and Judicial Authorities
(Repealed)**

(Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)

SUBPART F: PROCEDURAL SAFEGUARDS

Section 226.500 Language of Notifications

- a) The notices to individual parents required in this Subpart F shall conform to the requirements of 34 CFR 300.503(c).
- b) Written translation of the Vital Documents List into the ten most commonly spoken languages in Illinois, other than English, must be provided to Limited English Proficiency parents of children with disabilities. This requirement includes translation of the individualized substance of documents on the Vital Documents List. A translated Parent/Guardian Notification of Conference Recommendations form and all other applicable elements of the IEP forms must be provided simultaneously with English IEP documents and all reasonable efforts to provide the IEP within seven school days after the IEP meeting must be made, or as soon as possible thereafter. All other vital IEP documents must be translated and provided to parents as soon as practicable but not more than 30 school days after the IEP meeting.
- c) Parents may request translation of documents not on the Vital Documents List that have a vital relation to the child's educational planning through the same process identified on the Notification of Conference form, and school districts must make reasonable efforts to provide the requested translations in a timely manner.
- d) All translations must be performed by competent translators who have undergone sufficient professional training regarding special education terminology and processes, or by outside vendors that are commercially recognized as providing competent translation services; or, if a school district elects to utilize an automated translation program or application, the results must be reviewed and edited, as needed, by an individual qualified to determine the accuracy of the translation. All translations must be certified to be true and accurate by the translator to the best of the translator's knowledge or ability.

(Source: Amended at 47 Ill. Reg. 2244, effective February 6, 2023)

Section 226.510 Notification of Parents' Rights

A copy of the notice of procedural safeguards available to the parents of a child with a disability shall be given to the parents in accordance with, and shall conform to the requirements of, 34 CFR 300.504.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.520 Notification of District's Proposal

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

(Source: Amended at 47 Ill. Reg. 2244, effective February 6, 2023)

Section 226.530 Parents' Participation

- a) With respect to parents' participation in meetings, school districts shall conform to the requirements of 34 CFR 300.322 and 300.501. For purposes of 34 CFR 300.322(a)(1), "notifying parents of the meeting early enough to ensure that they will have an opportunity to attend" means the district shall provide written notification no later than ten days prior to the proposed date of the meeting. *No later than 3 school days prior to a meeting to determine a child's eligibility for special education and related services or to review a child's IEP, or as soon as possible if an IEP meeting is scheduled within 3 school days with written consent of the child's parent or guardian, the local education agency must provide the child's parent or guardian with copies of all written material that will be considered by the IEP team at the meeting so that the parent or guardian may participate in the meeting as a fully-informed member. The parent or guardian shall have the option of choosing from the available methods of delivery, which must include regular mail and picking up the materials at school. For a meeting to determine the child's eligibility for special education, the written material must include all evaluations and collected data that will be considered at the meeting. For a child who is already eligible for special education and related services, the written material must include a copy of all IEP components that will be discussed by the IEP team, other than the components related to the educational and related service minutes proposed for the child and the child's placement. Parents shall also be informed of their right to review and copy their child's school student records prior to any special education eligibility or IEP review meeting, subject to the requirements of applicable federal and State law. (Section 14-8.02f(c) of the Code)*
- 1) In addition, the district shall take whatever action is necessary to facilitate the parent's understanding of and participation in the proceedings at a meeting, including arranging for and covering the expense of a qualified interpreter, as described in Section 226.800(k), for parents whose native language is other than English or for an interpreter licensed pursuant to the Interpreter for the Deaf Licensure Act of 2007 [225 ILCS 443] for parents who are deaf. All interpreters for the common languages and American Sign Language shall be qualified interpreters. If a qualified interpreter is not available, a school district may use outside vendors, including telephonic interpreters, that are commercially recognized as providing competent interpretation services.
- 2) For the less common languages, the school district will make all reasonable efforts to provide an interpreter.
- A) The interpreter must be:

- i) demonstrably qualified and competent to interpret into and out of the less common language;
 - ii) trained in providing the interpretations requested and is sufficiently knowledgeable in both languages and of any specialized terminology needed; and
 - iii) trained in the ethics of interpretation.
 - B) In fulfilling this request, a school district may use outside vendors, including telephonic interpreters, that are commercially recognized as providing competent interpretation services.
- b) Each school district must provide annually to all parents of children with disabilities and in each Notice of Conference the following information:
 - 1) notice to all parents of children eligible for an individualized education program (IEP) about the availability of interpretation services at IEP team meetings. This notice must be provided in English, in all common languages, and in the parent's preferred language, if known and practicable;
 - 2) an explanation of how parents can request an interpreter;
 - 3) notice that a parent has the right to request that the interpreter provided by the school district serve no other role in the IEP meeting than as an interpreter, and that the school district must make reasonable efforts to fulfill this request. If a parent believes the school district unreasonably denied their request for an interpreter who serves no other role in the IEP meeting, that parent has all rights under the IDEA and Article 14 of the School Code, including a due process hearing, the State's special education complaint investigation process, mediation, ISBE monitoring, and the ability to file a complaint with the U.S. Department of Education's Office for Civil Rights;
 - 4) a point of contact for any questions or complaints about interpretation services; and
 - 5) notice to all parents of children eligible for an IEP that written translations of vital IEP process documents are available, how to request translated documents, and whom to contact with any questions or complaints about the translations. This notice must be provided in English, in all common

languages, and in the parent's preferred language, if known and practicable.

- c) Each school district must record the following information in a standardized manner within the IEP Conference Summary Report and report that anonymously aggregated data at the individual school level to ISBE on an annual basis using the IEP-Student Tracking and Reporting System (ISTAR) or another adopted reporting system:
 - 1) whether a parent requested an interpreter, had previously requested interpretation services, or had otherwise indicated that an interpreter was necessary to ensure meaningful parental involvement in the IEP meeting;
 - 2) the language for interpretation;
 - 3) whether a qualified interpreter was provided for each IEP meeting; and
 - 4) whether a parent requested that the interpreter serve no other role in the IEP meeting and, if so, whether the school district granted that request.

- d) Each school district must track the following data and must report that anonymously aggregated data at the individual school level to ISBE on an annual basis through ISTAR or another adopted reporting system:
 - 1) the number of Parent/Guardian Notification of Conference Recommendations forms and IEPs prepared during the year for which a parent requested translation, had previously requested translation services, or had otherwise indicated that a translation was necessary;
 - 2) the number and percentage of Parent/Guardian Notification of Conference Recommendations forms and IEPs prepared, by language, when a translated Parent/Guardian Notification of Conference Recommendations form and an IEP were provided;
 - 3) the number and percentage of such Parent/Guardian Notification of Conference Recommendations forms, by language, when a translated Parent/Guardian Notification of Conference Recommendations form was provided at the time of the IEP meeting;
 - 4) the number and percentage of the Parent/Guardian Notification of Conference Recommendations forms that were translated, the average number of school days between the IEP meeting and provision of the

translated Parent/Guardian Notification of Conference Recommendations, by language;

- 5) the number and percentage of IEPs, by language, when a translated IEP was provided within 30 school days of the IEP meeting; and
- 6) of the IEPs that were translated, the average number of school days between the IEP meeting and provision of the translated IEP, by language.

(Source: Amended at 47 Ill. Reg. 2244, effective February 6, 2023)

Section 226.540 Consent

Consent, as defined in 34 CFR 300.9, shall be obtained and may be revoked in accordance with the requirements of 34 CFR 300.154(e), 300.300, 300.323, and 300.622. In addition, the following requirements shall apply:

- a) A parent may revoke consent for any action by the district or cooperative entity serving his or her child that requires parental consent. If a parent desires to revoke consent, he or she may do so either in writing or orally. If the revocation of consent is communicated orally, the district or cooperative entity shall commit the parent's request to writing and provide a copy of this written summary to the parent within five days.
- b) Any revocation of consent is effective immediately, i.e., it does not negate an action that occurred after the consent was given and before it was revoked. For purposes of this subsection (b), a district shall be considered to have given immediate effect to a parent's revocation of consent when it either discontinues the action that is the subject of the revocation prior to its next scheduled occurrence or provides to the parent a written explanation of the timeline for the district's action and the reasons for that timeline. The district or cooperative entity shall ensure that each staff member whose activities are affected by the revocation of consent is promptly informed of the revocation.

(Source: Amended at 34 Ill. Reg. 17433, effective October 28, 2010)

Section 226.550 Surrogate Parents

The qualifications, responsibilities, and appointment procedures for surrogate parents shall conform to the requirements of 34 CFR 300.519 and Section 14-8.02a of the School Code [105 ILCS 5/14-8.02a]. In addition, the following requirements shall apply:

- a) When a child who is a ward of the State is placed in a residential facility, a representative of that facility shall submit to the State Board of Education a request for the appointment of a surrogate parent. Upon enrollment of a student, the resident school district is responsible for ensuring the assignment of a surrogate parent if the residential facility has not already done so.
- b) The State Board of Education shall appoint a surrogate parent for each child who requires one, in keeping with the criteria set forth in 34 CFR 300.519(d) and the following requirements.
 - 1) All reasonable efforts shall be made to secure a surrogate parent whose racial, linguistic, and cultural background is similar to the child's.
 - 2) The surrogate parent shall have been trained by the State Board.
- c) When a surrogate parent is appointed, the State Board of Education shall provide written notification to the local school district, the individual appointed, and, if applicable, the residential facility of the name and address of the surrogate parent, the specific responsibilities to be fulfilled, and the length of time for which the appointment is valid.
- d) When a child living in a residential facility no longer requires a surrogate parent, a representative of the facility shall notify the State Board of Education in writing to that effect. This notification shall include the reason for withdrawal of the request.
- e) When a surrogate parent's appointment is terminated, the State Board of Education shall so notify the surrogate parent, the local school district, and, if applicable, the residential facility.

(Source: Amended at 40 Ill. Reg. 2220, effective January 13, 2016)

Section 226.560 Mediation

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

(Source: Amended at 40 Ill. Reg. 2220, effective January 13, 2016)

Section 226.570 State Complaint Procedures

This Section sets forth the State Board of Education's written complaint procedures, as required by 34 CFR 300.151, 300.152, and 300.153 and Section 14-8.02e of the Code.

- a) A parent, individual, or organization may file a signed, written complaint with the State Board of Education alleging that a local school district, cooperative service unit, or the State has violated the rights of one or more children with disabilities. The complaint shall include:
 - 1) A statement that a responsible public entity has violated a requirement of Part B of the IDEA, Title 34 of the Code of Federal Regulations, Article 14 of the Code, or this Part;
 - 2) The facts on which the statement is based;
 - 3) The signature and contact information for the complainant;
 - 4) The names and addresses of the students involved (and the names of the schools of attendance), if known;
 - 5) A description of the nature of the problem of the child, including the facts relating to the problem; and
 - 6) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
- b) Except as otherwise provided under Section 14-8.02e(b) of the Code, a complaint shall only be considered if it alleges that the violation occurred not more than one year prior to the date on which the complaint is received.
- c) Within 60 days after receiving a complaint that meets the requirements of subsections (a) and (b), the State Board of Education shall:
 - 1) Carry out an independent on-site investigation, if deemed necessary by the State Board of Education.
 - 2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.
 - 3) Require that the public entity that is the subject of the complaint submit a written response to the complaint, including corrective action compliance documentation. (See Section 14-8.02e of the Code.) The public entity

shall submit its response and all other documentation to the State Board of Education and the parent, individual, or organization filing the complaint no later than the date indicated in the written correspondence received under this subsection (c)(3), which in no case shall exceed 45 days.

- 4) Provide the public entity with the opportunity during the complaint process to:
 - A) offer a proposal to resolve the complaint; and/or
 - B) offer to engage the parent in mediation or alternative means of dispute resolution.
 - 5) Review all relevant information and make an independent determination as to whether the public entity is violating a requirement of Part B of the IDEA, 34 CFR, Article 14 of the Code, or this Part.
 - 6) Issue a written decision to the complainant that addresses each allegation in the complaint and contains:
 - A) findings of fact and conclusions; and
 - B) the reasons for the State Board of Education's final decision.
 - 7) Issue orders for any actions, including technical assistance activities and negotiation, that are necessary to bring the public entity into compliance with applicable requirements.
- d) An extension of the time limit set forth in subsection (c) shall be allowed if exceptional circumstances exist with respect to a particular complaint or if the parent and the public entity agree to extend the time to conduct the activities pursuant to subsection (c)(4)(B).
 - e) If a written complaint is received by the State Board of Education involving one or more issues that are also the subject of a due process hearing, the State Board shall hold those portions of the complaint in abeyance pending the completion of the hearing. However, any issues that are not the subject of the hearing shall be resolved as provided in this Section.
 - f) If a complaint is filed about an issue that has previously been decided in a due process hearing involving the same parties, the decision arising from that hearing shall be considered binding, and the State Board shall inform the complainant to that effect. A complaint alleging a public entity's failure to implement a decision

arising from due process, shall be resolved by the State Board pursuant to Section 226.675.

(Source: Amended at 47 Ill. Reg. 2244, effective February 6, 2023)

SUBPART G: DUE PROCESS

Section 226.600 Calculation of Timelines

In calculating the timelines specified in this Subpart G, Section 1.11 of the Statute on Statutes [5 ILCS 70/1.11] shall apply.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.605 Request for Hearing; Basis (Repealed)

(Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.610 Information to Parents Concerning Right to Hearing

Each school district shall notify parents in writing of the procedures for requesting a due process hearing in accordance with 34 CFR 300.507 and 300.508. This written notice shall be provided to the parent by the district upon receipt of a request for a due process hearing. Written notice provided to parents as required under Section 226.510 of this Part shall be deemed sufficient notice for purposes of this Section.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.615 Procedure for Request

The filing, basis for, and content of due process requests, whether by a parent, a student, or a local school district, shall conform to the requirements of 34 CFR 300.507 and 300.508. (See Section 226.655 of this Part for requirements pertaining to expedited due process hearings.) In addition, in order to fulfill the requirement to “forward a copy of the due process complaint to the SEA”, as specified in 34 CFR 300.508(a)(2), the school district superintendent shall, within five days after receipt of the request, forward the request to the State Board of Education in Springfield by certified mail or another means that provides written evidence of the delivery.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.620 Denial of Hearing Request (Repealed)

(Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.625 Rights of the Parties Related to Hearings

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

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

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.630 Qualifications, Training, and Service of Impartial Due Process Hearing Officers

- a) Impartial due process hearing officers must possess qualifications in conformance with the requirements of 34 CFR 300.511 and Section 14-8.02c(b) of the School Code [105 ILCS 5/14-8.02c(b)]. “Relevant experience”, as used in Section 14-8.02c(b) of the School Code, means at least three years’ experience, whether paid or voluntary, in special education, disability-related issues, or advocacy.
- b) An individual wishing to be considered as an impartial due process hearing officer shall submit an application to the State Board. In completing the application form, which shall be provided by the State Board, the individual shall disclose at least the following information:
 - 1) name and address;
 - 2) degrees held;
 - 3) current employment status, including, if applicable, the employer's name and the title of the employee's position;
 - 4) school district of residence; and
 - 5) professional background and relevant experience.
- c) Conditions of Service

Hearing officers’ terms of service and subsequent reappointment shall be as provided in Section 14-8.02c(d) and (e) of the School Code.

- 1) A hearing officer shall accept each case to which he or she is assigned, unless:
 - A) the hearing officer is ill;
 - B) the hearing officer has a personal, professional, or financial interest that would conflict with his or her objectivity with respect to a particular case; or
 - C) the hearing officer is ineligible to accept a particular case pursuant to Section 226.635(a) of this Part.

- 2) A hearing officer whose other commitments will interfere with his or her ability to accept cases for more than 15 days shall so notify the State Board of Education in writing.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.635 Appointment, Recusal, and Substitution of Impartial Due Process Hearing Officers

The appointment, recusal, and substitution of due process hearing officers shall conform with the requirements of Section 14-8.02a(f-5) of the School Code [105 ILCS 5/14-8.02a(f-5)]. A request for substitution of the hearing officer, as permitted by that Section, shall be submitted via letter or facsimile to the Due Process Coordinator at the State Board of Education and shall be postmarked or transmitted no later than five days after the party requesting the substitution receives notification from the State Board of the original hearing officer's appointment.

(Source: Amended at 32 Ill. Reg. 4828, effective March 21, 2008)

Section 226.640 Scheduling the Hearing and Pre-Hearing Conference

The provisions of this Section shall not apply to expedited hearings conducted pursuant to Section 226.655 of this Part.

- a) The hearing officer shall schedule a pre-hearing conference in accordance with the requirements of Section 14-8.02a(g-40) of the School Code [105 ILCS 5/14-8.02a(g-40)].
- b) Either party may request a delay in convening the hearing and/or the pre-hearing conference. The party requesting a delay shall do so in writing to the hearing officer, with a copy sent at the same time to the other party. The requesting party shall set forth the reasons for the request. The hearing officer shall either grant or deny the request and shall so inform the parties and the State Board of Education in writing. The hearing officer shall determine a new time and date for convening the hearing and/or pre-hearing conference.
 - 1) If the parties jointly propose a delay in convening the hearing or pre-hearing conference, it shall be delayed as agreed. The hearing officer, being advised of such agreement, shall confirm the delay in writing to the parties and the State Board of Education. Such notice shall become part of the administrative record.
 - 2) If the parties cannot agree to a mutually convenient time and place for convening the hearing and/or pre-hearing conference, the hearing officer shall fix the time and place, notify the parties in writing, and proceed to convene and conduct the pre-hearing conference and hearing, provided that the delay shall not continue for a period longer than necessitated by the circumstances that precipitated the delay.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.645 Conducting the Pre-Hearing Conference

- a) The hearing officer shall convene the pre-hearing conference in accordance with Section 14-8.02a(g-40) of the School Code.
- b) The provisions of this Section shall not apply to expedited hearings conducted pursuant to Section 226.655 of this Part.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.650 Child's Status During Due Process Hearing (Repealed)

(Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.655 Expedited Due Process Hearing

Requests for expedited due process hearings shall be made in accordance with 34 CFR 300.532 and 300.533 and Section 14-8.02b of the School Code [105 ILCS 5/14-8.02b].

- a) The hearing officer shall determine:
 - 1) whether the child shall be placed in the proposed alternative educational setting; or
 - 2) whether the local school district has demonstrated that the child's behavior was not a manifestation of the child's disability.
- b) The hearing officer shall consider the following factors in determining whether an interim alternative placement is appropriate:
 - 1) Whether the local school district has demonstrated by substantial evidence (i.e., beyond a preponderance of the evidence) that maintaining the current placement of the child is substantially likely to result in injury to the child or to others;
 - 2) Whether the child's current placement is appropriate;
 - 3) Whether the district has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and
 - 4) Whether the interim alternative educational setting will permit full implementation of the student's IEP and includes services and modifications designed to prevent the undesired behavior from recurring.
- c) If all the conditions set forth in subsection (b) of this Section are met, the hearing officer shall order a change in the child's placement to an appropriate interim alternative educational setting for not more than 45 school days. If the district demonstrates that the student is substantially likely to injure himself or herself or others if returned to the placement that was used prior to the student's removal, the hearing officer may order that the student remain in the interim setting for subsequent periods of up to 45 school days each.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.660 Powers and Duties of Hearing Officer

The hearing officer shall conduct the hearing and, with respect to the hearing, shall have, but is not limited to, the following powers:

- a) To administer, or to authorize the court reporter to administer, oaths;
- b) To examine witnesses;
- c) To authorize the issuance of subpoenas;
- d) To rule upon the admissibility of evidence;
- e) To order independent evaluations;
- f) To grant specific extensions of time;
- g) To read into the hearing record any stipulations of fact and other matters agreed upon at the pre-hearing conference and to enter into the record any pre-hearing orders;
- h) To render decisions and issue orders and clarifications.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.665 Record of Proceedings

A record of the hearing shall be made and the cost of such record borne in accordance with 34 CFR 300.512(a)(4) and Section 14-8.02a(g-55) of the School Code [105 ILCS 5/14-8.02a(g-55)].

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.670 Decision of Hearing Officer; Clarification

The bases and timelines for decisions of hearing officers shall conform to the requirements of 34 CFR 300.513 and Section 14-8.02a(h) of the School Code [105 ILCS 5/14-8.02a(h)]. In addition, the hearing officer's decision shall be sent by certified mail to the parties enumerated in Section 14-8.02a(h) of the School Code. The decision shall be translated into the native language of the parents if their primary language is other than English.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.675 Monitoring and Enforcement of Decisions; Notice of Ineligibility for Funding

Upon receipt of the hearing officer's decision, the State Board of Education shall review the decision and monitor compliance by the parties with the terms of the decision. If the district fails to comply with the decision in the time specified by the hearing officer, the State Board of Education shall notify the parties in writing by certified mail that it finds the district to be in noncompliance with the decision, and that the noncompliance may result in loss of recognition status of the district's programs by the State, withholding of State or federal funds which the district would otherwise be eligible to receive, or in other enforcement action unless the district remedies the noncompliance within the time period specified in the notice of noncompliance.

Section 226.680 Reporting of Decisions (Repealed)

(Source: Repealed at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.690 Transfer of Parental Rights

This Section implements 34 CFR 300.520 and Section 14-6.10 of the School Code [105 ILCS 5/14-6.10].

- a) When a student with a disability reaches the age of majority (18 years of age; see 755 ILCS 5/11-1) or becomes an emancipated minor pursuant to the Emancipation of Minors Act [750 ILCS 30] (except for a student with a disability who has been adjudged as a disabled person pursuant to 755 ILCS 5/11a-2 or who has executed a Delegation of Rights that is in effect as provided in Section 14-6.10 of the School Code):
 - 1) The school district shall provide any notice required by this Part to both the individual and the parents, and all other rights accorded to parents under Part B of the Individuals with Disabilities Education Act, the implementing regulations at 34 CFR 300, and this Part shall transfer to the student; and
 - 2) All rights accorded to parents under Part B of the Individuals with Disabilities Education Act, the implementing regulations at 34 CFR 300, and this Part shall transfer to a child who is incarcerated in an adult or juvenile, State, or local correctional institution.
- b) Whenever rights are transferred to a student pursuant to this Section, the district shall notify the student and the parents of the transfer of rights.
- c) All notices that are required under this Part and 34 CFR 300 shall be provided to the student and the parent after the student reaches the age of majority.

(Source: Amended at 32 Ill. Reg. 4828, effective March 21, 2008)

SUBPART H: ADMINISTRATIVE REQUIREMENTS

Section 226.700 General

- a) Each school district, independently or in cooperation with other districts, shall provide a comprehensive program of special education for children with disabilities who are from three through 21 years of age (or, if a child reaches the age of 22 during the school year, then 22 years of age) and who are resident in the district. A "comprehensive program" is one that includes:
 - 1) A viable organizational and financial structure;
 - 2) Systematic procedures for identifying and evaluating the need for special education and related services;
 - 3) A continuum of appropriate alternative placements available to meet the needs of children for special education and related services (see Section 226.300);
 - 4) Qualified personnel who are employed in sufficient number to provide:
 - A) Administration of the program;
 - B) Supervisory services;
 - C) Instructional and resource services;
 - D) Related services; and
 - E) Transportation services;
 - 5) Appropriate and adequate facilities, equipment and materials;
 - 6) Functional relationships with public and private agencies that can supplement or enhance the special education services of the public schools;
 - 7) Interaction with parents and other concerned persons that facilitates the educational development of children with disabilities;
 - 8) Procedures for internal evaluation of the special education services provided; and

- 9) Continuous planning for program growth and improvement based on internal and external evaluation.
- b) The school district is the primary agent for the delivery of special education services. Districts may carry out their obligations with regard to special education by forming cooperatives or joint agreements. These entities are:
- 1) Authorized by State law to develop, manage, and provide services or programs on behalf of school districts;
 - 2) Recognized as agencies for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State;
 - 3) Considered as service agents of the participating districts; and
 - 4) Directed by, and responsible to, all the participating local districts.
- c) Special education and related services that would not comply with specific requirements of this Part shall require written approval from the State Board of Education prior to their implementation. A district's request for approval shall be submitted in writing to the State Board and shall include a description of the district's proposal. In determining whether to approve such a request, the State Board's staff shall consider whether the proposed program or service will compromise students' educational opportunity or prevent the full implementation of any student's IEP, in light of such factors as the students' disabilities and the proposed class size, staff qualifications, physical plant and evaluation plan. Denial of such a request may be appealed to the State Superintendent of Education.

(Source: Amended at 46 Ill. Reg. 6453, effective April 11, 2022)

Section 226.710 Policies and Procedures

- a) Each local school district, or the special education cooperative of which it is a member, shall develop written policies and procedures conforming to the requirements of subsection (b). The policies and procedures shall be kept on file and presented to the State Board of Education upon request.
- b) Each set of policies and procedures shall address the district's compliance with at least the requirements for:
 - 1) the provision of a free appropriate public education;
 - 2) child find;
 - 3) evaluation (including policies and procedures developed pursuant to Section 226.130) and determination of eligibility;
 - 4) Individualized Education Programs;
 - 5) students' participation in assessments;
 - 6) serving students in the least restrictive environment;
 - 7) the provision of extended school year services;
 - 8) transition of children served under Part C of the Individuals with Disabilities Education Act into preschool programs;
 - 9) serving students who attend nonpublic schools;
 - 10) procedural safeguards;
 - 11) establishing the goal of full educational opportunity;
 - 12) confidentiality of personally identifiable information;
 - 13) the use of federal matching funds under the Medicaid (Title XIX) or Children's Health Insurance (All Kids; Title XXI) program to supplement special education programs and services (if the district is participating in one or more of those federal programs); and
 - 14) competent interpretation services at IEP meetings and translation of vital IEP process documents.

(Source: Amended at 47 Ill. Reg. 2244, effective February 6, 2023)

Section 226.720 Facilities and Classes

- a) Facilities of school districts, special education cooperatives, or joint agreements used for special education services shall be appropriate to, and adequate for, the specific programs or services for which they are used and, pursuant to Section 14-8.01 of the School Code, shall be subject to the applicable provisions of 23 Ill. Adm. Code 180 (Health/Life Safety Code for Public Schools). The facilities shall be comparable to those provided to the students in the general education environment. The facilities of special education providers under Section 14-7.02 of the School Code [105 ILCS 5/14-7.02] are governed by 23 Ill. Adm. Code 401.
- b) The age range of students within a special education grouping shall not exceed four years at the elementary level and six years at the secondary level. Early childhood classes and services shall serve only children from three through five years of age.
- c) Special education classes and services shall be delivered in age-appropriate settings.

(Source: Amended at 47 Ill. Reg. 2244, effective February 6, 2023)

Section 226.730 Class Size for 2009-10 and Beyond

- a) When a student's IEP calls for services in a general education classroom, the student must be served in a class that is composed of students of whom at least 70 percent are without IEPs, that utilizes the general curriculum, that is taught by an instructor holding an educator license for general education and who is employed for that purpose, and that is not designated as a general remedial classroom. For purposes of this subsection (a), a student who receives speech services outside of the general education classroom and who does not require modifications to the content of the general education curriculum shall be included in the calculation of the percentage of students without IEPs. (See 105 ILCS 5/14-2.)
- b) Class size means the total number of students an educator serves during any special education class. As used in this subsection (b), "class" means any circumstance in which only students with IEPs are served and at least one special education teacher is assigned and provides instruction or therapy exclusively to students with IEPs. In the formation of special education classes, consideration shall be given to the age of the students, the nature and severity of their disabilities, the educational needs of the students, and the degree of intervention necessary, subject to the limitations of this subsection (b).
 - 1) Classes in which all of the students receive special education services for 20 percent of the school day or less shall have at least one qualified teacher for each 15 students in attendance during any given class. However, the district may increase the class size by a maximum of two students when a paraprofessional educator is provided for the entire class.
 - 2) Each class in which any student receives special education services for more than 20 percent of the school day but no more than 60 percent of the school day shall have at least one qualified teacher for each 10 students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional educator is provided for the entire class.
 - 3) Each class in which any student receives special education services for more than 60 percent of the school day shall have at least one qualified teacher for each eight students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional educator is provided for the entire class.
 - 4) Each class for children ages three through five shall have at least one qualified teacher for each five students in attendance during that class.

However, the district may increase the class size by a maximum of five students when a paraprofessional educator is provided for the entire class.

- 5) The provisions of subsections (b)(1) through (4) notwithstanding, class size shall be limited according to the needs of the students for individualized instruction and services.
- c) The maximum class sizes set forth in subsection (b) shall, if necessary, be further restricted at the local level to account for the activities and services in which the affected educators participate in order to provide students with IEPs a free, appropriate public education in the least restrictive environment to which they are entitled.

(Source: Amended at 47 Ill. Reg. 2244, effective February 6, 2023)

Section 226.731 Class Size Provisions for 2007-08 and 2008-09 (Repealed)

(Source: Repealed at 40 Ill. Reg. 2220, effective January 13, 2016)

Section 226.735 Work Load for Special Educators

In order to provide students with IEPs the free, appropriate education to which they are entitled, each entity subject to this Part shall implement and maintain limits on the work load of its special educators so that all services required under students' IEPs, as well as all needed ancillary and support services, can be provided at the requisite level of intensity.

- a) Work load limits shall be developed in cooperation with the entity's affected employees and, where there is an exclusive representative, in accordance with the Illinois Educational Labor Relations Act (IELRA) [115 ILCS 5], to ensure timely implementation by the start of the school year.
- b) Work load limits shall be based on an analysis of the activities for which the entity's special educators are responsible and shall encompass, but need not be limited to:
 - 1) individualized instruction;
 - 2) consultative services and other collaboration among staff members;
 - 3) attendance at IEP meetings and other staff conferences; and
 - 4) paperwork and reporting.
- c) The number of children served by a speech and language pathologist shall be based on the speech-language needs of each child. The other provisions of this Section notwithstanding, at no time shall the caseload of a speech and language pathologist exceed 60 students.

(Source: Amended at 40 Ill. Reg. 2220, effective January 13, 2016)

Section 226.740 Records; Confidentiality

Students' records shall be maintained in accordance with 34 CFR 300.610 through 300.627, the School Student Records Act [105 ILCS 10] and the rules of the State Board of Education (23 Ill. Adm. Code 375). In addition, the following requirements shall apply:

- a) The portion of each district's policies and procedures that is required pursuant to Section 226.710(b)(3) of this Part shall require that all information maintained concerning a student receiving special education be directly related to the provision of services to that child and shall address:
 - 1) the method by which information concerning a student will be collected;
 - 2) the confidential nature of the information;
 - 3) the use to which the information will be put;
 - 4) how the information will be recorded and maintained;
 - 5) the period for which the information will be maintained;
 - 6) the persons to whom the information will be available; and
 - 7) under what circumstances the information will be made available.
- b) The portion of each district's policies and procedures referred to in subsection (a) of this Section shall be consistent with:
 - 1) The Illinois School Student Records Act;
 - 2) 23 Ill. Adm. Code 375 (Student Records);
 - 3) 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision);
 - 4) The Family Educational Rights and Privacy Act; and
 - 5) The Illinois Domestic Violence Act of 1986 [750 ILCS 60].

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.750 Additional Services

Additional services and activities shall be provided to students whose IEPs require them in accordance with 34 CFR 300.105 (Assistive Technology), 300.106 (Extended School Year Services) and 300.108 (Physical Education). In addition, the following shall apply:

- a) Behavioral Intervention
 - 1) School districts shall establish local policies and procedures on the use of positive behavioral interventions to manage, intervene in, or change the behavior of students with disabilities.
 - 2) Each district's policies and procedures shall require that IEP teams consider strategies including positive behavioral interventions and supports to address behaviors that impede a child's functioning or that of other children in the academic setting or in noninstructional contexts such as regular transportation and extracurricular activities. The district's policies and procedures shall include criteria for determining when a particular student's possible need for a behavioral intervention plan should be reviewed.
 - 3) Behavioral interventions shall be used in consideration of the child's physical freedom, social interaction, and right to placement in the least restrictive environment and shall be administered in a manner that respects human dignity and personal privacy.

- b) Transportation

Each child who is eligible for special education and related services pursuant to this Part shall be eligible for special transportation. Such transportation shall be provided as the child's disability or the program location may require.

- 1) Arrival and departure times shall ensure a full instructional day which is comparable to that of the regular education students. Any deviation from this standard must be based upon the individual needs of the child and reflected in the child's IEP.
- 2) Every effort should be made to limit the child's total travel time to not more than one hour each way to and from the special education facility.
- 3) The special transportation shall be scheduled in such a way that the child's health and ability to relate to the educational experience are not adversely affected.

- 4) Vehicles utilized for special transportation shall be adapted to the specific needs of the children receiving this service.
- 5) Personnel responsible for special transportation shall be given training experiences which will enable them to understand and appropriately relate to children with disabilities.
- 6) When a district has placed students in a State-operated or nonpublic day program, the district shall provide transportation for the children in that program.
- 7) When a child is placed in a residential facility, the school district shall provide transportation services for the child's initial trip to the facility and return home at the close of the school term. The district shall likewise provide transportation for the child at the beginning and end of each school term thereafter.
 - A) If the district assumes responsibility for transportation arrangements, it shall provide reasonable notice to parents of departure dates and times. It shall in all instances notify the parents within 48 hours after completing those arrangements.
 - B) The modes of travel and degree of support and supervision to be provided shall be included in the student's IEP.
 - C) The district shall provide transportation services for one round trip home, at a midterm break or at another time as mutually agreed by the district and the parents, and at any additional time when the facility is to be temporarily closed.
 - D) The school district shall provide round-trip transportation at any time the district seeks additional diagnostic assessments of the student or if the parent wishes the child to be present during a due process hearing.
 - E) The school district shall provide round-trip transportation in emergencies such as serious illness of the child or death or imminent death of an individual in the child's immediate family. "Immediate family" includes a parent, a grandparent, a sibling, or any person who resides in the child's immediate household. If the district questions the severity of an illness of the child or an

immediate family member, it may require the opinion of a licensed physician to corroborate the severity of the illness.

- F) The school district may also provide transportation services to encourage family contacts and/or to reintegrate the child into the home and community. The district shall have the authority to determine, upon consultation with the parents, when transportation is appropriate for this purpose and shall incorporate this decision, with the specific reasons for it, into the student's IEP.

c) Vocational Education

Students eligible pursuant to this Part shall receive vocational education in accordance with their individual IEPs.

- 1) Community work experiences that are part of a student's IEP shall occur during the school day, unless this is precluded by the nature of the experiences.
- 2) All community work experiences which are provided by the school as part of the IEP and for which the student receives educational credit shall be supervised by school personnel.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.760 Evaluation of Special Education

- a) The extent to which a school district is fulfilling its responsibilities to children with disabilities shall be determined by the State Board of Education. Official representatives of the State Board shall be authorized to examine all documentation, including student records, that would facilitate the determination.
- b) Evaluation by the State Board of Education shall focus on the district's provision of special education services, on each special education cooperative organization of which it is a participant, and on community resources utilized by the district.
- c) Evaluation of special education services shall be based on all of the following elements.
 - 1) The performance of the program, as evidenced by data that state education agencies must collect, including without limitation the information collected pursuant to 34 CFR 300.170, 300.600, 300.601, 300.602, and 300.646;
 - 2) The adequacy of the policies and procedures developed pursuant to Section 226.710 of this Part;
 - 3) The extent to which children with disabilities are being adequately served and the effectiveness of each special education service; and
 - 4) Records maintained to demonstrate compliance with the assurances furnished in applications for State and federal funds.
- d) The State Board of Education shall provide written reports of its evaluations and any subsequent recommendations or actions to the appropriate boards of education.
- e) Compliance with the requirements of this Part shall be a factor in determining a district's recognition status pursuant to 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision).
- f) A district whose status is changed to "nonrecognized" due to an unfavorable evaluation of its compliance with the requirements of this Part shall have the opportunity to request a hearing pursuant to the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and the State Board's rules for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475).

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)

Section 226.770 Fiscal Provisions

- a) Requirements Related to the Provision of FAPE
- 1) A school district is responsible for developing students' IEPs and remains responsible for ensuring that children receive all the services described in their IEPs in a timely fashion, regardless of whether another agency will ultimately pay for the services.
 - 2) A school district may look to non-educational entities such as insurance companies and the Medicaid program, to pay for services for which these entities are otherwise responsible. The district must have written consent from parents in order to use their private insurance.
 - 3) Services required by an IEP must be provided at no cost to the child's parents, whether they have public or private insurance. Parents shall be notified that the use of their private insurance proceeds to pay for services is voluntary. In the case of a child who is dually insured (through private insurance and Medicaid), a family shall not be required to draw upon private insurance whose use is a prerequisite to billing Medicaid if that use of insurance will result in financial costs to the family.
 - 4) "Financial costs to the family" include:
 - A) Out-of-pocket expenses incurred in filing a claim, such as the payment of a deductible or required co-payment, but not including incidental costs such as the time needed to file an insurance claim or the postage needed to mail the claim;
 - B) A decrease in available lifetime coverage or any other benefit under an insurance policy;
 - C) Payment by the family for services that would otherwise be covered by Medicaid and that are required for the child outside of the time the child is in school;
 - D) An increase in premiums or the discontinuation of a policy; and
 - E) A risk in terms of loss of eligibility for home- and community-based waivers, based on aggregate health-related expenditures.
- b) The federal regulations implementing the Individuals with Disabilities Education Act (see 34 CFR 300) establish detailed requirements for the use of federal funds in connection with service to students who are eligible under this Part. School

districts and cooperative entities are required to comply with those federal requirements.

- c) School districts and cooperative entities shall use federal matching funds received under Medicaid or the All Kids program only to supplement special education programs and services.
- d) **Computation of Reimbursement Under Section 14-7.03 of the School Code**
The amount of reimbursement for which a district shall be eligible under Section 14-7.03 of the School Code shall be computed by determining the actual cost of maintaining the program in accordance with the State Board's rules for Determining Special Education Per Capita Tuition Charge (23 Ill. Adm. Code 130). The total reimbursement for a child who is living in a residential care facility and who has been placed in a nonpublic special education program by the responsible district shall not exceed the amount authorized under Section 14-7.02 of the School Code.
- e) **Eligibility of Students for Funding Under Section 14-7.03 of the School Code**
 - 1) A student who meets the requirements of Section 14-1.11a(5) of the School Code is eligible for reimbursement under Section 14-7.03 of the School Code if that student:
 - A) is a resident of one of the residential care facilities described in Section 226.320;
 - B) would not be a resident of that school district except by virtue of placement in one of the residential care facilities described in Section 226.320(a); and
 - C) has been declared eligible for special education and related services pursuant to this Part.
 - 2) A student who has been declared eligible for special education and related services pursuant to this Part and is living in a State residential unit or county-operated detention center is eligible for reimbursement under Section 14-7.03 of the School Code.

(Source: Amended at 47 Ill. Reg. 2244, effective February 6, 2023)

Section 226.780 Procedures for Withdrawal Hearings before the Regional Board of School Trustees

This Section sets forth the procedures for a hearing by one or more regional boards of school trustees to consider a school district's petition to withdraw from a special education joint agreement pursuant to Section 10-22.31 of the School Code. The procedures set forth in this Section shall not apply to school district withdrawals from a special education joint agreement agreed upon by all remaining member districts.

- a) Upon receipt of the petition for withdrawal, a regional board of school trustees that exercises oversight or governance over all member school districts of the joint agreement shall conduct the hearing.
 - 1) The Regional Superintendent of Schools, acting in her or his role as ex officio secretary of the regional board of school trustees, shall deliver a copy of the petition to the board of each member district and shall publish notice of the petition once in a newspaper having general circulation in the educational service region. The notice shall include the following:
 - A) The date the petition was filed;
 - B) The name of each school district that is a member of the joint agreement;
 - C) The effective date on which the petitioning district would be withdrawn from the joint agreement if the petition is granted; and
 - D) The return date on which the hearing upon the petition will be held, which shall be no less than 10 and no more than 15 days after the publication of the notice.
 - 2) Prior to the hearing on the petition for withdrawal, the ex officio secretary of the regional board of school trustees shall submit to the regional board of school trustees a written report of the educational and administrative conditions of the districts involved relative to the provision of special education services.
 - 3) The regional board of school trustees shall hear evidence as to the special education needs and conditions of the petitioning school district and of the special education cooperative from which it wishes to withdraw and shall determine whether it is in the best interest of the students with disabilities in the petitioning district that the petition for withdrawal from the joint agreement be granted.

- 4) The regional board of school trustees shall enter an order granting or denying the petition within 30 days after the hearing. *Approval of the petition must be by a two-thirds majority of the school trustees* (Section 10-22.31(a) of the Code). A certified copy of such an order shall be sent to the petitioning district, the special education cooperative, the regional superintendent of education in whose region the cooperative is located, and the State Board of Education's Special Education Services Department at 100 North First Street, Springfield, Illinois 62777.
- b) Upon receipt of the petition for withdrawal from a special education joint agreement in which more than one regional board of school trustees exercises oversight or governance over any of the school districts participating in the agreement, a joint hearing will be held on the petition.
 - 1) The petition for withdrawal shall be filed concurrently with each regional board of school trustees exercising oversight or governance over any of the member districts.
 - 2) The regional board of school trustees for the region where the administrative office of the special education cooperative is located shall be responsible for the coordination of all activities related to the joint hearing.
 - A) The coordinating regional board of school trustees shall comply with all provisions of subsection (a), and shall provide copies of all notices and reports required under subsection (a) to the ex officio secretaries of each of the regional boards of school trustees whose school districts are parties to the special education joint agreement.
 - B) The joint hearing shall be held in the region of the coordinating regional board of school trustees.
 - 3) *Approval of the petition must be by a two-thirds majority of all those school trustees present and voting at the joint hearing* (Section 10-22.31(a) of the School Code).
 - c) *A member district wishing to withdraw from a joint agreement may obtain from its school board a written resolution approving the withdrawal. The withdrawing district must then present a written petition for withdrawal from the joint agreement to other member districts.*
 - 1) *Under no circumstances may the petition be presented to the other member districts less than 12 months from the date of the proposed withdrawal, unless the member districts agree to waive this timeline.*

- 2) *Upon approval by school board written resolution of all of the remaining member districts, the petitioning member district shall notify the State Board of the approved withdrawal in writing and must submit a comprehensive plan developed under Section 10-22.31(g-5) of the Code for review by the State Board.*
- 3) *If the petition for withdrawal is not approved, the petitioning member district may appeal this decision to the trustees of schools of the township that has jurisdiction and authority over the withdrawing district. If a withdrawing district is not under the jurisdiction and authority of the trustees of schools of a township, a hearing panel shall be established by the chief administrative officer of the intermediate service center having jurisdiction over the withdrawing district. (Section 10-22.31(g) of the Code)*
 - A) *The hearing panel is subject to the requirements of Section 10-22.31(g) of the Code.*
 - B) *Prior to the hearing, the withdrawing district shall:*
 - i) *Provide written notification to all parents or guardians of students with disabilities residing within the district of its intent to withdraw from the special education joint agreement.*
 - ii) *Hold a public hearing to allow for members of the community, parents or guardians of students with disabilities, or any other interested parties an opportunity to review the plan for educating students after the withdrawal and to provide feedback on the plan.*
 - iii) *Prepare and provide a comprehensive plan outlined under Section 10-22.31(g-5) of the Code.*
- 4) *The trustees of schools of the township having jurisdiction and authority over the withdrawing district or the hearing panel established under subsection (c)(3) shall convene and hear testimony to determine if the withdrawing district has presented sufficient evidence that the district, standing alone, will provide a full continuum of services and support to all its students with disabilities in the foreseeable future. If the petition for withdrawal is approved, then the petitioning member district shall be withdrawn from the joint agreement effective the following July 1 and*

shall notify the State Board in writing of the approved withdrawal.
(Section 10-22.31(g) of the Code)

- d) In instances in which one or more of the competent regional boards of school trustees have been abolished, petitions for withdrawal shall be made to the school boards of those member districts that would fall under the oversight or governance of the abolished regional board of school trustees.
 - 1) Upon receipt of the petition for withdrawal, the remaining member districts shall place the petition on their respective school board agenda for the next regularly scheduled board meeting.
 - 2) Each member district shall afford the petitioning district the opportunity to address the school board at the time the petition is considered by the board.
 - 3) Each member district shall act upon a resolution, either approving or denying the petition for withdrawal. Approval of a petition shall be by a two-thirds majority of those districts unless the joint agreement's articles of agreement provide otherwise.

(Source: Amended at 45 Ill. Reg. 3377, effective March 2, 2021)

SUBPART I: PERSONNEL

Section 226.800 Personnel Required to be Qualified

- a) General
 - 1) Each school district, or the special education cooperative of which it is a member, shall employ sufficient professional personnel and personnel not holding Illinois educator licensure to deliver and supervise the full continuum of special education and related services needed by the eligible students who reside in the district or districts served by the cooperative. The number and types of personnel employed shall be based on students' need rather than administrative convenience.
 - 2) Each school district or special education cooperative shall periodically submit to the State Board of Education, on forms supplied by the State Board, the roster of the individuals who will be or are providing special education or related services. The State Board may request any additional documentation needed in order to verify that each individual holds the qualifications that are required for the individual's assignments.
 - 3) Each school district or special education cooperative shall develop and implement a comprehensive personnel development program for all personnel involved with the education of children with disabilities.
- b) Professional Instructional Personnel
Each individual employed in a professional instructional capacity shall:
 - 1) hold a valid professional educator license endorsed for the grade range to be served and meet the qualifications required for the teaching area pursuant to 23 Ill. Adm. Code 25.43; or
 - 2) hold a valid professional educator license endorsed in another teaching area and approval issued by the State Board of Education specific to the area of responsibility (see Section 226.810);
 - 3) be employed pursuant to an authorization for assignment issued to the employing entity under Section 226.820; or
 - 4) hold short-term emergency approval or endorsement issued pursuant to 23 Ill. Adm. Code 25.48.
- c) An individual assigned as a career and technical coordinator shall be required to

hold an approval or endorsement for this position, which shall be granted provided that the individual submits an application demonstrating that the individual:

- 1) has two years' teaching experience;
 - 2) holds a valid professional educator license endorsed in a teaching field; and
 - 3) has completed at least 16 semester hours of college coursework, which shall at least include each of the areas identified in subsections (c)(3)(A) through (D) and may include one or more of the areas identified in subsections (c)(3)(E) through (H):
 - A) Survey of the exceptional child;
 - B) Diagnosis of, and characteristics of the student with, all the disabilities encompassed by the Learning Behavior Specialist I (LBS I) credential;
 - C) Adaptations or modifications of the general curriculum to meet the needs of students with the disabilities encompassed by the LBS I credential;
 - D) Career and technical programming for students with disabilities;
 - E) Methods appropriate for teaching children with all the disabilities encompassed by the LBS I credential;
 - F) Guidance and counseling;
 - G) Educational and psychological diagnosis;
 - H) Career and technical education.
- d) An individual assigned as a teacher coordinator shall be required to hold approval or endorsement for this position, which shall be granted provided that the individual submits an application demonstrating that the individual:
- 1) holds a valid professional educator license with an endorsement for the disability area of assignment issued pursuant to 23 Ill. Adm. Code 25.43;
 - 2) has completed a course in career and technical programming for students

with disabilities; and

- 3) has at least one year's work experience outside the field of education or has completed at least one course in either guidance and counseling or career and technical education.

e) Qualified Bilingual Specialists

Professional staff otherwise qualified pursuant to this Section shall be considered "qualified bilingual specialists" if they meet the applicable requirements set forth in this subsection (e).

- 1) A holder of a valid professional educator license with an endorsement in the area of responsibility issued pursuant to 23 Ill. Adm. Code 25.43 shall successfully complete a language examination in the non-English language of instruction and shall have completed coursework covering:
 - A) Psychological/educational assessment of students with disabilities who have limited English proficiency;
 - B) Theoretical foundations of bilingual education and English as a second language, including the study of first and second language acquisition; and
 - C) Methods and materials for teaching students of limited English proficiency or students with disabilities who have limited English proficiency.
- 2) A holder of a valid professional educator license with an early childhood, elementary, secondary, or special preschool-age 22 endorsement who also holds special education approval in the area of responsibility (see Section 226.810) shall successfully complete a language examination in the non-English language of instruction and shall have completed the coursework listed in subsections (e)(1)(A), (B), and (C).
- 3) A holder of a valid professional educator license endorsed in a teaching field who also holds an endorsement to teach bilingual education or English as a second language shall have completed coursework covering:
 - A) Methods for teaching in the special education area of assignment;
 - B) Psychological/educational assessment of students with disabilities who have limited English proficiency, or psychological diagnosis

- for children with all types of disabilities; and
- C) Characteristics of students, or characteristics of students with limited English proficiency specifically, in the special education area of assignment.
- 4) A holder of a valid educator license with stipulations endorsed for transitional bilingual educator issued pursuant to 23 Ill. Adm. Code 25.90 and endorsed for the language of assignment shall have completed two years of successful teaching experience and have completed coursework covering:
- A) Survey of children with all types of disabilities;
 - B) Assessment of the bilingual student, or psychological/educational assessment of the student with disabilities who has limited English proficiency;
 - C) Theoretical foundations of bilingual education and English as a second language, including the study of first and second language acquisition;
 - D) Methods for teaching in the special education area of assignment; and
 - E) Characteristics of students, or characteristics of students with limited English proficiency specifically, in the special education area of assignment.
- 5) A holder of a valid professional educator license with a school support personnel endorsement for school counselor, school social worker, school psychologist, or speech and language pathologist shall successfully complete an examination in the non-English language and shall have completed coursework in assessment of the bilingual student or psychological/educational assessment of the student with disabilities who has limited English proficiency.
- f) **Directors and Assistant Directors of Special Education**
Each school district, or the special education cooperative of which it is a member, shall employ a full-time director of special education, who shall be the chief administrative officer of the special education programs and services of the district or cooperative entity.

- 1) Each director or assistant director of special education shall hold a valid professional educator license endorsed for director of special education issued pursuant to 23 Ill. Adm. Code 25.365 and a master's degree, including 30 semester hours of coursework distributed among all the areas specified in 23 Ill. Adm. Code 25.365(b). Beginning July 1, 2005, directors and assistant directors of special education shall be subject to the requirements of 23 Ill. Adm. Code 29.140 (Director of Special Education).
 - 2) Each school district or the special education cooperative of which it is a member, shall submit to the State Board of Education a letter identifying the individual employed as the director of special education by full name and Illinois Educator Identification Number. If the individual is qualified as required, the State Board shall confirm that the individual is the State-approved director of special education for the school district or special education cooperative.
- g) Supervisors
- 1) Each school district or special education cooperative shall employ sufficient supervisory personnel to provide consultation to and coordination of special education services.
 - 2) Each individual performing a supervisory function shall hold one of the following:
 - A) a valid professional educator license with a special preschool-age 22 or K-22 endorsement in the area to be supervised, and a supervisory endorsement issued pursuant to 23 Ill. Adm. Code 25.497, with two years' teaching experience in that area; or
 - B) a valid professional educator license with a school support personnel endorsement, and a supervisory endorsement issued, with two years' experience in the area to be supervised; or
 - C) a valid professional educator license with an administrative endorsement issued under 23 Ill. Adm. Code 25.Subpart E and either a special preschool-age 22 or K-22 endorsement for the area to be supervised.
- h) Chief Administrator of Special School
- The chief administrator of a special school shall hold a valid professional educator license with a general administrative, principal or director of special education endorsement issued pursuant to 23 Ill. Adm. Code 25.337 or 25.365 and either:

- 1) an endorsement or approval that is specific to at least one of the disabilities prevalent in the students served by the school, if the school serves students who are deaf or hard of hearing, blind or visually impaired, or speech- and language-impaired; or
 - 2) an endorsement as a Learning Behavior Specialist I.
- i) Other Professional Personnel
Each individual employed in a professional capacity not specified in subsections (a) through (h) shall, as appropriate to the assignment, hold:
- 1) a valid professional educator license endorsed for school support personnel appropriate to the area of responsibility (see 23 Ill. Adm. Code 25, Subpart D); or
 - 2) a valid professional license or permission to practice, if the individual's profession is governed by such a requirement and either no educational credential in the same or a related field is issued by the State Board of Education (e.g., for a physical therapist) or the School Code permits the individual to perform the functions assigned; or
 - 3) a credential, regardless of title, issued by a professional association or organization in the relevant field, when no educational credential in the same or a related field is issued by the State Board of Education and no license or permission to practice is required by the State (e.g., for a music therapist or a daily living skills specialist). Evidence of the individual's credential shall be kept on file by the school district or special education cooperative and presented to the State Board of Education upon request.
- j) Personnel Not Holding Educator Licensure
- 1) Each professional individual not holding educator licensure issued under Article 21B of the Code employed in a special education class, program, or service, and each individual providing assistance at a work site, shall function under the general direction of a professional staff member.
 - 2) Each program assistant or aide, whether providing instructional or noninstructional services, as well as each nonemployee providing any service in the context of special education, shall function under the direct supervision of a professional staff member.

- A) Nothing in this subsection (j) authorizes individual student aides or others who do not hold an appropriate professional license to perform any nursing activity, as nursing activity may be defined in the Nurse Practice Act [225 ILCS 65] and rules governing that Act (68 Ill. Adm. Code 1300), including any procedures and duties requiring a medical order (e.g., tube feedings, catheterizations, administration of medications, tracheal suctioning, tube insertions, blood draws, dressing changes), except as may be otherwise authorized under State law.
 - B) The provisions of this subsection (j) do not apply to paraprofessional educators licensed under Section 21B-20 of the Code nor to educational interpreters approved pursuant to 23 Ill. Adm. Code 25.550 (Approval of Educational Interpreters).
 - 3) Each school district shall provide training experiences appropriate to the nature of their responsibilities to the individuals discussed in subsections (j)(1) and (2). Training shall be in lieu of the requirements for personnel not holding educator licensure set forth in 23 Ill. Adm. Code 1, Subpart F.
- k) Qualified Interpreters
- 1) A qualified interpreter must:
 - A) Meet all employment eligibility requirements of the school district.
 - B) Demonstrate that they are competent to interpret into and out of the second language. An interpreter may demonstrate this competence by either:
 - i) Submitting documentation showing that they are certified or qualified through an interpreter certification program, such as the Illinois state courts' certification program, the federal courts' certification program, the National Board of Certification for Medical Interpreters, the Certification Commission for Healthcare Interpreters, or the Registry of Interpreters for the Deaf. Alternatively, an interpreter may submit documentation showing that the interpreter has completed a certification or qualification program that meets or exceeds the minimum standards set forth in subsection (k)(1)(ii); or
 - ii) Completing a certification program that includes:

- A written and oral proficiency test and fluency in both English and the second language, except that individuals who have a Professional Educator License with a Bilingual Endorsement are exempt from this requirement for the endorsed language;
 - At least nine hours of training on interpreting in and out of English, interpretation standards of practice, sight translation, ethics, confidentiality, the role of the interpreter and role boundaries, respect, impartiality, professionalism, fundamentals of the effects of cultural differences on effective interpretation, and advocacy for communication. This training must include videos demonstrating proper and improper interpretation techniques; and
 - A successful demonstration of knowledge of interpretation standards and techniques, and a successful completion of an oral examination to demonstrate proficiency to interpret in and out of English and consecutive or simultaneous interpreting.
- C) Complete at least six hours of training on special education terminology and protocol, including successful completion of a written examination to demonstrate knowledge of such terminology and protocol, except that teachers with bilingual special education license endorsements, are exempt from this requirement.
- D) Receive training on the interpreter code of ethics adopted by ISBE, including successful completion of a written examination.
- E) After completing the required training:
- i) successfully complete, with a score of 80% or higher, a written examination to demonstrate knowledge of:
 - special education terminology and protocol;
 - interpretation standards and techniques; and

- interpretation ethics; and
- ii) successfully complete an oral examination, with a score of 70% or higher, to demonstrate proficiency in:
- interpreting in and out of English, through consecutive or simultaneous interpreting; and
 - sight translation.
- 2) To maintain the designation of "Qualified Interpreter", an individual must, at least once every two years, participate in at least six hours of ongoing professional development related to interpretation in the following categories:
- A) Confidentiality.
 - B) Accuracy.
 - C) Impartiality.
 - D) Interpreter ethics and professionalism.
 - E) Cultural awareness.
 - F) Special Education processes.
 - G) Special Education vocabulary.
 - H) Language acquisition.

(Source: Amended at 47 Ill. Reg. 2244, effective February 6, 2023)

Section 226.810 Early Childhood Special Education

The State Board shall issue early childhood special education approval or endorsement to an individual who holds a valid professional educator license with an early childhood endorsement or an LBS I endorsement, provided that the individual makes application for approval in a format specified by the State Board demonstrating that he or she has successfully completed coursework in all the following areas:

- a) Methods – Developmentally and individually appropriate methods for fostering the social, emotional, cognitive, communication, adaptive, and motor development and learning of young children with special needs in various settings, such as the home, the school, and the community.
- b) Assessment – Strategies, procedures, and formal and informal instruments for assessing young children's social, emotional, cognitive, communication, and motor skills; family concerns, priorities, and resources; and school, home, and community learning environments; and methods for conducting formative and summative individual and program evaluation.
- c) Language Development – Typical and atypical language development in young children; specific language disabilities; the relationship between communication delays and other areas of early learning and development; and alternative communication systems for young children with disabilities.
- d) Family and Community Relationships – Strategies in developing positive and supportive relationships with families of young children with special needs, including the legal and philosophical basis for family participation; family-centered services; and strategies for working with socially, culturally, and linguistically diverse families. Strategies and models for promoting effective consultation and collaboration with other professionals and agencies within the community.

(Source: Amended at 45 Ill. Reg. 3377, effective March 2, 2021)

Section 226.820 Authorization for Assignment

In the circumstances described in this Section, neither the qualifications required by Section 226.800 nor special education approval under Section 226.810 shall be required.

When a district or cooperative entity, regional superintendent of schools, or nonpublic special education facility approved pursuant to 23 Ill. Adm. Code 401 (Special Education Facilities Under Section 14-7.02 of the Code) demonstrates to the State Board of Education that it is unable to secure the services of an individual who holds the required credentials for a particular assignment, the State Board may authorize the assignment of another individual in accordance with 23 Ill. Adm. Code 25.48 (Short-Term Emergency Approval in Special Education).

(Source: Amended at 47 Ill. Reg. 2244, effective February 6, 2023)

Section 226.830 List of Independent Evaluators

- a) The State Board of Education shall develop a list of independent educational evaluators who hold the credentials required for the performance of the various evaluation components pursuant to Section 226.840 of this Part and meet the requirements of Section 14-8.02(g-5) of the School Code.
- b) No person shall be included in the State Board's list unless he or she has provided in writing to the State Board the following specific information for each credential for which the Board's acknowledgment is sought:
 - 1) name of license, certificate, or other credential;
 - 2) name of credentialing agency or body;
 - 3) number of certificate, license, registration, or other credential;
 - 4) date of issue; and
 - 5) period of validity.
- c) An individual who wishes to be considered a qualified bilingual specialist shall identify any languages other than English in which he or she is proficient and identify the specific qualifications held that correspond to the relevant requirements of Section 226.800(f).
- d) Persons wishing to be included on this list may submit the information about their credentials required under subsection (b) to the State Board at any time. The State Board shall update the list as changes may warrant and shall provide the list to school districts.

(Source: Amended at 40 Ill. Reg. 2220, effective January 13, 2016)

Section 226.840 Qualifications of Evaluators

The following list identifies the credentials required to administer certain types of evaluations. Where no requirements are established, an evaluation may be performed by an individual who is qualified to administer it according to the technical specifications of the publisher.

<u>TYPE</u>	<u>REQUIRED QUALIFICATIONS</u>
Academic Performance	Professional educator license or approval issued under Section 226.810 appropriate for the age or disability of the child, or professional educator license with a school support personnel endorsement for school psychologist or school counselor. (See Article 21B of the School Code and the State Board's rules at 23 Ill. Adm. Code 1 and 23 Ill. Adm. Code 25.)
Adapted Physical Education	Professional educator license endorsed for physical education with an approval or endorsement in adapted physical education (23 Ill. Adm. Code 25.43).
Assistive Technology	To the extent that a test is used in performing this assessment, qualification for administering the test according to the instructions provided by the test's publisher.
Audiological	License to practice as an audiologist issued by the Department of Financial and Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].
Clinical Psychological	License issued pursuant to the Clinical Psychologist Licensing Act [225 ILCS 15].
Cultural Background Assessment	Professional educator license with a school support personnel endorsement for school psychologist, school social worker, or school counselor.
Hearing Screening	License to practice as an audiologist issued by the Department of Financial and Professional Regulation pursuant to the Illinois Speech-

	Language Pathology and Audiology Practice Act [225 ILCS 110]; professional educator license with a school support personnel endorsement for speech and language pathologist or special preschool-age 22 endorsement for speech and language pathologist (23 Ill. Adm. Code 25.43 or 25.252); or certificate of training issued by the Department of Public Health (77 Ill. Adm. Code 675).
Learning Processes Evaluation	Professional educator license with a school support personnel endorsement for school psychologist or LBS I endorsement.
Medical Review	Meet the requirements set forth in Section 226.160, as applicable.
Neurological Evaluation	Licensure/registration issued by the Department of Financial and Professional Regulation pursuant to the Medical Practice Act of 1987 [225 ILCS 60].
Occupational Therapy Evaluation	Certificate/Registration issued by the Department of Financial and Professional Regulation pursuant to the Illinois Occupational Therapy Practice Act [225 ILCS 75].
Orientation/Mobility	Certification for orientation/mobility instruction and evaluation (Certified Orientation and Mobility Specialist, Academy for Certification of Vision Rehabilitation and Education Professionals, 4732 North Oracle Road, Suite 217, Tucson AZ 85705, or predecessor credential issued by the Association for Education and Rehabilitation of the Blind and Visually Impaired, 1703 North Beauregard Street, Suite 440, Alexandria VA 22311).
Physical Therapy Evaluation	Certificate/registration issued by the Department of Financial and Professional Regulation pursuant to the Illinois Physical Therapy Act [225 ILCS 90].

Psychiatric Evaluation	Licensure/registration issued by the Department of Financial and Professional Regulation pursuant to the Medical Practice Act of 1987.
School Psychological	Professional educator license with a school support personnel endorsement for school psychologist.
Social Developmental Study (Adaptive Behavior, Cultural Background, Family History)	Professional educator license with a school support personnel endorsement for social worker, school counselor, or school psychologist (23 Ill. Adm. Code 25.215, 25.225, or, as applicable, 25.230 or 25.235).
Speech and Language Assessment	Professional educator license with a speech and language pathologist endorsement (23 Ill. Adm. Code 25.252).
Vision Screening	Certificate of training issued by the Department of Public Health (77 Ill. Adm. Code 675).

(Source: Amended at 46 Ill. Reg. 6453, effective April 11, 2022)

Section 226.850 List of Qualified Workers

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

WORK ASSIGNMENT	REQUIRED QUALIFICATIONS
Adapted Physical Education	A valid Illinois professional educator license endorsed for physical education and an adapted physical education approval or endorsement encompassing the grade levels and age ranges of the students served.
Administrator of a Special School	Must meet the requirements of Section 226.800(i).
Art Therapist	Registration from American Art Therapy Association or a master's degree in art therapy awarded by a regionally accredited institution of higher education.
Assistant Director	A valid professional educator license with a director of special education endorsement issued pursuant to 23 Ill. Adm. Code 25.365 and 23 Ill. Adm. Code 1.705 and meets the requirements of Section 226.800(g) of this Part.
Audiologist	Licensed to practice as an audiologist by the Department of Financial and Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110] or Certificate of Clinical Competence in Audiology from the American Speech-Language-Hearing Association.
Autism Teacher	A valid Illinois professional educator license either with an LBS I or early childhood special education endorsement or approval encompassing the grade levels and age ranges of the students served.
Behavior Analyst	Board Certified Behavior Analyst (BCBA) as evidenced by a current valid certificate awarded by the Behavior Analyst Certification Board, Inc.
Career and Technical Coordinator	Meets the requirements set forth in Section 226.800(c) of this Part and 23 Ill. Adm. Code 1.737(c).

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Career and Technical Transition Specialist	Must hold a contract with the Illinois Department of Human Service-Division of Rehabilitation Services, under the Secondary Transition Experience Program (STEP).
Daily Living Skills Specialist	Certificate from the Academy for Certification of Vision Rehabilitation and Education Professionals or its predecessor organization.
Diagnostic Teacher	A valid Illinois professional educator license with an LBS I endorsement or approval.
Early Childhood Special Education Teacher	A valid Illinois professional educator license with an early childhood endorsement and either with an early childhood special education endorsement or early childhood special education approval or with a valid Illinois professional educator license with an LBS I endorsement and early childhood special education approval.
Emotional Disability Teacher	A valid Illinois professional educator license either with an LBS I endorsement or approval encompassing the grade levels and age ranges of the students served.
Deaf and Hard of Hearing Teacher	A valid Illinois professional educator license endorsed for teacher of students who are deaf or hard of hearing pursuant to 23 Ill. Adm. Code 25.43.
Home/Hospital Instructor (see Section 226.300 of this Part)	A valid Illinois professional educator license either with an LBS I endorsement or approval, professional educator license endorsed in the area of speech and language pathologist, blind or visually impaired, or deaf or hard of hearing.
Infant/Toddler/Family Specialist	For federally funded programs serving infants and toddlers, birth through two years of age: Completion of a degree program with evidence of specific training in child development and family development specific for children ages birth to five years.
Inservice Coordinator	A valid Illinois professional educator license with an LBS I endorsement or a valid Illinois professional educator license endorsed for school support personnel (see 23 Ill. Adm. Code 25.Subpart D).
Intellectual Disability Teacher	A valid Illinois professional educator license endorsed in a teaching field with an LBS I endorsement or approval

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	encompassing the grade levels and age ranges of the students served.
Learning and Behavior Specialist I (LBS I)	Meets the requirements of 23 Ill. Adm. Code 25.43 appropriate to the area of responsibility or holds a valid Illinois professional educator license with an LBS I endorsement or approval encompassing the grade levels and age ranges of the students served.
Medical Services Personnel (Diagnostics and Evaluation)	Registration with the Illinois Department of Financial and Professional Regulation.
Music Therapist	Registration from the National Music Therapy Registry, certification from the Certification Board for Music Therapists, or master's degree in music therapy from a regionally accredited institution of higher education.
Occupational Therapist	Licensed by the Illinois Department of Financial and Professional Regulation pursuant to the Illinois Occupational Therapy Practice Act [225 ILCS 75].
Orientation and Mobility Specialist	Certificate from the Academy for Certification of Vision Rehabilitation and Education Professionals or its predecessor organization or the Association for the Education and Rehabilitation of the Blind and Visually Impaired.
Orthopedic Impairment	A valid Illinois professional educator license either with a cross-categorical special education or physically handicapped endorsement or with approval encompassing the grade levels and age ranges of students served.
Physical Therapist	Licensed by the Illinois Department of Financial and Professional Regulation pursuant to the Illinois Physical Therapy Act [225 ILCS 90].
Recreational Therapist	Licensed by the National Council for Therapeutic Recreation or its predecessor organization.
Rehabilitation Counselor	Certificate from the Commission on Rehabilitation Counselor Certification (CRCC) or a master's degree in rehabilitation counseling awarded by a regionally accredited institution of higher education.

School Counselor/ Guidance Counselor	A valid Illinois professional educator license endorsed for school support personnel for school counselor issued under 23 Ill. Adm. Code 25.225.
School Nurse	Meets the requirements of Section 10-22.23 of the School Code and 23 Ill. Adm. Code 25.245.
School Nurse (Grandfathered)	Employed as a registered school nurse prior to July 1, 1976 and continuing in the same position with the same district or joint agreement.
School Psychologist	Meets the requirements of Section 14-1.09 of the School Code and 23 Ill. Adm. Code 25.230 or 25.235, as applicable.
School Social Worker	Meets the requirements of Section 14-1.09a of the School Code, and Section 226.820(b) of this Part and 23 Ill. Adm. Code 25.215, as applicable.
Specific Learning Disability Teacher	A valid Illinois professional educator license either with an LBS I endorsement or with approval encompassing the grade levels and age ranges of the students served.
Speech-Language Pathologist	Meets the requirements of Section 14-1.09b of the School Code and 23 Ill. Adm. Code 25.252, as applicable, for speech and language pathologist.
State-Approved Director of Special Education (serving in a full-time capacity)	Meets the requirements of 23 Ill. Adm. Code 25.365 and Section 226.800(g) of this Part.
Supervisor	Meets the requirements of Section 226.800(h) of this Part and 23 Ill. Adm. Code 1.705(h), as applicable.
Support Teacher	A valid Illinois professional educator license either with an LBS I endorsement or with approval encompassing the grade levels and age ranges of the students served.
Teacher Coordinator	Meets the requirements of Section 226.800(d).

Visual Impairment
Teacher

A valid Illinois professional educator license issued pursuant to 23. Ill. Adm. Code 25.43 and endorsed for teacher of students who are blind or visually impaired.

(Source: Amended at 47 Ill. Reg. 2244, effective February 6, 2023)

Section 226.860 List of Other Employees Qualifying for Reimbursement (Repealed)

(Source: Repealed at 45 Ill. Reg. 3377, effective March 2, 2021)