

Comprehensive Plan for the Provision of Special Education

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Section 1

AU Responsibilities and Funding Requirements

AU Responsibilities

The AU assures that all requirements established by the Colorado Exceptional Children's Educational Act (ECEA) and its implementing rules and the Federal regulations contained in 34 CFR Part 300, 34 CFR §303.115, 34 CFR §§ 303.301 through 322 of the Individuals with Disabilities Education Act (IDEA) (2004) will be carried out and that the AU will adopt a Comprehensive Plan that includes a description of:

- Financial commitments and agreements of the AU and of any participating member districts for special education programs and services.
- Method or standards utilized to determine the number and types of special education personnel required to meet the needs of children with disabilities.
- Procedures for regular, periodic evaluation of programs, services and student progress.

Citation:

IDEA 34 CFR §300.200
IDEA 34 CFR §300.201
IDEA 34 CFR §300.212
ECEA Rule 3.01(1)
ECEA Rule 5.02 (12)
ECEA Rule 8.01 (1)(a)

Funding Requirements

The AU assures that:

- Prior approval will be obtained from the CDE for the use of IDEA Part B funds and IDEA preschool funds.
- All financial commitments and agreements made by the AU are honored, including agreements with AU member districts, for special education programs and services.
- IDEA Part B funds are used only to supplement State, local, and other Federal funds and are not used to supplant State and local funds.
- The IDEA Part B funds are used only to pay the IDEA excess costs related to the provision of providing special education and related services to children with disabilities.
- The use of IDEA Part B funds meets the IDEA excess cost requirement.

Expenditure of ECEA Funds

The AU assures that:

“Special education expenditures” means those expenditures that are incurred by an AU, state-operated program (SOP), or approved facility school for professional services associated with:

- Special education referrals and evaluations of children who may have a disability; and
- The provision of special education services as identified on an individual student’s individualized education program.

Special education expenditures do not include the costs of the general education program.

Special education expenditures shall be supplemental to the general educational program and shall be above what is provided by the AU, SOP, or approved facility school for general education students and staff. Special education expenditures include:

- Special education teachers;
- Home-hospital teachers for students with disabilities;
- Speech-Language pathologists and speech-language pathology assistants;
- Specialty teachers;
- Special educational instructional paraprofessionals;
- Educational interpreters;
- School nurses;
- Occupational therapists and occupational therapy assistants;
- Physical therapists and physical therapy assistants;
- School psychologists;
- School social workers;
- Audiologists;
- Orientation and mobility specialists;

- Other special education professionals;
- Special education administrators and office support;
- Other noncertified or non licensed support;
- Employee benefits for special education staff;
- Supplies, materials, and equipment used for individual students' special education programs and services;
- Purchased service contracts for personal services;
- Tuition to other AUs and approved tuition rates to approved facility schools for special education;
- Staff travel related to special education;
- Professional development for special education staff, or all staff, if the content of the professional development is specific to services for children with disabilities;
- Other purchased services related to special education;
- Dues, fees, and other expenditures specific to the special education program; and
- Parent counseling and training, as defined by the IDEA and its implementing regulations.

The AU assures that ECEA funds are not used to supplant the costs of the general education programs.

Citations:

IDEA 34 CFR §300.202
 IDEA 34 CFR §300.208
 C.R.S. 22-20—106(7)
 ECEA Rule 2.18
 ECEA Rule 2.44
 ECEA Rule 5.02(2)(8)
 ECEA Rule 7.03
 ECEA Rule 8.01 (1)(a)(i)
 C.R.S. 22-20-103 (22.7)

Accountability for Federal Funds

That AU assures that it will:

- Submit to the CDE annual student, staff, revenue and expenditure data according to the instructions and on forms or computer programs provided by the CDE.
- Maintain auditable records of all special education expenditures and of the state, federal, local and other revenues which are received in support of those expenditures. The AU will use:

- Accrual basis of accounting; and
- Budgeting and accounting procedures which record the objects of expenditure for each special education instructional and support service area.
- Maintain all records of accounting for five years after the completion of the activity for which the funds are used or until such time as all pending reviews or audits have been completed and resolved, whichever is later.

If all funds are not obligated during the fiscal year, the remaining funds are obligated during the following fiscal year (carry-over).

- All federal funds are liquidated not later than 90 days after the end of the funding period or a total of 27 months if funds are carried over from a previous fiscal year.

Citations:

EDGAR 34 CFR §80.23
 ECEA Rule 7.01(3)
 ECEA Rule 7.02

Maintenance of Effort

The AU assures that:

- IDEA Part B funds will not be used to reduce the level of expenditures from State and local funds for the education of children with disabilities below the level of those expenditures for the preceding fiscal year.
- The amount of state and local funds budgeted for the education of children with disabilities in that year is at least the same, either in total or per capita, as the amount the AU spent for that purpose in the most recent fiscal year for which information is available.
- Reduction of the level of expenditures by the AU from the previous year are only made when one or more of the following exceptions is met and documented by the AU:
 - There is voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related service personnel.
 - There is a decrease in the enrollment of children with disabilities.
 - There is a termination of the obligation to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the CDE, because the child –
 - Has left the jurisdiction of the agency;

- Has reached the age at which the obligation of the AU to provide FAPE to the child has terminated; or
- No longer needs the program of special education.
- There is a termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

The AU assures that, if the exceptions described above are applied to reduce Maintenance of Effort, the AU will continue to provide FAPE to children with disabilities.

Citations:

IDEA 34 CFR §300.203
IDEA 34 CFR §300.204
ECEA Rule 5.02 (3) and (4)

Early Intervening Services (EIS)

The AU assures that:

- The AU does not implement or use EIS to limit or create a right to FAPE under Part B of the Act, nor to delay appropriate evaluation of a child suspected of having a disability.
- Not more than 15% of the amount of the IDEA Part B funds for any fiscal year, are allotted to develop and implement coordinated EIS.
- A separate IDEA Part B project narrative and budget are approved by the CDE prior to any EIS expenditure.
- All funds for EIS (Project D of the IDEA Part B Narrative) must be tracked separate from other IDEA Part B funds.
- When IDEA Part B funds are used for EIS, the AU reports the children who receive EIS on an annual basis to the State.

Citations:

IDEA 34 CFR §300.226
ECEA Rule 5.02 (16)

Purchase of Instructional Materials

The AU assures that:

- Instructional materials are provided to children with visual disabilities or other persons with print disabilities in a timely manner.
- Any child with a disability receives instruction in and access to materials in an accessible format, including the provision of assistive technology devices.
- All instructional materials purchased with IDEA Part B and/or Preschool funds are inventoried and maintained.

Citations:

IDEA 34 CFR §300.210
ECEA Rule 5.02 (10)
ECEA Rule 8.01 (b)

Maintaining a Physical Inventory of Property

The AU assures that it will maintain inventory records for property purchased with IDEA Part B funds.

- The inventory records include:
 - A description of the property;
 - The serial number or the identification number;
 - The source of the property;
 - Who holds the title for the property;
 - The date of acquisition of the property;
 - The cost of the property;
 - The percentage of Federal contribution in the cost of the property;
 - The location of the property;
 - The condition of the property; and
 - The ultimate disposition data including the date of disposal and sale price of the property.
- The AU assures that a physical inventory of the property is taken and the results are reconciled with the property records once every year.
- The AU assures that a control system is used to ensure adequate safeguards to prevent loss, damage or theft to the property, and investigating any loss, damage or theft.

- The AU assures that adequate maintenance procedures are in place to keep the property in good condition.

Citations:

EDGAR 34 CFR §76.709
EDGAR 34 CFR §80.23(b)
EDGAR 34 CFR §80.32
ECEA Rule 3.01 (1)(e)

Reporting Requirements

- The AU assures that all documents relating to the AU's eligibility under Part B of the Act are available to the general public, including parents of children with disabilities.
- The AU assures that it will submit to the CDE annual student, staff, revenue and expenditure data according to CDE's instructions and on forms or computer programs provided by the CDE.
- The AU assures that accurate data for all special education student, staff, cost and revenue data will be submitted to the CDE on or before established due dates.
- The AU assures that it will maintain and report all required information regarding parentally-placed private school children, including information about:
 - The children evaluated for special education eligibility;
 - The children determined to be children with disabilities; and
 - The children served on an Individual Service Plan (ISP).
- The AU assures that when Part B funds are used for Early Intervening Services, the AU will provide all required information regarding the children who received the early intervening services.

Citations:

IDEA 34 CFR §300.133(c)
IDEA 34 CFR §300.211
IDEA 34 CFR §300.212
IDEA 34 CFR §300.226(d)
ECEA Rule 3.01 (1)(e)
ECEA Rule 5.04
ECEA Rule 7.02

Record Keeping Requirements

The AU assures that it will maintain a management and information system which provides for the collection, documentation, aggregation, and reporting of students, staff, revenue and expenditure data.

- Student data base information includes:
 - Child's name;
 - Date of birth;
 - Primary disability;
 - Gender;
 - Ethnicity;
 - Primary educational setting;
 - Date of the most recent meeting at which the child was determined to have a disability;
 - Date of the most recent meeting at which the IEP was reviewed;
 - Individual staff who are providing special education programs and services identified in the child's IEP;
- Individual student records include:
 - Information about the disposition of each referral;
 - Signed parental consent forms for initial evaluation and for the initial provision of special education services;
 - Verification that the parent(s) were advised of and understood their procedural safeguards;
 - Any written evaluation reports;
 - Documentation that appropriate prior written notice was given to parent(s);
 - Documentation that required participants were in attendance at meetings;
 - Records of all meetings at which the child was determined to have a disability;
 - A copy of all IEPs; and
 - Any additional information which documents that the child is eligible for special education services.

- Staff data includes:
 - Name;
 - EDID – state assigned Educator ID
 - Special education position assignment;
 - FTE and salary attributable to special education, and the source(s) of funds supporting that salary; and
 - Documentation of time spent with students with disabilities for each staff member who is employed part-time in special education and part time in regular education.

- Revenue and expenditure data includes:
 - Auditable records of all special education expenditures* and of the state, federal, local and other revenues which are received in support of those expenditures; and
 - The use of the accrual basis of accounting to operate a budgeting and accounting procedure which records the objects of expenditures for each special education instructional and support service area.

The AU assures that personally identifiable information will be held confidential and protected.

*Special education expenditures means those expenditures that are incurred by an AU, SOP, or approved facility school for professional services associated with special education referrals and evaluation of children who may have a disability and the provision of special education services as identified on an individual student's IEP. Special education expenditures do not include the costs of the general education program. Special education expenditures shall be supplemental to the general education program and shall be above what is provided by the AU, SOP, or approved facility school for general education students and staff.

Citations:

ECEA Rule 7.01
ECEA Rule 7.02
ECEA Rule 8.01 (1)(d)
CRS 22-20-103

Transfer of Records

The AU assures that:

- When a child with a disability newly enrolls in the AU, the AU takes reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services, from the child's previous public agency in which the child was enrolled.
- When records are requested from the AU, the AU takes reasonable steps to promptly respond to the request from the new AU, SOP or approved facilities school.

Citations:

IDEA 34 CFR §300.323 (g)(1)-(2)
ECEA Rule 4.03 (1)(h)

Requirements for Special Education Personnel

The AU assures that it will employ:

- A qualified and certificated full-time professional who has the flexibility to function at least half time as director of special education and who has the authority to assure that all the duties and responsibilities of the AU's Comprehensive plan are carried out.
- A person who is designated as the child find coordinator who is responsible for an ongoing child identification process.
- Sufficient personnel who are appropriately licensed and endorsed and fully qualified to:
 - Conduct evaluations and make determinations of eligibility for special education services;
 - Develop and review IEPs; and
 - Provide appropriate special education instruction and related services in order to implement all IEPs for children with disabilities.

The AU assures that it will have a method or standards by which it determines the number and types of special education personnel required to meet the needs of children with disabilities.

Citations:

IDEA 34 CFR § 330.156
ECEA Rule 3.01(1)(b)(c)
ECEA Rule 3.03
ECEA Rule 4.02 (2)(b)

Personnel Qualifications:

The AU assures that all special education personnel providing special education services to children with disabilities meet the following criteria:

- Teachers
 - All special education teachers must hold a Colorado teacher's license with appropriate endorsement(s) in special education.
 - Each special education teacher serves, at a minimum, a majority of special education students with the same identified area of need as the teacher's special education license and endorsement.

The endorsement level must be appropriate for the age of children being taught.
- Home hospital teachers for children with disabilities hold Colorado teacher's certificates or licenses
- Teachers, interpreters, and other specialists delivering services for a student with a communication plan, must have demonstrated proficiency in, and be able to accommodate for, the child's primary communication mode or language.
- Teachers licensed and endorsed in the area of Visual Impairment must have demonstrated competency in reading and writing literary Braille per the guidelines developed by the CDE.
- Related services personnel
 - All related services personnel providing services to children with disabilities must hold a Colorado special services license with an appropriate endorsement.
 - In those areas for which a Colorado special services license is not available, an appropriate license from the state regulatory agency or professional organization registration is required.
- Special education coordinators
 - All special education coordinators will have at least a Bachelor's degree and hold Colorado licensure in a relevant field.
 - Documentation of their expertise is submitted to the CDE.

- Special education administrators
 - All special education directors and assistant directors possess a Colorado administrator’s license with the appropriate endorsement. If a special education director does not hold the administrator’s license with the Special Education Director endorsement, the AU must designate the Director of Record.
- Paraprofessionals
 - The AU determines the qualifications and competencies that are required for its paraprofessionals; and
 - The AU ensures that all non-certificated personnel are supervised.
- Educational Interpreters
 - All Educational Interpreters must meet the CDE requirements for authorization.

Citations:

IDEA 34 CFR §300.18
 IDEA 34 CFR §300.156
 ECEA Rule 3.03
 ECEA Rule 3.04

Staff Development

The AU assures that staff development opportunities:

- Are provided to all staff providing special education services to children with disabilities; and
- Foster the continuing development of the awareness, skills and knowledge of each staff member and are designed to bring about changes in knowledge, attitudes, actual performance skills and interpersonal relations of staff members.

The AU assures that the staff development opportunities include an evaluation component to determine their effectiveness.

Citations:

IDEA 34 CFR §300.207
 ECEA Rule 3.05
 ECEA Rule 8.01 (1)(g)

Requirements for Program Evaluation

The AU assures that:

- Records are maintained of the results of all qualitative and quantitative evaluations of special education services rendered.
- Evaluations of special education services occur annually and within a period of five years systematically cover aspects of services to children with disabilities.

The AU assures that the program evaluation reviews:

- The extent to which quality special education policies, procedures and practices are in place and where improvements can occur; and
- The degree to which children with disabilities are achieving their individual goals as well as school, district, and state standards and student outcomes.

Citations:

ECEA Rule 3.06
ECEA Rule 8.01(1)(a)(iii)
ECEA Rule 8.01 (1)(h)

Section 2

Child Find

Child Find Process

The AU assures that:

- A designated person is identified as a child find coordinator and is responsible for ongoing child identification processes.
- Child Find is ongoing throughout the calendar year.
- All Child Find activities are provided at no cost to the parent(s).
- Parent(s) are provided with information about all public and private resources that can meet their child's identified needs, including information about the building-level referral process for school aged children.
- Parents are involved in the Child Find process.
- The Child Find process includes specific strategies for children three through five years of age, children in school, and children out of school who are discontinuers or dropouts. It will include the following components:
 - Planning and development in the areas of:
 - Public awareness;
 - Community referral systems;
 - Community and building based screening;
 - Diagnostic evaluations;
 - Service coordination; and
 - Staff development
 - Coordination and implementation in the areas of:
 - Interagency collaboration;
 - Public awareness;
 - Referral;

- Screening; and
- Resource coordination
- Screening procedures for identifying from the total population of children ages 3 to 21 years those who may need more in-depth evaluation in order to determine eligibility for special education and related services.
 - Follow up vision and hearing screening shall interface with the vision and hearing screenings which occur for all children in public preschool, kindergarten, grades 1, 2,3, 5,7 and 9 yearly in accordance with Section 22-1-116, C.R.S.
 - Appropriate educational referrals shall be made if the child is suspected of having an educationally significant vision or hearing loss and parents shall be informed of any need for further medical evaluation.
- A systematic procedure for considering those children ages 17 to 21 who are out of school and who may have a disability.
- Referral procedures to ensure that parents of children are given information about all public and private resources that meet identified needs.
- Transitions between Part C services and Part B services are facilitated and are characterized by:
 - A smooth and effective transition for children participating in early intervention programs assisted under Part C of the IDEA into preschool programs assisted under Part B of the IDEA.
 - Having an IEP implemented for the child by the child's third birthday.
 - The child find coordinator or designee participating in transition planning conferences arranged by the Part C lead agency.
- There is regular evaluation of the effectiveness and efficiency of the child identification procedures.

Child Find Obligations for the AU of Attendance

The AU of attendance assures that it will locate, evaluate and identify children with a disability, birth through 21, who:

- Are attending nonprofit private schools within the boundaries of the AU;
- Are attending a charter school that has been authorized by the AU or member district of the AU;

- Are wards of the State;
- Are highly mobile;
- Are school aged, and are suspected of being a child with a disability, even though they are advancing from grade to grade;
- Are in hospitals or treatment centers, unless State-operated;
- Are in residential programs, unless State-operated;
- Are living on reservations within the boundaries of the AU.

Child Find Obligations for the AU of Residence

The AU of residence assures that it will locate, evaluate and identify children, birth through 21, with disabilities who:

- Have not yet entered school;
- Have discontinued their education; or
- Are home-schooled.

Citations:

IDEA 34 CFR §300.111(a)(c)
 IDEA 34 CFR §300.124
 IDEA 34 CFR §300.131
 ECEA Rule 4.02 (1)
 ECEA Rule 4.02 (2)
 ECEA Rule 5.01 (6)
 ECEA Rule 8.02(1)(b)
 ECEA Rule 8.02(2)
 ECEA Rule 8.04(1)
 ECEA Rule 8.05(1)
 ECEA Rule 8.05(1)(a)

Section 3

Special Education Referral, Evaluation, Eligibility Determination and Reevaluation Processes

AU of Attendance Responsibilities for Referral, Evaluation, Eligibility Determination and Reevaluation

The AU of attendance assures that it will:

- Conduct initial assessments and eligibility meetings for children attending school in the AU, regardless of the AU of residence, once a special education referral has been made.
- Conduct initial evaluations and eligibility meetings for children who are parentally placed in a private school within the geographic boundary of the AU.
- Conduct meetings to develop the initial Individualized Education Program (IEP) for children at approved facility schools that are located within the boundaries of the AU.
- Notify the child's AU of residence if it is different from the AU of attendance, so that the AU of residence may choose to participate in the initial evaluation and/or eligibility determination process.
- Develop and implement an IEP for all children found eligible for special education and related services attending school within the AU.
- Conduct reevaluations of all eligible children attending school within the AU.
- Maintain a record of the disposition of each special education referral.

AU of Residence Responsibilities for Referral, Evaluation, Eligibility Determination and Reevaluation

The AU of residence assures that it will:

- Conduct initial evaluations for children who are not enrolled in school, but residing in the AU, once a special education referral has been made.
- Conduct an initial eligibility meeting for children who are not enrolled in school, but residing in the AU.
- Develop and implement an IEP for all children found eligible for special education and related services, if residing within the boundaries of the AU and not attending school in another AU.

- Conduct reevaluations of all eligible children residing in the AU and not attending school in another AU.
- Conduct reevaluations of children whose parents reside within the boundaries of the AU or are determined to be residents of the AU, who attend school at an approved facility school.
- Conduct IEP review meetings and re-determination of eligibility for children placed in an approved facility school and whose parents reside within the boundaries of the AU.
- Maintain a record of the disposition of each special education referral.

The exceptions to these assurances are:

- Reevaluations of children attending the Colorado School for the Deaf and the Blind (CSDB) or Initial evaluation and reevaluation of children attending or residing at the Colorado Mental Health Institute of Pueblo (CMHI) or the Division of Youth Corrections (DYC) or the Department of Corrections (DOC) are the responsibility of those agencies. These agencies shall invite the AU of residence to participate in the initial evaluation or reevaluation.
- When the charter contract between a charter school and its authorizer allows the charter school to provide initial evaluations and reevaluations, the charter school shall be responsible for conducting such evaluations. However, the AU of the authorizing charter school remains ultimately responsible for ensuring that all such evaluations are conducted following the requirements outlined below.

Citation:

ECEA Rule 4.02(3)(d)
 ECEA Rule 8.02(2)
 ECEA Rule 8.04
 ECEA Rule 8.05
 ECEA Rule 8.06

Special Education Referral and Evaluation Process

The AU assures that:

- The special education referral process is clearly delineated from the building level processes that use universal screenings or the provision of systematic instructional options.
- The AU clearly articulates the differences between the two processes to parents and community.
- Action is taken on special education referrals that are initiated by the parents, using IDEA's definition of parent. Individual(s) may be considered to be a parent(s) if:

- They are the biological or adoptive parents of a child; or
- They are a foster parent, unless State law, regulations or contractual obligations with a State or local entity prohibits a foster parent from acting as a parent; or
- They are a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, but not the State if the child is a ward of the State; or
- They are an individual acting in the place of a biological or adoptive parent with whom the child lives, or an individual who is legally responsible for the child's welfare; or
- They are an educational surrogate parent (ESP); or
- If there is a judicial decree or order that identifies a specific person or persons to act as the "parent" of a child or to make educational decisions on behalf of the child, then such person shall be determined to be the "parent."
- The biological or adoptive parents when attempting to act as the parents are presumed to be the parents unless the parents do not have legal authority to make educational decisions for the child.

The AU assures that any other interested person who believes that a child is in need of an initial evaluation works with the parents or the appropriate AU or state operated program in order to refer a child for a special education evaluation.

The AU assures that it will act on special education referrals that are initiated by the AU as a result of a building level screening and/or referral process.

The AU considers the special education referral process initiated when one of the following occurs:

- The parent is informed of the special education referral as a result of the building level process or screening and the parent provides written consent to conduct an initial evaluation; or
- The request for an initial evaluation is received from the parent and the parent provides written consent to conduct the initial evaluation.

The AU considers the special education referral process terminated if the parent(s) revokes consent previously granted.

The AU assures that when evaluations are conducted:

- A multidisciplinary team is organized. The team includes CDE licensed professionals who are qualified in the areas to be evaluated and are able to interpret those assessment results. The team must include:
 - At least one teacher or other specialist with knowledge in the area of the child's suspected disability or disabilities;
 - Other qualified professionals, as appropriate;
 - The parent(s) of the child;
 - The child's general education teacher when a specific learning disability is suspected. If the child does not currently have a general education teacher, a general education teacher qualified to teach the child at his/her grade level is included on the team.
- The multidisciplinary team reviews sources of existing evaluation data and, with input from the parent(s), determines if any additional data are necessary to make an eligibility determination. Data sources may include:
 - Observations by teachers and related service providers;
 - Evaluations and information provided by the parent(s);
 - Current classroom-based, local, or State assessments, and classroom based observations;
 - Interviews with parents and additional school staff, including the general education teacher(s);
 - Analysis of district and state assessments results;
 - Review of vision and hearing screenings results;
 - Reports or evaluations that have been provided by outside agencies.
- On the basis of the review, the multidisciplinary team with input from the child's parent(s) identifies what additional data, if any, are needed to determine all areas related to the suspected disability or disabilities and to identify the child's educational needs including, if appropriate:
 - Health;
 - Vision;
 - Hearing;
 - Social and emotional status;
 - General intelligence;

- Academic performance;
- Communicative status;
- Motor abilities.
- When a special education referral is made either by the parent or the AU, the AU:
 - Provides prior written notice to the parent(s).
 - Provides the parents with a copy of the Procedural Safeguards.
 - Obtains written parental consent for the evaluation prior to conducting the evaluation.
 - Documents when the signed written parental consent is received by the AU.
 - Maintains a record of the disposition of each special education referral.
- When the parents request a special education evaluation for their child and the AU does not agree, the AU:
 - Provides prior written notice that includes the AU's rationale for not conducting the evaluation.
 - Provides the parents with a copy of the Procedural Safeguards.

Timelines for Completion of the Initial Evaluation

The AU assures the completion of the initial evaluation process within 60 calendar days, unless:

- The parents of the child fail or refuse to produce the child for evaluation; or
- The child enrolls in a school of another AU or State Operated Program after the relevant timeframe has begun and prior to the previous AU's completing the evaluation process and making the eligibility determination.
 - In this case, the 60 day timeline may be extended by the subsequent AU or SOP if:
 - The subsequent AU/SOP is making sufficient progress to ensure prompt completion of the evaluation; and
 - The parent(s) and the subsequent AU/SOP agree to a specific time when the evaluation will be completed.
- If a specific learning disability is suspected, the multidisciplinary team and the parent(s) may determine that more time is needed to assess the student. In such

cases, there is a written agreement between the AU and the parent to extend the 60 day evaluation timeline.

Citations:

IDEA 34 CFR §300.9
IDEA 34 CFR §300.18
IDEA 34 CFR §300.30
IDEA 34 CFR §300.300
IDEA 34 CFR §300.301
IDEA 34 CFR §300.302
IDEA 34 CFR §300.304
IDEA 34 CFR §300.305(a)
IDEA 34 CFR §300.503
IDEA 34 CFR §300.504
IDEA 34 CFR §300.622
ECEA Rule 2.33
ECEA Rule 4.01
ECEA Rule 4.02 (3)
ECEA Rule 4.02 (4)
ECEA Rule 4.02 (7)
ECEA Rule 6.01 (12)
ECEA Rule 6.02 (3)
ECEA Rule 6.02 (4)

Evaluation Procedures

The AU assures that:

- A variety of assessment tools and strategies are used in order to gather relevant, functional, developmental and academic information about the child.
- The assessment tools are not racially discriminatory or culturally biased.
- The assessment tools are provided and administered in the child's native language or in a form of communication most likely to yield reliable information about what the child knows and can do academically, developmentally and functionally, unless it is clearly not feasible to do so.
- The assessment tools are used for the purposes for which the assessments were designed; measures are valid and reliable for the demographics of the child; and, assessments are administered by trained and knowledgeable personnel in accordance with the instructions provided by the producer of the assessment.
- The assessments and other evaluation materials include those tailored to assess specific areas of academic need and not merely those that are designed to provide a single intelligence quotient.
- If an assessment is administered to a child with impaired sensory, manual or speaking skills, the assessments are selected and administered to ensure that the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

- Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated between the evaluation teams from the prior and subsequent schools to ensure prompt completion of full evaluations.
- The evaluation is sufficiently comprehensive to identify all of the child’s special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified.
- The assessment tools and strategies are chosen to provide relevant information that directly assists persons in determining the educational needs of the child.

Citations:

IDEA 34 CFR §300.304

ECEA Rule 4.02 (4)

Additional Evaluation Procedures and Documentation Requirements for Consideration of Specific Learning Disability

The AU assures that the additional evaluation procedures and the collection of documentation for the evaluation report are completed when a specific learning disability is suspected. The additional evaluation procedures and documentation include:

- Observational information, collected prior to or following the referral for evaluation, that documents the child’s academic performance in the area(s) of difficulty. The observational information includes a description of the child’s relevant behavior and is conducted in the child’s learning environment, including the general education classroom. If the child is less than school age or out of school a member of the multidisciplinary team observes the child in an environment that is appropriate for a child of that age.
- A body of evidence that demonstrates both academic skill deficits(s) and insufficient progress in response to scientific, researched-based interventions(s). This body of evidence includes:
 - Results of diagnostic/prescriptive assessments;
 - Descriptive analysis of the child’s classroom work;
 - Response-to-intervention progress monitoring data;
 - Results of classroom/district/ state assessments.
- Documentation of the child’s participation in a process that assesses the child’s response to scientific research-based intervention. The documentation may be from an intervention process that occurred prior to the referral process or as part of the referral process. The documentation must include:

- Instructional strategies used; and
- Student-centered data collected, including repeated assessments of achievement at reasonable intervals.
- Documentation that the multidisciplinary team considered any educationally relevant medical findings.
- Documentation that the parents(s) were notified of:
 - The State’s policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
 - Strategies for increasing the child’s rate of learning;
 - Results of repeated assessment of the child’s progress.

Citations:

IDEA 34 CFR §300.307(b)
 IDEA 34 CFR §300.309
 IDEA 34 CFR §300.310
 IDEA 34 CFR §300.311(b)
 ECEA Rule 2.08(6)(b)(ii)
 ECEA Rule 4.02 (7)
 CDE (2008). *Guidelines for Identifying Students with specific Learning Disabilities*

Determination of Disability and Eligibility

The AU assures that, upon the completion of the initial evaluation:

- A meeting is held, within a reasonable amount of time after the completion of the evaluation, to determine if the child has a disability and if the child is eligible for special education. The meeting participants must include:
 - At least one teacher or other specialist with knowledge in the area of the child’s suspected disability;
 - Other qualified professionals, as necessary;
 - Parent(s) of the child;
 - If a specific learning disability is being considered, the child’s general education teacher or, if the child is not in school, a general education teacher that is appropriate for the grade level of the child.
 - At the discretion of the special education director for the AU of residence, the special education director or designee for the administrative unit of residence.

- The multidisciplinary team interprets the evaluation data for the purpose of determining if a child is a child with a disability and to determine the educational needs of the child. The team draws upon a variety of sources that include:
 - Aptitude and achievement tests;
 - Parent input;
 - Teacher recommendations;
 - Information about the child’s physical condition, social or cultural background; and
 - Adaptive behaviors.
- The multidisciplinary team ensures that information obtained from all of these sources is documented and carefully considered.
- The multidisciplinary team including the parent(s) does not identify the child as a child with a disability if any of the following is a primary determining factor in the decision:
 - Lack of appropriate instruction in reading, including the essential components of reading instruction; or
 - Lack of appropriate instruction in math; or
 - Limited English proficiency; or
 - If the child does not otherwise meet eligibility criteria.
- When there is a determination of specific learning disability, the multidisciplinary team certifies in writing that this is the conclusion of the team. If a member of the team does not agree with this determination, a separate statement presenting the member’s conclusion is submitted and maintained in the child’s records.
- Upon determination of eligibility, the AU obtains informed written parental consent for the initial provision of special education and related services.
- The IEP team, which includes the parent, develops an IEP for the child, if the child is determined to have a disability, is eligible for special education and written parental consent has been obtained for the initial provision of services. The IEP is developed either:
 - At the same meeting as the eligibility determination; or
 - Within 30 calendar days of determining eligibility.

- When the determination of eligibility and disability occur at a meeting separate from the IEP meeting, the AU maintains a record of the meeting which includes a statement of the child's disability and the criteria utilized to determine eligibility.
- The AU provides a copy of the evaluation report to the parent(s) at no cost.
- Prior written notice is provided to the parent(s) of the team's determination of disability and eligibility or of its determination that the child is not a child with a disability and is not eligible for special education and related services.
- The AU uses the State eligibility criteria, outlined below, to determine whether the child is a child with disability.
- If a parent(s) refuses to provide consent for the provision of special education and related services or revokes consent previously granted for the provision of special education and related services, the AU will:
 - Not employ any due process procedures to obtain agreement or a ruling that the services be provided to the child.
 - Not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with special education and related services for which the parent refuses to or fails to provide consent.
 - Not be required to convene an IEP team meeting or develop an IEP.
- The AU assures that when the parent(s) revokes consent in writing for the provision of special education and related services for their child, subsequent to the initial provision of services, the AU will:
 - Provide prior written notice to the parent(s), according to the rules for prior written notice, prior to the termination of special education and related services;
 - No longer continue to provide special education and related services;
 - Not employ dispute resolution procedures to obtain agreement or a ruling that special education and related services be provided;
 - Not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and,

- Not be required to convene an IEP meeting or develop an IEP for further provision of special education and related services.
- Not be required to amend the child's educational records to remove any reference to the child's receipt of special education and related services.

Citations:

IDEA 34 CFR §300.300 (b)
 IDEA 34 CFR §300.306
 IDEA 34 CFR §300.307
 IDEA 34 CFR §300.308
 IDEA 34 CFR §300.311 (b)
 IDEA 34 CFR §300.322(a)
 IDEA 34 CFR §300.323(c)(1) and (2)
 IDEA 34 CFR §300.503
 ECEA Rule 4.01
 ECEA Rule: 4.02(6)- (8)
 ECEA Rule 4.03 (1)(d)(i)
 ECEA Rule 6.02(3)

Criteria for the Determination of a Disability

The AU assures that determination of a disability or disabilities is based upon ECEA criteria and uses these disability categories:

The criteria for each disability category are identified in Appendix A of this document.

- Autism Spectrum Disorder;
- Deaf-Blindness;
- Developmental Delay;
- Hearing Impairment, including Deafness;
- Infant with a Disability;
- Intellectual Disability;
- Multiple Disabilities;
- Orthopedic Impairment;
- Other Health Impaired;
- Serious Emotional Disability;
- Specific Learning Disability;
- Speech or Language Impairment;

- Traumatic Brain Injury;
- Vision Impairment, including Blindness.

Citation:

IDEA 34 CFR §300.8
 IDEA 34 CFR §300.25
 ECEA Rule 2.08

Reevaluation Process

The AU assures that a special education reevaluation occurs for all identified and eligible children ages three through twenty-one:

- At least every three years to determine the child’s continued eligibility for special education and to determine the nature and extent of the special education and related services that the child needs, unless the parent and the AU agree that a reevaluation is unnecessary.
- A reevaluation does not occur more than once a year, unless the parent and the AU agree otherwise.
 - If the AU does not agree with the parent’s request for a reevaluation, the AU provides Prior Written Notice to the parent to inform him/her that the AU refuses to reevaluate the child, and provides the rationale for this decision.
- When the AU determines that the educational or related services needs, including improved academic achievement and functional performance of the child, warrant a reevaluation.
- When there is consideration of changing the disability category.
- When the AU suspects that a child is no longer eligible for special education and related services.
- When the AU considers making a significant change in placement (see change of placement in IEP section);

The AU assures that prior to a reevaluation:

- Prior written notice is provided to the parent(s);
- Written consent to conduct the evaluation is obtained from the parent(s)
 - If the parent denies consent for a reevaluation, the AU may decide to:

- Use consent override procedures including mediation and due process;
 - Not pursue the reevaluation;
 - Use existing data sources for the reevaluation.
- If the parent does not respond to the request for consent for reevaluation, the AU maintains evidence that it has made reasonable efforts to obtain the consent and the parent did not respond.
 - The AU has a process to determine whether to proceed with the reevaluation.

The AU assures that, when the IEP team conducts the reevaluation, the team:

- Reviews existing evaluation data about the child including—
 - Evaluations and information provided by the parents of the child;
 - Current classroom-based, local, or state assessments, and classroom based observations;
 - Observations by teachers and related services providers; and
- On the basis of that review and input from the child’s parents, identifies what additional data, if any, are needed to determine:
 - Whether the child continues to have a disability;
 - Whether the child continues to need special education and related services; and
 - The educational needs of the child.
- In addition, the team reviews:
 - The child’s present levels of academic achievement;
 - Related developmental needs of the child; and
 - Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals and to participate, as appropriate, in the general education curriculum.
- The team administers any other evaluations or conducts any new evaluations as necessary, with the consent of the parent(s).

Requirements when no additional data are needed

The IEP team, which includes the parent(s) and other qualified professionals, as appropriate, may determine that no additional data are needed to determine the child's continuing eligibility for special education and related services. In such a situation, the IEP team:

- Provides prior written notice to the child's parents of that determination and the reason for the determination; and
- Informs the parents that they have the right to request an evaluation for their child in order to determine if their child continues to be a child with a disability and to determine the child's educational needs.

The AU does not evaluate a child with a disability when the child's eligibility is terminated due to graduation from secondary school with a regular diploma or due to exceeding the age of eligibility for FAPE. In these circumstances the AU provides the child with a summary of his or her academic achievement and functional performance, including recommendations on how to assist the child in meeting postsecondary goals.

Citations:

IDEA 34 CFR §300.300 (c)
IDEA 34 CFR §300.303
IDEA 34 CFR §300.304
IDEA 34 CFR §300.305
IDEA 34 CFR §300.306
ECEA Rule 4.02(5); (6)

Section 4

Free Appropriate Public Education (FAPE)

The AU assures that:

A free appropriate public education is available to all children residing in the AU between the ages of 3 and 21, including children with disabilities who have been suspended or expelled from school as described in Section 6.

The obligation to make FAPE available to each child with a disability begins no later than the child's third birthday and an IEP shall be in effect for each eligible child by that date.

If the child's third birthday occurs during the summer, the IEP Team determines the date when services begin as soon after the child's third birthday as is practical.

FAPE is available to children with disabilities who need special education and related services, even when a child has not failed or been retained in a course or grade and is advancing from grade to grade.

The AU acknowledges that it does not have an obligation to provide FAPE to

- Children who do not meet Colorado's age requirements for FAPE;
- Children who are home schooled;
- Children who are parentally placed in private schools;
- Children incarcerated in adult correctional facilities; and
- Children with disabilities who have graduated from high school with a regular diploma.

Citations:

IDEA 34 CFR §300.101
IDEA 34 CFR §300.102
ECEA Rule 5.01(a)(b)

Section 5

Individualized Education Programs (IEPs)

IEP Timelines

The AU assures that:

- An initial IEP:
 - Is developed for a child within 30 calendar days of the determination of special education eligibility; but
 - For evaluations where Specific Learning Disability is suspected and an extension to the evaluation process was given consent by the parent(s), not more than 90 calendar days from the date that parental consent was obtained to conduct the initial evaluation.
- The IEP is in effect for all eligible students at the beginning of every school year.
- IEP meetings to review and revise each child's IEP and to determine the child's placement are initiated and conducted at least once every 365 days.
- The specific special education and related services, accommodations, modifications, and supports are implemented for the child as soon as possible after the IEP has been developed.
- Following a reevaluation, a meeting is held within a reasonable period of time to discuss the reevaluation of the child to determine if the child continues to be eligible for special education and/or to identify all of the child's special education and related services needs.

Citations:

IDEA 34 CFR §300.323(a)(c)
IDEA 34 CFR §300.324(b)
ECEA Rule 4.02(6)(a)(ii)
ECEA Rule 4.03 (1)(a)
ECEA Rule 4.03 (1)(d)(i)
ECEA Rule 4.03 (3)

IEP Team Members and Team Member Responsibility

Obligation for parent participation

The AU assures that the parent(s) of a child with a disability is afforded the opportunity to participate in meetings with respect to:

- The identification, evaluation and educational placement of the child; and
- The provision of FAPE to the child.

The AU meets its obligation to assure parent participation by:

- Notifying the parent(s) of the meeting sufficiently in advance of the scheduled time so that the parent(s) has an opportunity to attend.
- Scheduling the meeting at a mutually agreed upon time and place;
- Stating the purpose, time, and location of the meeting and indicating who will be in attendance at the meeting on the Notice of Meeting.
- Providing for interpreters or translators, at no cost to the parent(s), to ensure that the parent(s) understand the proceedings of the IEP meeting;
- Encouraging the parent(s)'s input with regard to the child's present levels of performance, need for instructional accommodations reflected in the assessment participation, strengths and needs, goals, and least restrictive environment.
- Suggesting arrangements that would allow the parent(s)'s participation via phone or other alternate meeting methods, if the parent(s) is not able to attend the meeting in person.

If the parent(s) does not respond to the Notice of Meeting, the AU maintains evidence of the AU's attempts to arrange a meeting at a mutually agreed upon time and place, such as:

- Detailed records of telephone calls made or attempted and the results of the calls;
- Copies of correspondence sent to the parents and any responses received;
- Detailed records of visits made to the parent(s)'s home or place of employment and the results of those visits.

Citations:

IDEA 34 CFR §300.322
IDEA 34 CFR §300.327
IDEA 34 CFR §300.328
IDEA 34 CFR §300.501(b)
ECEA Rule 4.03(7)

Requirements and Responsibilities for Other IEP Team Membership

The AU also includes as part of the IEP team:

- The child, when appropriate;
- At least one general education teacher of the child, if the child is or may be participating in the general education environment. The general education teacher participates to the extent appropriate in the development of the IEP, including the determination of:
 - Appropriate positive behavioral interventions, supports and other strategies for the child;
 - Supplemental aids and services;
 - Program modifications; and
 - Support for school personnel.

- At least one special education teacher(s) and/or special education provider(s) of the child;
- The Director of Special Education or designee who is knowledgeable about the availability of resources of the AU and has the authority to commit those resources;
- Individual(s) who can interpret the instructional implications of evaluation results, as necessary;
- Others at the discretion of the AU or parent(s), including professionals who have knowledge or special expertise regarding the child. The determination of knowledge and special expertise is made by the party (the parent(s) or the AU) who invites the individual to be a member of the IEP team.
- Beginning with the first IEP developed when the child is age 15 but no later than the end of the 9th grade, or earlier if deemed appropriate by the IEP Team and when the purpose of the meeting is the consideration of postsecondary goals for the child and transition services needed to assist the child in reaching those goals, the AU includes the following individuals:
 - The student.
 - If the student is unable to attend, the AU takes other steps to consider the student's preferences and interests.
 - A representative of any participating agency that is likely to be responsible for providing or paying for transition services, to the extent appropriate, but only if there is consent from the parents, or if the student has reached the age of majority, the consent of the student.
- The Director of Special Education or designee of the AU of residence if the meeting involves transition planning between Part C (infant/toddler) to Part B (ages 3 and older) services.
- The Part C service coordinator or other representative of the Part C system, if requested by the parent, to assist with smooth transition from Part C services to Part B services.
- A representative of an approved facility school, if the child has been publically placed at an approved facility school. If the representative is unable to attend, his or her participation is ensured by providing an alternative means of participation.
- If the AU of residence is not responsible for a meeting, the AU of attendance or SOP provides timely notification of the IEP meeting to the Special Education Director or designee for the AU of residence. The notification shall be provided at the same time and in the same manner that the parent is notified of the meeting.

- A required IEP Team member (the regular education teacher of the child, a special education teacher of the child, an individual who can interpret the instructional implications of evaluation results) may be excused from attending an IEP meeting if:
 - The parent provides consent in writing and the AU also consents to the excusal; and
 - The excused member submits in writing to the parent and the IEP team input into the development of the IEP prior to the meeting.
- The AU does not allow for the excusal of the Special Education Director of the AU or designee at any IEP meeting.
- Each general education teacher, related service provider and any other services provider or school personnel, who are responsible for IEP implementation, has access to the child's IEP and is informed of:
 - His or her specific responsibilities related to implementing the child's IEP; and
 - The specific accommodations, modifications and supports that must be provided for the child in accordance with the child's IEP.

Citations:

IDEA 34 CFR §300.321
 IDEA 34 CFR §300.323 (d)
 IDEA 34 CFR §300.324(a)(3)(i)-(ii)
 ECEA Rule 4.02 (6) (b)
 ECEA Rule 4.03(1)(e)
 ECEA Rule 4.03(5)(a)(b)(c)

Requirements for the Development of the IEP

The AU assures that the IEP team develops every IEP based upon the consideration of:

- The strengths of the child;
- The input, including any concerns, of the parent for enhancing the education of his/her child;
- The results of the initial or most recent evaluation of the child;
- The academic, developmental, and functional needs of the child; and
- The following special factors:
 - The use of positive behavioral interventions, if the child's behavior impedes the child's learning or that of others.
 - The language needs of the child, if the child is limited English proficient, as those needs relate to the IEP.
 - Instruction in Braille and the use of Braille, if the child is blind or visually impaired, unless the IEP team determines, after evaluation of the child's

reading and writing skills, needs, and appropriate reading and writing media, including the child's future needs for instruction in Braille, that the use of Braille is not appropriate for the child.

- The consideration of the communication needs of the child and, if the child is hard of hearing or deaf:
 - The child's language and communication needs;
 - Opportunities for direct communication with peers and adults in the child's communication mode; and
 - The need for direct instruction in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.
- Any need for assistive technology devices or services.

The AU assures that, when determined necessary, assistive technology devices or services:

- Are made available to a child with a disability if required as part of the child's special education, related services or supplementary aids and services; and
- The use of school-purchased assistive technology devices in a child's home or in other settings is provided when the child's IEP team determines that the devices are necessary in order for the child to receive FAPE.

The AU assures that every IEP written for a child with a disability includes:

- Statement(s) of the child's present levels of academic achievement and functional performance, including statement(s) of how the child's disability affects the child's involvement and progress in the general education curriculum.
- A statement(s) for preschool children about how the disability affects the child's participation in appropriate activities.
- Statement(s) of measurable annual goal(s), including academic and functional goal(s) that are designed to meet the child's needs to enable the child to be involved in and make progress in the general education curriculum.
- Inclusion of additional goal(s), as appropriate, to meet each of the child's other educational needs that result from the child's disability.
- A description of benchmark(s) or short-term objective(s), if the child is to take alternate assessments that are aligned to alternate achievement standards.
- A description of how progress on the annual goal(s) and benchmark(s) will be measured and how often the progress will be provided.
- Statements that identify the special education and related services and supplemental aids and services, based on peer-reviewed research to the extent

practicable that will be provided for the child, as well as statements of program modifications or supports from school personnel that will enable the child to:

- Advance appropriately toward attaining the annual goals;
 - Be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities;
 - Be educated with peers with and without disabilities; and
 - An explanation of the extent to which the child will not participate with children without disabilities in the regular class and in other activities;
 - Receive individual accommodations that are necessary to measure the child's academic achievement and functional performance on state and district wide assessments.
- Statement(s), if appropriate, that provide rationale for the child's need to take alternate assessments, including:
 - Information that documents why the child cannot participate in regular assessment;
 - Information that documents that the child meets criteria for instruction on expanded benchmarks; and
 - Documentation that the alternate assessment is appropriate for the child.
 - The projected date for the beginning of the services and the anticipated frequency, location and duration of those services and modifications.
 - Beginning with the first IEP developed when the child is age 15 but no later than the end of the 9th grade, or earlier if deemed appropriate by the IEP Team, the IEP includes statements that address the student's transition needs including:
 - Appropriate measureable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills.
 - Description of transition services, including courses of study, needed to assist the student in reaching those goals.
 - A statement on the IEP for students who are a year from reaching the age of majority (21 years), verifying that the student has been informed of the student's rights under Part B of the Act.
 - A Communication Plan is developed for children who are hearing impaired. The plan includes:
 - A statement that identifies the child's primary communication mode as one or more of the following:
 - Aural,

- Oral,
- Speech-based,
- English based Manual or sign system
- American sign language
- A statement that there is no denial of opportunity for instruction in a particular mode based on:
 - Residual hearing,
 - The parents' inability to communicate in the child's communications mode or language, or
 - The child's experience with another mode of communication or language.
- A statement documenting that an explanation was given of all educational options available to the child.
- A statement documenting that the IEP team considered the availability of deaf/hard of hearing adult role models and a deaf/hard of hearing peer group of the child's communication mode or language.
- Statements that document the communication-accessible academic instruction, school services and extracurricular activities that the student will receive.
- The AU assures that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.

The AU assures that the teachers, interpreters and other specialists delivering the communication plan to the child have demonstrated proficiency in, and are able to accommodate for, the child's primary communication mode or language.

- A Learning Media Plan is developed for children who are visually impaired. The plan:
 - Is based on a comprehensive assessment of the child's learning and literacy modalities completed by a licensed teacher in the area of visual impairment.
 - Identifies Braille as the literacy medium unless the child's IEP team determines that instruction in Braille is not appropriate.
 - Includes the following:
 - A statement of how the selected learning and literacy mode(s) will be implemented as the child's primary or secondary mode for achieving literacy and why such mode or modes have been selected.
 - A statement of how the child's instruction in the selected learning and literacy mode(s) will be integrated into educational activities.
 - Statements that define:

- ◆ Date instruction will begin;
 - ◆ Amount of time to be dedicated to each learning and literacy mode; and
 - ◆ The service provider responsible for each area of instruction.
- Level of competency in each selected learning and literacy mode(s) which the child will achieve by the end of the period covered by the IEP.

The AU assures that the teachers for students who have visual impairments are licensed and endorsed in the area of Visual Impairment and have demonstrated competency in reading and writing literacy Braille per the guidelines developed by the Colorado Department of Education.

The AU assures that a copy of the IEP is given to the parent at no cost.

Citations:

IDEA 34 CFR §300.105
 IDEA 34 CFR §300.113
 IDEA 34 CFR §300.320(a)
 IDEA 34 CFR §300.322(f)
 IDEA 34 CFR §300.324
 ECEA Rule 4.03(6)
 ECEA Rule 5.01(1)(m)
 ECEA Rule 5.01(1)(e)

Extended School Year

The AU assures that extended school year services are provided when the IEP team determines, on an individual basis, that the services are necessary for the provision of FAPE to the child. In implementing these requirements, the AU does not:

- Limit extended school year services to particular categories of disability; or
- Unilaterally limit the type, amount, or duration of the services.

Citations:

IDEA 34 CFR §300.106
 ECEA Rule 5.01(1)(f)

Routine Checking of Hearing Aids and External Components of Surgically Implanted Medical Devices

The AU assures that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.

The AU assures that the external components of surgically implanted medical devices are functioning properly.

For a child with a surgically implanted medical device who is receiving special education and related services under this part, the AU is not responsible for the post-surgical maintenance, programming, or replacement of the medical device that has

been surgically implanted (or of an external component of the surgically implanted medical device).

Citations:
IDEA 34 CFR §300.113
ECEA Rule 5.01(1)(m)

Educational Placement Decisions and Least Restrictive Environment (LRE) Requirements

The AU determines the educational placement and LRE for children with disabilities so that the child is removed from the general education setting to special classes or a separate school only if the nature or the severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved.

The AU has a continuum of alternative placements available to meet the needs of children with disabilities for special education and related services that includes placements in:

- General education classes;
- Special classes;
- Special schools;
- Home instruction;
- Instruction in hospitals and/or institutions.

The AU also assures that it provides supplementary services in conjunction with general class placement, as necessary and appropriate.

The AU assures that the decision of educational placement and the LRE made for a child with a disability, including a preschool child with disabilities, is based upon:

- The consideration of the maximum extent appropriate to which the child can be educated with children without disabilities;
- The consideration of special classes, separate schooling, or other removal of a child with a disability from the general education environment occurs only if the nature and severity of the disability is such that the education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily;
- Consideration of any potential harmful effect the selected LRE may have on the child, including the effects on the quality of service; and
- The need to remove a child with a disability from education in age-appropriate general education classes is not based solely on the needed modifications in the general education curriculum.

The AU assures that the educational placement and LRE is:

- Determined at least annually by a group of persons, including the parents, and others who are knowledgeable about the child;
- Based upon the IEP;
- Provided in the child's home school or school in which the child would be educated if without an educational disability, unless the IEP of the child requires a different setting;
- As close to the child's home as possible, if there is a different setting for the child; and

The AU assures that in selecting the LRE, consideration is given to any potential harmful effects on the child or on the quality of services that he or she needs.

The AU assures that a child with a disability is not removed from education in age-appropriate regular classrooms solely because of the needed modifications in the general education curriculum.

Citations:

IDEA 34 CFR §300.114
 IDEA 34 CFR §300.115
 IDEA 34 CFR §300.116
 IDEA 34 CFR §300.327
 IDEA 34 CFR §300.501(c)
 ECEA Rule 4.03(8)
 ECEA Rule 5.01(2)(c)

Non-Academic Settings

The AU assures that it takes steps to ensure that children with disabilities have available to them the variety of educational programs and services available to children without disabilities including art, music, industrial arts, consumer and homemaking education, and vocational education.

The AU assures that:

- Each child with a disability participates with children without disabilities in the extracurricular services and activities to the maximum extent appropriate to the needs of that child.
 - Nonacademic and extracurricular services and activities include, but are not limited to, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the AU and assistance in making outside employment available.

- The child with a disability has the supplementary aids and services determined by the child's IEP team to be appropriate and necessary for the child to participate in nonacademic settings.

The AU assures that:

- Physical education services, specially designed if necessary, is made available to every child with a disability receiving FAPE in the same manner that physical education services are available to students without disabilities.
- Each child with a disability is afforded the opportunity to participate in the regular physical education program available to children without disabilities unless—
 - The child is enrolled full time in a separate facility; or
 - The child needs specially designed physical education, as prescribed in the child's IEP.
- Specially designed physical education is prescribed in a child's IEP; the public agency responsible for the education of that child must provide the services directly or make arrangements for those services to be provided through other public or private programs.

The AU is responsible for the education of a child with a disability who is enrolled in a separate facility and is required to ensure that the child receives appropriate physical education services in compliance with this section.

Citations:

IDEA 34 CFR §300.114
IDEA 34 CFR §300.117
ECEA Rule 5.01(2)(a)(d)

Change of Placement

The AU assures that parent(s) of a child with a disability are members of any group that makes decisions on the education placement of their child, including decisions to change the child's placement, as that term is defined under the Colorado ECEA Rule 4.03(8)(b).

A significant change in placement means:

- The placement or referral to a private school or approved facility school by the AU; or
- The addition or termination of an instructional or related service; or
- Changing the eligibility status of the child; or
- Any change which would result in the following:
 - The child having different opportunities to participate in nonacademic and extracurricular services.

- A new placement option that is a change in the educational environmental categories or setting codes., as defined by the U.S. Department of Education
- The child’s transfer from a brick and mortar school to an on-line program or vice versa. The AU for the entity sponsoring the on-line program is responsible for conducting the reevaluation and convening the IEP Team to determine whether the on-line program is an appropriate placement for the child.

The AU assures that when a significant change of placement is considered, the AU:

- Provides the parents with prior written notice for the evaluation;
- Obtains parental consent for evaluation; and
- Conducts a reevaluation.
 - If the parent(s) does not consent to a reevaluation the AU:
 - Uses existing data sources for the reevaluation; or
 - Uses consent override procedures including mediation and due process.
- Assures that changes are made only by an IEP Team with the addition of those persons conducting the reevaluation unless the parent and the AU or SOP mutually agree to change the IEP.
- Provides the parent(s) with prior written notice before implementing the changes.

A non-significant change in placement means:

- Altering the child’s educational program, such as changing the amount of a given service, but not to the extent that the educational setting code and the program change (significantly).

The AU assures that when a non-significant change in placement is considered, the AU:

- Issues prior written notice of the changes to the parent(s), before the implementation of the changes.
- Does not require parental consent to implement the changes.
- Does not require a reevaluation.

Citations:

IDEA 34 CFR §300.327
ECEA Rule 4.03 (8)(b)

Amendments and Revisions to the IEP

The AU assures that IEP team meetings will be consolidated to the extent possible. The AU assures that the general education teacher, to the extent appropriate, participates in the review and revision of the child’s IEP.

- The AU assures that amendments to the IEP are made by holding a meeting with the entire IEP team to amend or modify the IEP or if changes are made to a child's IEP after the annual IEP review meeting, the parent(s) of a child with a disability and the AU may agree not to convene an IEP team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP.
- The AU assures that decisions are made by an IEP team, unless there is written agreement between the parent and the AU that changes can be made to the IEP, after the annual IEP meeting. Under such circumstances, the AU assures that the agreed-upon changes to the IEP are made in writing and all members of the IEP team are informed of the changes.
- A copy of the written IEP change(s) is provided to the parent(s) upon request.

The AU assures that a child's IEP is reviewed:

- Periodically, but not less than annually (at least every 365 days), to determine whether the annual goals for the child are being achieved; and
 - Revises the IEP, as appropriate to address:
 - A lack of expected progress toward the child's annual goals and in the general education curriculum;
 - Results of any reevaluation that has been conducted;
 - Information about the child provided to or by the parent(s);
 - Anticipated needs of the child;
 - Other matters.
 - In addition the IEP team ensures that all other requirements for IEP development are met.
 - If a participating agency or other public agency fails to provide the transition services that have previously been agreed upon in the child's IEP, the IEP team reconvenes to identify alternative strategies to meet the established transition objectives.

Citations:

IDEA 34 CFR §300.324 (a)(4)(5)(6)
 IDEA 34 CFR §300.324 (b)(c)
 ECEA Rule 4.03(2)(d)(e)(f)(g)(h)

Requirements Prior to the Implementation of the IEP or Changes to the IEP

The AU provides prior written notice to the parent(s) of a child with a disability before the AU:

- Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
- Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

The written notice includes:

- A description of the action proposed or refused;
- An explanation of why the action was proposed or refused;
- A description of each evaluation procedure, assessment, record, or the report that was used as a basis for the proposed or refused action;
- A statement that the parent(s) have protection under the procedural safeguards and the means by which a copy of the procedural safeguards can be obtained.
- Sources for parent(s) to contact to obtain assistance in understanding the proposed or refused actions of the AU; and
- A description of other factors relevant to the AU's proposal or refusal.

The AU assures that the prior written notice is:

- Written in language that is understandable by the general public.
- Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
 - If the native language or other mode of communication of the parent is not written language, the AU takes steps to ensure that :
 - The parent understands the contents of the notice; and
 - There is written evidence that these requirements have been met.

Citations:
 IDEA 34 CFR §300.503
 ECEA Rule 6.02 (3)

Transfer Students

The AU assures that when a child transfers into the AU from another public agency within the state and has an IEP in effect:

- The AU, in consultation with the parent(s), provides FAPE to the child including services comparable to those described in the child's IEP from the previous public agency until the AU either:
 - Adopts the child's IEP from the previous agency; or

- Develops, adopts, and implements a new IEP that meets the applicable requirements of IEP development.

The AU assures that when a child transfers into the AU from another public agency outside of the state and has an IEP in effect:

- The AU, in consultation with the parents, provides FAPE to the child including services comparable to those described in the child's IEP from the previous public agency until the AU:
 - Conducts an evaluation, if determined to be necessary by the AU; and
 - Develops, adopts and implements a new IEP, if appropriate, that meets all applicable requirements of evaluation and IEP development.

Citations:

IDEA 34 CFR §300.323 (e)-(f)
ECEA Rule 4.03 (1) (f)-(g)

Section 6

Confidentiality of Information, Procedural Safeguards and Dispute Resolution Processes for Parents and Children

Confidentiality of Information

The AU protects the confidentiality of any personally identifiable data, information, and records collected or maintained by the AU by:

- Obtaining parental consent before personally identifiable information is disclosed to parties, other than officials of participating agencies, unless the information is contained in education records and disclosure is authorized without parental consent under 34 CFR Part 99.
 - The AU does not obtain parental consent to share personally identifiable information for the purposes of reporting required data to the State or Federal agencies or for the purposes of CDE monitoring.
- Obtaining parental consent or the consent of an eligible child who has reached the age of majority, prior to disclosing personally identifiable information to officials of participating agencies providing or paying for transition services.
- Obtaining parental consent, or the consent of an eligible child who has reached the age of majority, prior to disclosing personally identifiable information to a private school in which the child is enrolled.
- Maintaining for public inspection, a current listing of the names and positions of those employees within the AU who may have access to personally identifiable information.
- Maintaining confidentiality of personally identifiable information at collection, storage, disclosure and destruction of records.
- Assuring that person(s) are trained and identified to be responsible for maintaining the confidentiality of personally identifiable information.
- Identifying one official responsible for ensuring the confidentiality of any personally identifiable information.
- Informing the parent(s) when personally identifiable information collected, maintained or used, is no longer needed to provide educational services and that records may be destroyed.

The AU assures that it destroys the information at parental request, if it is no longer needed to provide education services; however, the child's name, address, phone

number, grades, attendance record, classes completed, grade level and year completed may be maintained without limitation.

Citations:

IDEA 34 CFR §300.520
IDEA 34 CFR §300.611(c)
IDEA 34 CFR §300.622
IDEA 34 CFR §300.623
IDEA 34 CFR §300.624
ECEA Rule 6.01(12)
ECEA Rule 6.01(13)
ECEA Rule 6.01(14)
ECEA Rule 6.02 (9)

Parental Rights to Inspect Records

The AU assures that the parent(s) have the right to inspect and review their child's education records, as this term is defined in IDEA and FERPA, including:

- Opportunities to inspect and review all education records with respect to:
 - The identification of their child for special education and related services;
 - The evaluation of their child;
 - The educational placement of their child;
 - The provision of FAPE to their child.
 - Ensuring that if an educational record includes information on more than one child, the parent(s) of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.
- The right to a response from the AU to reasonable requests for explanations and interpretations of the records;
- The right to request that the AU provide copies of the records containing the information, if failure to provide those copies would effectively prevent the parent(s) from exercising the right to inspect and review the records;
- The right to have a representative of the parent(s) inspect and review the records;
- Giving the parent(s) access to their child's records without undue delay and before any meeting regarding an IEP or a hearing or resolution session, and in no case more than 45 calendar days after the request has been made;
- Maintaining a record of access, that includes:
 - The name of the party;
 - The date of review; and
 - The purpose of review.

- Providing the parent(s), upon request, a list of the types and locations of education records collected, maintained, or used by the AU;
- Not charging the parent(s) a fee to search for or to retrieve records;
- Not charging the parent(s) a fee for copies of their child's educational records, if the charging of a fee for records would effectively prevent the parent(s) from exercising their right to inspect and review records;
- If the parent(s) requests an amendment of the records based upon their belief that the information in the educational records is inaccurate, misleading or violates the privacy or rights of the child, the AU will:
 - Make a decision to amend or refuse to amend records within a reasonable period of time of the receipt of the request.
 - If the AU decides to refuse to amend the information in accordance with the request, it informs the parent of the refusal and advises the parent of the right to a hearing.
 - If the AU decides to amend the information in accordance with the request, it informs the parent(s) of any changes to the records in writing.
- The AU, upon request, provides an opportunity for a hearing to challenge information in education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.
- If, as a result of a hearing, the AU decides that the records are to be amended, the AU:
 - Amends the records accordingly.
 - Informs the parent(s) of any changes to the records in writing.
- If, as a result of a hearing, the AU decides that the records are not inaccurate and will not be amended, the AU:
 - Informs the parent(s) of their right to place in the records a statement commenting on the information or the reasons for disagreement.
 - Ensures that parent(s)'s comments become part of the child's records.
 - Any explanation placed in the records of the child must be maintained by the AU as part of the records of the child as long as the record or contested portion is maintained by the AU; and

- If the records of the child or the contested portion of the records are disclosed by the AU to any party, the explanation must also be disclosed to the party.

If the parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services

- because of the revocation of consent.

Citations:

IDEA 34 CFR §300.501(a)
 IDEA 34 CFR §300.613
 IDEA 34 CFR §300.614
 IDEA 34 CFR §300.615
 IDEA 34 CFR §300.616
 IDEA 34 CFR §300.617
 IDEA 34 CFR §300.618
 IDEA 34 CFR §300.619
 IDEA 34 CFR §300.620
 IDEA 34 CFR §300.624
 IDEA 34 CFR §300.625
 ECEA Rule 6.01 (3)(5)(6)(7)(8)(9)(10)(15)
 ECEA Rule 6.02 (1)
 ECEA Rule 7.01 (d)

Transfer of Parental Rights

The AU assures that when the parental rights are transferred to the child, the AU:

- Provides prior written notice to both the child and the parent(s).
- Ensures that all rights accorded to the parent(s) under Part B of the Act transfer to the child, unless the child had been determined not competent.

Citations:

IDEA 34 CFR §300.520
 ECEA Rule 6.02(9)

Independent Educational Evaluation

The AU assures that:

- Upon request for an independent educational evaluation (IEE) by a parent, the parent will be given information about where an IEE may be obtained and information about the AU's criteria, which includes:
 - That the IEE must be conducted by a qualified examiner who is not employed by the AU.

- That the evaluation must meet the same criteria as the AU's evaluation in terms of the location of the evaluation and the qualifications of the examiner, as when the AU initiated the evaluation, to the extent those criteria are consistent with the parent's right to an IEE.
- No cost to the parent, if the parent has disagreed with the evaluation completed by the AU.
- If the parent requests an IEE at public expense, the AU will, without delay, either:
 - Ensure that an IEE is provided at the AU's expense; or
 - File a due process complaint to request a hearing to show that the AU's evaluation is appropriate.
- An IEE is at the AU's expense except when:
 - The IEE is not conducted by a qualified examiner; or
 - A final decision by a hearing officer states that the AU's evaluation is appropriate; or
 - Parents are requesting more than one IEE per AU evaluation.
- In the case of a parent initiated evaluation(s) the AU will:
 - Consider the evaluation in any decision made with respect to the provision of FAPE, as long as the evaluation meets the AU's criteria.

Citations:

IDEA 34 CFR §300.502

ECEA Rule 6.02 (2)

Prior Written Notice and Content of Prior Written Notice

The AU assures that prior written notice will be issued to parents:

- When the AU proposes to initiate or change the identification, evaluation, educational placement of the child or the provision of FAPE to the child.
- When the AU refuses to initiate or change the identification, evaluation, educational placement or the provision of FAPE to the child.

The AU assures that the content of the prior written notice will include:

- A description of the action proposed or refused by the AU.
- An explanation of why the AU proposes or refuses to take the action.
- A description of each evaluation procedure, assessment, record or report the AU used as a basis for the proposed or refused action.

- A statement that the parents of a child with a disability have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained.
- Sources for parents to contact to gain assistance in understanding the content of the prior written notice.
- A description of other options that the IEP team considered and the reasons those options were rejected.
- A description of other factors relevant to the AU's proposal or refusal.

The AU assures that the prior written notice is written in language understandable to the general public and—

- Is provided in the native language or communication mode of the parent, unless it is not feasible to do so.
 - If the native language or other mode of communication of the parent is not a written language, the AU takes steps to ensure that:
 - The parent understands the contents of the notice; and
 - There is written evidence that these requirements have been met.

Citation:

IDEA 34 CFR §300.503
ECEA Rule 6.02 (3)

Procedural Safeguard Notice

The AU assures that a copy of the Procedural Safeguards is made available to parents of a child with a disability one time per school year. A copy is also given to parents:

- Upon initial referral or parent request for an evaluation;
- Upon the receipt of the first State complaint or first due process complaint of the school year;
- On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct;
- Upon request by the parent.

The AU assures that the contents of the procedural safeguards include a full explanation of:

- Independent educational evaluations.
- Prior written notice.

- Parental consent and revocation of consent.
- Access to education records.
- Opportunity to present and resolve complaints through the due process complaint and State complaint procedures including:
 - The time period in which to file a complaint.
 - The opportunity for the AU to resolve the complaint.
 - A description of the difference between the State complaint procedures and due process complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.
- The availability of mediation.
- The child’s placement during the pendency of any due process complaint.
- Procedures for students who are subject to placement in an interim alternative educational setting.
- Requirements for unilateral placement by parents of children in private schools at public expense.
- Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations.
- Civil actions, including the time period in which to file those actions.
- Attorneys’ fees.

The AU assures that the Procedural Safeguards are:

- Written to be understood by the general public;
- In the native language or other mode of communication used by the parent(s), unless it is clearly not feasible to do so.
 - If the parents’ native language or other mode of communication is not a written language the AU takes steps to ensure that the Procedural Safeguards Notice is translated orally or by other means to the parent(s) in his or her native language or other mode of communication, so that the parent understands the content of the notice. The AU assures that there is written evidence that the above requirements have been met.

Citations:

IDEA 34 CFR §300.503
 IDEA 34 CFR §300.504
 ECEA Rule 6.02 (4)

Dispute Resolution Processes

Mediation

Mediation is one of the Dispute Resolution options. The AU adheres to the following conditions:

- Participation is a voluntary process.
- The mediation process is not used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under Part B of the IDEA.
- The mediation is provided by the CDE and at no cost to the parent(s).
- All discussions taking place during the mediation are confidential with the understanding and agreement that discussions will not be used as evidence in any subsequent due process or civil proceedings.
- When disputes are resolved through the mediation process, the AU, and the parent(s), execute a legally binding agreement that sets forth the resolution.
- The AU may choose to establish procedures to offer parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the and parents, with a disinterested party who:
 - Is under contract with an appropriate alternative dispute resolution entity, parent training and information center or community parent resource center in the State; and
 - Would explain the benefits of, and encourage the use of, the mediation process to the parents.

Citations:

IDEA 34 CFR §300.506
ECEA Rule 6.02 (6)

Due Process Complaints and Appeals

The AU assures that upon the filing of a due process complaint, either by the parent(s) or by the AU that:

- The due process complaint remains confidential.
- If the AU or the parent files a due process complaint, the AU informs the parent of any free or low-cost legal services and other relevant services available in the area.
- The AU provides prior written notice to the parent within 10 days of receiving a due process complaint, if one has not been previously issued. The content of the prior written notice is consistent with the content described in the Prior Written Notice and Content of Prior Written Notice subsection of Section 5 of this document.
- Upon receipt of the first due process complaint filed by the parent(s) in a school year, the AU provides the parent(s) with a copy of the procedural safeguards.
- If the AU files a due process complaint, a copy is provided to the CDE at the same time the due process complaint is filed with the opposing party.
- Upon receiving the due process complaint by the parent or the issuing of a due process complaint to a parent the Special Education Director immediately, by phone, notifies the CDE of the existence of the due process complaint and provides a copy of the complaint via fax, including a statement indicating the date the AU received the complaint.
- Within 10 days of receiving a due process complaint, the AU sends to the other party a response that specifically addresses the issues raised in the due process complaint.
- All Due Process Complaint regulations and procedures set out in the IDEA, the ECEA Rules and in the Procedural Safeguards will be followed.
- A resolution meeting is held within 15 days of receiving notice of the parent's due process complaint. The resolution meeting meets the following criteria:
 - The attendees include:
 - Parent(s);
 - The parent(s) and the AU determine the relevant members of the IEP Team that should attend the resolution meeting. The IEP team members should have specific knowledge of the facts identified in the due process complaint.
 - A representative of the AU who has decision making authority.

- The AU does not have legal counsel attend the meeting unless the parent(s) have legal counsel attend the meeting.
- The purpose of the meeting is:
 - For the parent(s) to discuss the due process complaint;
 - To discuss the fact(s) that formed the basis of the due process complaint; and
 - To allow the AU and the parents the opportunity to resolve the dispute.
- If the parties do agree during the resolution process and resolve the dispute, the agreement is:
 - In writing;
 - Signed by both parties; and
 - Considered legally binding.
- Funds under Part B are not used to pay attorney fees or costs of a party related to any of the actions described above.
- The child's status during proceedings:

The child remains in his/her current educational placement unless:

- The AU and the parents otherwise agree;
- The hearing request involves an appeal of a placement decision by the AU under §§300.530 and 300.531 of the IDEA or a manifestation determination under §300.500(e), or a determination by the AU that maintaining the current placement of the child is substantially likely to result in injury to the child or others. In such a situation, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the specified time the child is to remain in the placement, whichever occurs first;
- The complaint involves application for initial admission to public school, in which case the child, with the consent of the parent will be placed in the public school, until the completion of all proceedings;
- The complaint involves an application for initial services under Part B from a child who is transitioning from Part C and is no longer eligible for Part C services because the child has turned three. In that case, the AU is not required to provide the Part C services; if the child is found eligible for special education and related services under Part B and the parent consents to the initial

provision of special education and related services, the AU will provide the special education and related services that are not in dispute between the parent and the AU; or

- The hearing officer in a due process hearing conducted by the State agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the State and the parents to change the child's educational placement.

Citations:

IDEA 34 CFR §300.507
IDEA 34 CFR §300.508
IDEA 34 CFR §300.509
IDEA 34 CFR §300.510
IDEA 34 CFR §300.518
ECEA Rule 6.02 (7)

State Complaint Process

The AU assures that when the AU has been notified of the Department of Education's acceptance of a State Complaint the AU will:

- Comply with all timelines:
 - If responding to the complaint, the AU will file a response with the Department of Education within 15 calendar days (by 5:00 p.m. of the 15th day) from the date of notification to the AU.
 - If the 15th day is a weekend or a state holiday the response is due to the office of the State Complaints Officer (SCO) the next day and not merely postmarked by the due date.
 - The AU will also provide the complainant with a complete copy of the Response, including attachments, unless doing so would violate relevant laws regarding confidentiality.
 - The AU will provide the SCO with a legible copy of the written tracking receipt that verifies that a complete copy of the Response was sent by certified or overnight mail to the complainant.

The AU assures that it will comply with any onsite investigations, requests for additional information and requests to review record(s).

The AU assures that it will comply with the decision of the SCO and understands that the decision is final and not subject to appeal. If the AU disagrees with the SCO's decision, the AU may file a due process complaint.

Citations:

IDEA 34 CFR §300.151

Educational Surrogate Parents

The AU assures that the rights of the child are protected and will make the assignment of an Educational Surrogate Parent (ESP) when:

- No parent can be identified;
- After reasonable efforts, the parent(s) cannot be located;
- The child is a ward of the State;
- The child is a homeless child, without a parent or person that can be regarded as a parent. (See Section 3 on Special Education Referral, Evaluation and reevaluation and Eligibility Determination for a list of those that may serve in the role of a parent.)

The AU is responsible for training and assigning an ESP to the child after determining that the child needs an ESP.

Before the assignment of an ESP, the Special Education Director contacts the CDE to verify that there is no existing educational surrogate assignment for the child.

The Special Education Director assures that the ESP assigned:

- Is not an employee of:
 - The CDE;
 - The AU of residence or the AU of attendance;
 - A state-operated program; or
 - Any other public agency that is involved in the education or care of the child.
- Has no personal or professional interest that conflicts with the interest of the child that is represented.
- Has the knowledge and skills to ensure adequate representation of the child.
- Is reported to the CDE through written documentation within three days of assignment.
- Does not receive financial compensation for the assignment.

Citations:

IDEA 34 CFR §300.519

ECEA Rule 6.02 (8)

Section 7

Student Discipline Procedures

Disciplinary Change of Placements

The AU assures that a child with a disability is afforded due process rights when the child has been removed from his/her educational placement for disciplinary reasons. When the child with a disability is removed from his/her educational placement for disciplinary reasons, the AU will determine whether the student's removal constitutes a disciplinary change of placement.

A disciplinary removal constitutes a change of placement when:

- The child is removed from his/her educational placement for more than 10 consecutive school days; or
- The child has been subjected to a series of removals that constitute a pattern because
 - The series of removals total more than 10 school days in a school year;
 - The child's behavior is substantially similar to the child's behavior in previous incidents that resulted in a series of removals; and
 - The additional factors exist, such as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

A disciplinary change of placement is subject to review through expedited due process procedures.

The AU assures that, when a disciplinary change of placement occurs, the AU will conduct a manifestation determination meeting to determine if the misconduct was caused by, or had a direct and substantial relationship to the child's disability, or was a direct result of the AU's failure to implement the IEP.

- If the AU determines that the removal is not a disciplinary change of placement, the AU is not required to determine if the misconduct is a manifestation of the child's disability.

Citations:
IDEA 34 CFR § 300.530(b)(1)(2)
ECEA Rule 6.02(10)

Manifestation Determination

The AU assures that a Manifestation Determination meeting will be held with relevant members of the IEP team and the parent(s), within 10 days of any decision to initiate a disciplinary change of placement. The team reviews:

- All relevant information in the child's file, including the child's functional behavioral analysis (FBA) and behavior support plans;
- The child's IEP;
- Any teacher observations;
- Any relevant information provided by the parent(s).

The Manifestation Determination team determines if:

- The conduct in question was caused by, or had a direct and substantial relationship to the child's disability; and/or
- If the conduct in question was a direct result of the AU's failure to implement the IEP.

The AU assures that if one of the two conditions above exists, the misconduct is considered a manifestation of the child's disability and the IEP Team will:

- Return the child to their previous educational placement; and
- Conduct a functional behavioral assessment for the child, if one has not been previously conducted, and implement the behavior intervention plan; or
- Review or modify an existing behavior intervention plan in order to address the current behavior; and
- Take immediate steps to remedy any deficiencies in special education services or related services that have been identified as a result of the manifestation determination meeting.
- The AU may remove the child to an interim alternative educational setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child—
 - Has carried a weapon to school or is in possession of a weapon on school premises or at a school function; and/or
 - Knowingly possesses or uses illegal drugs, sells or solicits the sale of a controlled substance on school premises or at a school function; and/or

- Has inflicted serious bodily injury upon another person while at school, on school premises or at a school function.

The AU assures that on the day that the decision is made to make a disciplinary removal that constitutes a change of placement, the parent(s) will be provided with:

- Notice that the AU is removing the child from his/her current educational placement and that this removal constitutes a change in placement for the child, due to a violation of a code of student conduct; and
- A copy of the procedural safeguards notices; and
- Any required Prior Written Notice.
- If the team determines that the child's behavior is not a manifestation of his/her disability the school personnel may apply any relevant disciplinary procedures as they would if the child did not have a disability except:
 - After the 10th school day that a child is removed from his/her educational program, the AU will continue to provide the child with educational services so as to enable the child to continue to participate in the general education curriculum, although the child may be in another setting, and to progress towards meeting the goals set out in the child's IEP.

Citations:

IDEA 34 CFR §300.101 (a)
 IDEA 34 CFR §300.530(d)-(i)
 IDEA 34 CFR §300.531
 ECEA Rule 6.02(10)(f)

Expedited Due Process Procedure

The AU assures that all the processes and procedures apply as outlined in the Confidentiality of Information and Procedural Safeguards section of this plan. However, in the case of a disciplinary change of placement, an expedited due process hearing may occur. The expedited due process procedure may be initiated by:

- The parent(s) of a child with a disability who disagrees with the AU's decision relating to a disciplinary change of placement or manifestation determination; or
- The AU, if the AU believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

The AU assures that when an expedited due process complaint is filed:

- The Special Education Director immediately informs the CDE of the existence of the hearing request and will fax a copy of the due process complaint to the CDE.

- A resolution meeting will occur within seven days after receiving notice of the due process complaint, unless the AU and the parent agree in writing to use the mediation process.
- The child will remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of time period specified.

Citations:

IDEA 34 CFR §300.532
 IDEA 34 CFR §300.533
 IDEA 34 CFR §300.536
 ECEA Rule 6.02 (7)(i)
 ECEA Rule 6.02 (10)(k)(l)

Protection for Children Determined Not Eligible for Special Education and Related Services

The AU assures the actions described below will take place if a child is not currently eligible for special education and related services and violates a school code of conduct and the AU has knowledge that the child may be a child with a disability because:

- The parent of the child expressed in writing to school personnel, that the child may be in need of special education and related services; or
- The parent of the child has requested an evaluation to determine if the child is a child with a disability; or
- The teacher(s) of the child have expressed concerns over patterns of behavior of the child to either school administrators or special education supervisors.
- An evaluation is conducted in an expedited manner, in order to determine the child's eligibility for special education and related services.
- The child remains in the educational placement determined by the AU, which can include suspension, or expulsion without educational services, until the completion of the evaluation.
- If the child is eligible for special education, educational services are provided in accordance with the IEP.
- If the AU does not have knowledge of the child being eligible for special education and related services, the child may be subjected to the same disciplinary measures applied to children without disabilities who engage in comparable behaviors.

The AU is not considered to have knowledge that a child may have a disability if:

- The parents of the child have refused to consent to or have revoked consent for an evaluation of the child; or

- The parents of the child have refused consent for or have revoked consent for services for the child; or
- The child has been evaluated for eligibility for special education and related services and deemed not eligible.

Citations:

IDEA 34 CFR §300.534
ECEA Rule 6.02 (10)(m)

Referral To and Action by Law Enforcement and Judicial Authorities

The AU may report a crime committed by a child with a disability to appropriate State law enforcement and judicial authorities.

If the AU reports such a crime, the AU will transmit to these agencies copies of the child's special education and discipline records, but only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

Citations:

IDEA 34 CFR §300.535
ECEA Rule 6.02 (10)(n)

Section 8

AU Obligations to Students with Disabilities in Charter Schools

Treatment of Charter Schools

The AU assures and maintains ultimate responsibility for students with disabilities enrolled in charter school(s) chartered through the AU or a member district of the AU to serve children with disabilities in the same manner as the AU serves children with disabilities in its other schools.

When the charter contract between a charter school and its authorizer allows the charter school to provide the special education services and to conduct evaluations and IEP meetings, the charter school is responsible for the special education processes and procedures. However, the AU of the authorizer assures that it remains ultimately responsible for ensuring compliance with all special education requirements.

Citations:

IDEA 34 CFR §300.209
ECEA 4.03(8)(b)(iv)
ECEA 5.02 (9)

Funding for Special Education Expenditures

The AU assures that IDEA Part B funds are provided to the charter school(s) in accordance with the charter contractual agreements, including proportional distribution based on relative enrollment of children with disabilities, including:

- Providing IDEA Part B funds at the same time as the funds are provided to the other public schools in the AU.
 - If the AU flows through IDEA Part B funds to the charter school(s), the AU describes in Project C of the Part B Narrative:
 - Specific and detailed objectives and related activities describing how the IDEA Part B funds are used in each of the charter schools.
 - Project C funds must be tracked and reported separate from other IDEA Projects

Citations:

IDEA 34 CFR §300.209
ECEA Rule 5.02(9)
ECEA Rule 9.03 (2)(b)(c)

Responsibilities of Authorizing AU for Children with Disabilities who are not Residents of the AU

If the AU, or member district of an AU that has authorized the charter, is different from the AU in which the charter is located, the authorizing AU:

- Reports the child for Special Education Child Count.
- The AU assures that charter schools of the AU or of member districts of the AU provide written notice to the district or residence when a child applies to enroll or is enrolled in the charter school and the charter school's administrator knows that the child is a child with a disability. Such notice includes:
 - Name;
 - State assigned student identifier (SASID), if available;
 - Date of the enrollment application;
 - Anticipated date of admission;
 - A statement that the child has been identified as a child with a disability.
- The notice is sent to the AU of residence within 15 days after the occurrence of:
 - The child applying to enroll or being enrolled in the charter school; and
 - Upon exercising timely and due diligence, the charter school administrator knows that the child is a child with a disability.
- Provides a timely invitation to the Special Education Director of the AU of residence prior to special education meetings.

Citation:

ECEA Rule 9.03 (2)(c)
ECEA Rule 9.04 (2)

Section 9

Private Schools

Responsibility of the AU for Children with Disabilities Parentally Placed in Private Schools

The AU assures that it will:

- Meet all child find responsibilities for children who are parentally placed in private schools, within the boundaries of the AU or member district of the AU, regardless of the AU of residence of the parent(s) or child;
- The child find process is completed in the same time period as that for children attending the AU's public schools.
- Maintain records and report to the CDE student information about:
 - The children evaluated for special education eligibility;
 - The children determined to be children with disabilities; and
 - The children served on an Individual Service Plan (ISP).
- Calculate and expend the proportionate share of IDEA Part B funds.
 - Project F must be included in the IDEA Part B Narrative that is submitted to the CDE.
 - Project F must receive approval from the CDE.
 - Private Schools Project F funds must be tracked and spent during the duration of the grant period.
 - Documentation of Project F funds must be maintained separately from other IDEA projects.

Expenditures

The AU assures that:

- The proportionate share of IDEA Part B funds to be expended on children with disabilities who are parentally placed in private schools is calculated according to the IDEA formula in Appendix B in 34 CFR Part 300.
- The proportionate share calculation is based on the total number of children with disabilities who are enrolled in private schools located within the jurisdiction of

the AU, whether or not the children or their parents reside in the AU or the member districts of the AU.

- The AU calculates the proportionate share based upon all children who have been evaluated and found eligible for special education and related services, not just those children who receive services through an Individual Service Plan (ISP).
- The cost of carrying out the child find requirements is not funded from the proportionate share.
- If there are IDEA Part B proportionate share funds that have not been expended for equitable services by the end of the fiscal year, the AU obligates the remaining funds for special education and related services to children with disabilities parentally placed in private schools during a carry-over period of one additional year. (Total of 27 months)
- The title to any property, equipment and supplies purchased with IDEA Part B funds used to provide the special education services is maintained with the AU.
- Equipment and supplies purchased with IDEA Part B funds that are placed in a private school are used only to implement special education activities and can be removed from the private school without remodeling the private school facility.
- Services, materials, or equipment used for the provision of special education and related services are secular, neutral and non-ideological.
- Equipment and supplies, purchased with IDEA Part B funds, are removed from the private school when they are no longer needed for special education activities, programs or services.
- IDEA Part B proportionate funds are not used for repairs, minor remodeling, or construction of private school facilities.
- IDEA Part B funds are not used to finance the existing level of instruction in a private school or to otherwise benefit the private school.
- IDEA Part B funds will not be used to meet the needs of the general needs of the students enrolled in the school.

Consultation Requirements

The AU assures that:

- A timely, meaningful and ongoing consultation process takes place between the AU and private schools' representatives and representatives of parents of children with disabilities parentally placed in private schools. The topics include:

- The child find process including;
 - A discussion of how evaluations, eligibility determination and reevaluations will be conducted.
 - How, where and by whom parents, teachers and private school officials will be informed of the child find process.
- The consultation process and how it will operate through the year to ensure that students identified through the child find process can meaningfully participate in special education and related services.
- The determination of the proportionate share of IDEA Part B funds available to serve children with disabilities parentally placed in private schools, including how the determination of the proportionate share of those funds is calculated;
- How, where and by whom special education and related services will be provided, including a discussion of types of services and service delivery models;
- How the services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and
- How disagreements will be addressed.
- The AU maintains documentation that the consultation has occurred, including a written affirmation signed by the representatives of the participating private schools.
 - If the representatives do not provide the affirmation within a reasonable period of time, the AU must forward the documentation of the consultation process to the CDE.

Provision of Services

The AU assures that for children with disabilities who are parentally placed in private schools and have been designated to receive services, the AU will:

- Initiate and conduct meetings to develop, review, and revise an ISP, which includes:
 - The specific special education and related services that the AU will provide; and
 - Ensure that the ISP is reviewed at least annually, to determine whether or not annual goals for the child are being achieved.

- Ensure that ISP team membership, parent participation and ISP content, to the extent appropriate are consistent with the AU's procedures.
 - The AU ensures the participation of the private school representative at such meetings.
- Provide transportation to the child, if necessary, in order for the child to benefit or participate in the special education services as described in the child's ISP.

The AU assures that if AU personnel are providing the services to children on an ISP, or the AU contracts with outside agencies or personnel to provide such services, the personnel will meet the same standards as personnel providing services in the AU's public schools, unless the contractors are private school personnel.

Citations:

IDEA 34 CFR §300.131
IDEA 34 CFR §300.132
IDEA 34 CFR §300.133
IDEA 34 CFR §300.134
IDEA 34 CFR §300.135
IDEA 34 CFR §300.136
IDEA 34 CFR §300.137
IDEA 34 CFR §300.138
IDEA 34 CFR §300.139
IDEA 34 CFR §300.141
IDEA 34 CFR §300.144
IDEA 34 CFR §300.139
ECEA Rule 5.01 (7)

Appendix A

Definitions for Disability Categories

Autism Spectrum Disorder:

- 2.08 (1) A child with an Autism Spectrum Disorder (ASD) is a child with a developmental disability significantly affecting verbal and non-verbal social communication and social interaction, generally evidenced by the age of three. Other characteristics often associated with ASD are engagement in repetitive activities and stereotyped movements, resistance to environmental changes or changes in daily routines, and unusual responses to sensory experiences.
- 2.08 (1) (a) The Autism Spectrum Disorder prevents the child from receiving reasonable educational benefit from general education as evidenced by at least one characteristic in each of the following three areas (i.e., subsections (a)(i) through (a)(iii), below):
 - 2.08 (1) (a) (i) The child displays significant difficulties or differences or both in interacting with or understanding people and events. Examples of qualifying characteristics include, but are not limited to: significant difficulty establishing and maintaining social-emotional reciprocal relationships, including a lack of typical back and forth social conversation; and/or significant deficits in understanding and using nonverbal communication including eye contact, facial expression and gestures;
 - 2.08 (1) (a) (ii) The child displays significant difficulties or differences which extend beyond speech and language to other aspects of social communication, both receptively and expressively. Examples of qualifying characteristics include, but are not limited to: an absence of verbal language or, if verbal language is present, typical integrated use of eye contact and body language is lacking; and/or significant difficulty sharing, engaging in imaginative play and developing and maintaining friendships; and
 - 2.08 (1) (a) (iii) The child seeks consistency in environmental events to the point of exhibiting significant rigidity in routines and displays marked distress over changes in the routine, and/or has a significantly persistent preoccupation with or attachment to objects or topics.
- 2.08 (1) (b) (ii) The child exhibits precocious or advanced skill development, while other skills may develop at or below typical developmental rates.
- 2.08 (1) (b) (iii) The child exhibits atypicality in thinking processes and in generalization. The child exhibits strengths in concrete thinking while difficulties are demonstrated in abstract thinking, awareness and judgment. Perseverative thinking and impaired ability to process symbolic information is present.

- 2.08 (1) (b) (iv) The child exhibits unusual, inconsistent, repetitive or unconventional responses to sounds, sights, smells, tastes, touch or movement.
- 2.08 (1) (b) (v) The child's capacity to use objects in an age appropriate or functional manner is absent or delayed. The child has difficulty displaying a range of interests or imaginative activities or both.
- 2.08 (1) (b) (vi) The child exhibits stereotypical motor movements, which include repetitive use of objects and/or vocalizations, echolalia, rocking, pacing or spinning self or objects.
- 2.08 (1) (b) The following characteristics may be present in a child with ASD, but shall not be the sole basis for determining that a child is an eligible child with ASD if the child does not also meet the eligibility criteria set out in subsection (a) of this rule, above.
- 2.08 (1) (b) (i) The child exhibits delays or regressions in motor, sensory, social or learning skills.

Deaf-Blindness:

- 2.08 (12) A child with Deaf-blindness has concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness. A child may qualify as an eligible child with Deaf-blindness by meeting one of the following criteria:
- 2.08 (12) (a) The child shall have a deficiency in hearing sensitivity as demonstrated by an elevated threshold of auditory sensitivity to pure tones or speech, as specified in section 2.08(2)(a) and (b); and a deficiency in visual acuity and/or visual field and/or visual functioning, as specified in section 2.08(11)(a) and (b), where, even with the help of amplification and/or use of lenses or corrective devices, he/she is prevented from receiving reasonable educational benefit from general education; or
- 2.08 (12) (b) The child has documented hearing and/or visual impairment that, if considered individually per section 2.08(2)(a) and (b) and section 2.08 (11)(a) and (b), may not meet the requirements for Hearing Impairment, Including Deafness or Visual Impairment, Including Blindness, but the combination of such losses adversely affect the student's educational performance; or
- 2.08 (12) (c) The child has a documented medical diagnosis of a progressive medical condition that will result in concomitant hearing and visual losses.

Developmental Delay:

- 2.08 (13) A child with a Developmental Delay shall be three through eight years of age and who is experiencing developmental delays in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development and as a result is unable to receive reasonable educational benefit from general education and requires special education and related services.
- 2.08 (13) (a) For children ages three through eight efforts will be made to identify a child's primary disability under one of the other part b eligibility criteria. A child shall be determined to be eligible under the Developmental Delay category only in those situations in which a clear determination cannot be made under any other category as measured by developmentally appropriate diagnostic instruments and procedures. In order for a child to be deemed a child with a Developmental Delay, multiple sources of information must be used to determine if a child meets one or more of the following criteria:
 - 2.08 (13) (a) (i) A score in the seventh percentile or below on a valid standardized diagnostic instrument, or the technical equivalent in standard scores (75 if the mean is 100 and the standard deviation is 15) or standard deviations (1.5 standard deviations below the mean) in one or more of the following areas of development: physical development, cognitive development, communication development, social or emotional development, or adaptive development as one of the multiple sources of evaluation information;
 - 2.08 (13) (a) (ii) Empirical data showing a condition known to be associated with significant delays in development; or
 - 2.08 (13) (a) (iii) A body of evidence indicating that patterns of learning are significantly different from age expectations across settings and there is written documentation by the evaluation team which includes the parent(s).

Hearing Impairment, including Deafness:

- 2.08 (2) A child with Hearing Impairment, Including Deafness shall have a deficiency in hearing sensitivity as demonstrated by an elevated threshold of auditory sensitivity to pure tones or speech where, even with the help of amplification, the child is prevented from receiving reasonable educational benefit from general education.
- 2.08 (2) (a) A "deficiency in hearing sensitivity" shall be one of the following as measured by behavioral or electrophysiological audiological assessments:

- 2.08 (2) (a) (i) Three frequency, pure tone average hearing loss in the speech range (500 – 4000 Hertz {Hz}) of at least 20 decibels Hearing Level (dBHL) in the better ear which is not reversible.
- 2.08 (2) (a) (ii) A high frequency, pure tone average hearing loss of at least 35 dBHL in the better ear for two or more of the following frequencies: 2000, 3000, 4000 or 6000 Hz.
- 2.08 (2) (a) (iii) A three frequency, pure tone average unilateral hearing loss in the speech range (500 – 4000Hz) of at least 35 dBHL which is not reversible.
- 2.08 (2) (a) (iv) A transient hearing loss, meeting one of the criteria in (a)(i) – (a)(iii) above, that is exhibited for three (3) months cumulatively during a calendar year (i.e., any three months during the calendar year) and that typically is caused by non-permanent medical conditions such as otitis media or other ear problems.
- 2.08 (2) (b) The Hearing Impairment, Including Deafness, as described above, prevents the child from receiving reasonable educational benefit from general education as evidenced by one or more of the following:
 - 2.08 (2) (b) (i) Delay in auditory skills and/or functional auditory performance including speech perception scores (in quiet or noise), which demonstrates the need for specialized instruction in auditory skill development or assistive technology use;
 - 2.08 (2) (b) (ii) Receptive and/or expressive language (spoken or signed) delay including a delay in syntax, pragmatics, semantics, or if there is a significant discrepancy between the receptive and expressive language scores and/or function which adversely impacts communication and learning;
 - 2.08 (2) (b) (iii) An impairment of speech articulation, voice and/or fluency;
 - 2.08 (2) (b) (iv) Lack of adequate academic achievement and/or sufficient progress to meet age or state-approved grade-level standards in reading, writing, and/or math;
 - 2.08 (2) (b) (v) Inconsistent performance in social and learning environments compared to typically developing peers; and/or
 - 2.08 (2) (b) (vi) Inability to demonstrate self advocacy skills or utilize specialized technology/resources to access instruction.

Infant/Toddler with a Disability:

- 2.08 (14) An Infant/Toddler with a Disability shall be a child from birth through two years of age meeting the definition and criteria described in 2 CCR 503-1, 16.920 D.

Intellectual Disability:

- 2.08 (4) A child with an Intellectual Disability shall have reduced general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which prevents the child from receiving reasonable educational benefit from general education.
- 2.08 (4) (a) The IEP team shall identify a child as having an Intellectual Disability as documented by all of the following criteria:
- 2.08 (4) (a) (i) A full scale score of 2.0 or more standard deviations below the mean on individually administered measures of cognition.
- 2.08 (4) (a) (ii) A comprehensive adaptive skills assessment based on a body of evidence that reflects the child's social, linguistic, and cultural background. The level of independent adaptive behavior is significantly below the culturally imposed expectations of personal and social responsibility. This body of evidence shall include results from each of the following:
 - 2.08 (4) (a) (ii) (A) A full scale score of 2.0 or more standard deviations below the mean on a standard or nationally normed assessment of adaptive behavior;
 - 2.08 (4) (a) (ii) (B) Interview of parents; and
 - 2.08 (4) (a) (ii) (C) Observations of the child's adaptive behavior that must occur in more than one educational setting. A discrepancy must occur in two or more domains related to adaptive behavior in more than one educational setting.
- 2.08 (4) (b) A deficiency in academic achievement, either as indicated by scores 2.0 or more standard deviations below the mean in formal measures of language, reading and math, or a body of evidence on informal measures when it is determined that reliable and valid assessment results are not possible due to the student's functioning level.
- 2.08 (4) (c) In making a finding of eligibility based upon assessment results, professional judgment shall be required for interpretation of scores and/or other findings.

Multiple Disabilities:

2.08 (5) A child with Multiple Disabilities shall have two or more areas of significant impairment, one of which shall be an intellectual disability. The other areas of impairment include: Orthopedic Impairment; Visual Impairment, Including Blindness; Hearing Impairment, Including Deafness; Speech or Language Impairment; Serious Emotional Disability; Autism Spectrum Disorders; Traumatic Brain Injury; or Other Health Impaired. The combination of such impairments creates a unique condition that is evidenced through a multiplicity of severe educational needs which prevent the child from receiving reasonable educational benefit from general education.

2.08 (5) (a) In order to be eligible as a child with multiple disabilities, the child must satisfy all eligibility criteria for each individual disability, as described in these Rules. Documentation for each identified eligibility category must be included.

2.08 (5) (b) The Multiple Disabilities, as described in section 2.08(5) above, prevents the child from receiving reasonable educational benefit from general education such that the child exhibits two or more of the following:

2.08 (5) (b) (i) Inability to comprehend and utilize instructional information.

2.08 (5) (b) (ii) Inability to communicate efficiently and effectively.

2.08 (5) (b) (iii) Inability to demonstrate problem solving skills when such information is presented in a traditional academic curriculum.

- 2.08 (5) (b) (iv) Inability to generalize skills consistently.

Orthopedic Impairment:

- 2.08 (6) A child with an Orthopedic Impairment has a severe neurological/muscular/skeletal abnormality that impedes mobility, which prevents the child from receiving reasonable educational benefit from general education.

- 2.08 (6) (a) Orthopedic Impairment may be a result of a congenital anomaly (e.g. spina bifida, osteogenesis imperfecta, clubfoot); effects of a disease (e.g. bone tumor, muscular dystrophy, juvenile arthritis); or from other causes (e.g. cerebral palsy, amputations, trauma, and/or fractures or burns that cause contractures).

- 2.08 (6) (b) The Orthopedic Impairment, as described above, prevents the child from receiving reasonable educational benefit from general education because the disabling condition interferes with functions of daily living, including but not limited to, ambulation, attention, hand movements, coordination, communication, self-help skills and other activities of daily living, to such a degree that the child

requires specialized instruction and related services, which may include special equipment.

Other Health Impaired:

- 2.08 (7) Other Health Impaired (OHI) means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment due to a chronic or acute health problem, including but not limited to asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, leukemia, kidney disease, sickle cell anemia or Tourette syndrome. As a result of the child's Other Health Impairment, as described above, the child is prevented from receiving reasonable educational benefit from general education, as evidenced by one or more of the following:
- 2.08 (7) (a) Limited strength as indicated by an inability to perform typical tasks at school;
- 2.08 (7) (b) Limited vitality as indicated by an inability to sustain effort or to endure throughout an activity; and/or
- 2.08 (7) (c) Limited alertness as indicated by an inability to manage and maintain attention, to organize or attend, to prioritize environmental stimuli, including heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment.

Serious Emotional Disability:

- 2.08 (3) A child with a Serious Emotional Disability shall have emotional or social functioning which prevents the child from receiving reasonable educational benefit from general education.
- 2.08 (3) (a) Serious Emotional Disability means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree:
- 2.08 (3) (a) (i) An inability to learn which is not primarily the result of intellectual, sensory or other health factors;
- 2.08 (3) (a) (ii) An inability to build or maintain interpersonal relationships which significantly interferes with the child's social development;
- 2.08 (3) (a) (iii) Inappropriate types of behavior or feelings under normal circumstances;
- 2.08 (3) (a) (iv) A general pervasive mood of unhappiness or depression; and/or

- 2.08 (3) (a) (v) A tendency to develop physical symptoms or fears associated with personal or school problems.
- 2.08 (3) (b) As a result of the child's Serious Emotional Disability, as described above, the child exhibits one of the following characteristics:
 - 2.08 (3) (b) (i) Impairment in academic functioning as demonstrated by an inability to receive reasonable educational benefit from general education which is not primarily the result of intellectual, sensory, or other health factors, but due to the identified serious emotional disability.
 - 2.08 (3) (b) (ii) Impairment in social/emotional functioning as demonstrated by an inability to build or maintain interpersonal relationships which significantly interferes with the child's social development. Social development involves those adaptive behaviors and social skills which enable a child to meet environmental demands and assume responsibility for his or her own welfare. 2.08 (3) (c) In order to qualify as a child with a Serious Emotional Disability, all four of the following qualifiers shall be documented:
 - 2.08 (3) (c) (i) A variety of instructional and/or behavioral interventions were implemented within general education and the child remains unable to receive reasonable educational benefit from general education.
 - 2.08 (3) (c) (ii) Indicators of social/emotional dysfunction exist to a marked degree; that is, at a rate and intensity above the child's peers and outside of his or her cultural norms and the range of normal development expectations.
 - 2.08 (3) (c) (iii) Indicators of social/emotional dysfunction are pervasive, and are observable in at least two different settings within the child's environment. For children who are attending school, one of the environments shall be school.
 - 2.08 (3) (c) (iv) Indicators of social/emotional dysfunction have existed over a period of time and are not isolated incidents or transient, situational responses to stressors in the child's environment.
 - 2.08 (3) (d) The term "Serious Emotional Disability" does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disability under paragraph (3)(a) of this section 2.08.

Specific Learning Disability:

- 2.08 (8) A child with a Specific Learning Disability shall have a learning disorder that prevents the child from receiving reasonable educational benefit from general education.

- 2.08 (8) (a) Specific Learning Disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific Learning Disability does not include learning problems that are primarily the result of: visual impairment, including blindness; hearing impairment, including deafness; orthopedic impairment; intellectual disability; serious emotional disability; cultural factors; environmental or economic disadvantage; or limited English proficiency.
- 2.08 (8) (b) A child may be determined to have a Specific Learning Disability that prevents the child from receiving reasonable educational benefit from general education if a body of evidence demonstrates the following criteria are met:
 - 2.08 (8) (b) (i) The child does not achieve adequately for the child's age or to meet state-approved grade-level standards and exhibits significant academic skill deficit(s) in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or state-approved grade-level standards:
 - 2.08 (8) (b) (i) (A) Oral expression;
 - 2.08 (8) (b) (i) (B) Listening comprehension;
 - 2.08 (8) (b) (i) (C) Written expression;
 - 2.08 (8) (b) (i) (D) Basic reading skill;
 - 2.08 (8) (b) (i) (E) Reading fluency skills;
 - 2.08 (8) (b) (i) (F) Reading comprehension;
 - 2.08 (8) (b) (i) (G) Mathematical calculation;
 - 2.08 (8) (b) (i) (H) Mathematics problem solving; and
 - 2.08 (8) (b) (ii) The child does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified in Section 2.08(6)(b)(i) when using a process based on the child's response to scientific, research-based intervention.

Speech or Language Impairment:

- 2.08 (9) A child with a Speech or Language Impairment shall have a communicative disorder which prevents the child from receiving reasonable educational benefit from general education.
- 2.08 (9) (a) Speech or Language Impairment may be classified under the headings of articulation, fluency, voice, functional communication or delayed language development and shall mean a dysfunction in one or more of the following:
 - 2.08 (9) (a) (i) Receptive and expressive language (oral and written) difficulties, including syntax (word order, word form, developmental level), semantics (vocabulary, concepts and word finding), and pragmatics (purposes and uses of language);
 - 2.08 (9) (a) (ii) Auditory processing, including sensation (acuity), perception (discrimination, sequencing, analysis and synthesis), association and auditory attention;
 - 2.08 (9) (a) (iii) Deficiency of structure and function of oral peripheral mechanism;
 - 2.08 (9) (a) (iv) Articulation including substitutions, omissions, distortions or additions of sound;
 - 2.08 (9) (a) (v) Voice, including deviation of respiration, phonation (pitch, intensity, quality), and/or resonance;
 - 2.08 (9) (a) (vi) Fluency, including hesitant speech, stuttering, cluttering and related disorders; and/or
 - 2.08 (9) (a) (vii) Problems in auditory perception such as discrimination and memory.
- 2.08 (9) (b) The Speech or Language Impairment, as set out above, prevents the child from receiving reasonable educational benefit from general education and shall include one or more of the following:
 - 2.08 (9) (b) (i) Interference with oral and/or written communication in academic and social interactions in his/her primary language;
 - 2.08 (9) (b) (ii) Demonstration of undesirable or inappropriate behavior as a result of limited communication skills; and/or
 - 2.08 (9) (b) (iii) The inability to communicate without the use of assistive, augmentative/alternative communication devices or systems.

Traumatic Brain Injury:

- 2.08 (10) A child with a Traumatic Brain Injury (TBI) is a child with an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment, or both, which impairment adversely affects the child's ability to receive reasonable educational benefit from general education. A qualifying Traumatic Brain Injury is an open or closed head injury resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term "traumatic brain injury" under this rule does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.
- 2.08 (10) (a) To be eligible as a child with a Traumatic Brain Injury, there must be evidence of the following criteria:
 - 2.08 (10) (a) (i) Either medical documentation of a traumatic brain injury, or a significant history of one or more traumatic brain injuries reported by a reliable and credible source and/or corroborated by numerous reporters; and
 - 2.08 (10) (a) (ii) The child displays educational impact most probably and plausibly related to the traumatic brain injury.
- 2.08 (10) (b) Additionally, to be eligible as a child with a Traumatic Brain Injury, the traumatic brain injury prevents the child from receiving reasonable educational benefit from general education as evidenced by one or more of the following:
 - 2.08 (10) (b) (i) A limited ability to sustain attention and/or poor memory skills, including but not limited to difficulty retaining short-term memory, long-term memory, working memory and incidental memory;
 - 2.08 (10) (b) (ii) An inefficiency in processing, including but not limited to a processing speed deficit and/or mental fatigue;
 - 2.08 (10) (b) (iii) Deficits in sensory-motor skills that affect either one, or both, visual or auditory processing, and may include gross motor and/or fine motor deficits;
 - 2.08 (10) (b) (iv) Delays in acquisition of information including new learning and visual-spatial processing;
 - 2.08 (10) (b) (v) Difficulty with language skills, including but not limited to receptive language, expressive language and social pragmatics;

- 2.08 (10) (b) (vi) Deficits in behavior regulation, including but not limited to impulsivity, poor judgment, ineffective reasoning and mental inflexibility;
- 2.08 (10) (b) (vii) Problems in cognitive executive functioning, including but not limited to difficulty with planning, organization and/or initiation of thinking and working skills;
- 2.08 (10) (b) (viii) Delays in adaptive living skills, including but not limited to difficulty with activities of daily living (ADL); and/or
- 2.08 (10) (b) (ix) Delays in academic skills, including but not limited to reading, writing, and math delays that cannot be explained by any other disability. They may also demonstrate an extremely uneven pattern in cognitive and achievement testing, work production and academic growth.

Visual Impairment, including Blindness:

- 2.08 (11) A child with a Visual Impairment, Including Blindness shall have a deficiency in visual acuity and/or visual field and/or visual functioning where, even with the use of lenses or corrective devices, he/she is prevented from receiving reasonable educational benefit from general education.
- 2.08 (11) (a) A determination that a child is an eligible child with a Visual Impairment, Including Blindness shall be based upon one or more of the following:
 - 2.08 (11) (a) (i) Visual acuity of no better than 20/70 in the better eye after correction;
 - 2.08 (11) (a) (ii) Visual field restriction to 20 degrees or less; and/or
 - 2.08 (11) (a) (iii) A physical condition of visual system which cannot be medically corrected and, as such, affects visual functioning to the extent that specially designed instruction is needed. These criteria are reserved for special situations such as, but not restricted to cortical visual impairment and/or a progressive visual loss where field and/or acuity deficits alone may not meet the aforementioned criteria.
- 2.08 (11) (b) As a result of the Visual Impairment, Including Blindness, as set out above, the child requires specialized instruction, which may include special aids, materials, and equipment, for learning, literacy, activities of daily living, social interaction, self advocacy, and, as needed, orientation and mobility.
- 2.08 (11) (c) The term "Visual Impairment, Including Blindness" does not include children who have learning problems which are primarily the result of visual perceptual and/or visual motor difficulties.

Citation:

IDEA 34 CFR §300.8

IDEA 34 CFR §300.25

ECEA Rule 2.08

Appendix B

Required AU Specific Information

1. The AU is to include a description of the financial commitments and agreements of the Unit and of the participating districts for special education programs and services. (ECEA Rule 8.01(1)(a)(i)). Please include the following:
 - A. For multi-district AUs, operating agreements between the AU and its member districts; and
 - B. For all AUs a description of the AU's financial commitments for the provision of special education programs and services. (*e.g.*, Board Policies)
2. The AU is to describe the method or standard by which it determines the number and types of special education personnel needed to meet the needs of the children with disabilities in the AU. (ECEA Rule 3.03(1) and 8.01 (1)(a)(ii)). Include the following:
 - A. If the AU has a staffing allocation formula, please download it into this document. Otherwise provide a narrative of how the AU determines the number and types of special education personnel needed to meet the needs of the children with disabilities in the AU. Please address the following:
 - The criteria that the AU uses to determine appropriate caseloads for special education teachers, related services providers and paraeducators. Include information regarding appropriate planning for providing services across the continuum of placement alternatives including services to students who are in alternative settings.
 - Describe alternatives used by the AU when it is unable to employ appropriately licensed and endorsed special education staff.
3. The AU is to describe procedures for regular, periodic evaluation programs, services and student progress (ECEA Rule 8.01(1)(a)(iii)). Please include the following:

- A. A copy of the evaluation tool or a description of the strategies used and the qualitative and quantitative data used to evaluate special education programs and services.
- The evaluation includes a description regarding how the AU evaluates the extent to which quality special education policies and practices are in place and identifies where improvements can occur (ECEA Rule 3.06(1)).
 - The evaluation includes a description regarding how the AU evaluates the degree to which children with disabilities are achieving their individual goals as well as school, district, and state standards and student outcomes (ECEA Rule 3.06(2)).
- B. The schedule for the evaluation process that ensures that systematically covers all aspects of services to children with disabilities within a five year period.