LEADING EDGE ACADEMY

Special Education and Section 504

Special Education/IDEA

The School abides by the requirements of applicable federal and state laws in serving students with disabilities, including the Individuals with Disabilities Education Act (IDEA), A.R.S. § 15-761, et seq., and A.A.C. § R7-2-401, et seq. Consistent with these requirements, the School has established, implemented, and made available to parents and school-based personnel the special education policies and procedures set forth herein. To the extent applicable to charter schools generally, and to the grade levels served by the School, the School's written special education policies and procedures include those set forth in the most current version of the Arizona Department of Education's Policy & Procedure Checklist ("ADE Checklist"), as updated, which is incorporated herein and is available electronically to school-based personnel and all parents at: www.azed.gov/specialeducation/monitoring under the "Resources" link.[1] The statutory and rule citations included in the policies below reflect the law or regulation on which the policy or procedures are based.

1. Child Find.

Policy: The School will ensure that all children with disabilities enrolled in and in need of special education and related services are identified, located and evaluated. Procedures for child identification and referral shall meet the requirements of the IDEA and its regulations, A.R.S. Title 15, Chapter 7, and the State Board of Education rules R7-2-401.

Procedures:

- *§300.111 Child Find.*

1) The School will identify, locate and evaluate all children with disabilities within the population the School serves (enrolled students) who are in need of special education and related services.

2) Child find must also include children who are suspected of being a child with a disability and in need of special education, even though: (a) they are advancing from grade to grade, or (b) are highly mobile children, including migrant children.

3) The School will maintain a record of children who are receiving special education and related services.

- *AAC R7-2-401.C Public Awareness:* The School shall inform the general public and parents within its boundaries of responsibility of special education services for

[1] To the extent any substantive inconsistency exists between these policies/procedures and the ADE Checklist that would otherwise implicate non-compliance by the School, the substantive provision of the ADE Checklist will control so as to ensure compliance.

students aged 3 through 21 years and how to access those services, including information regarding early intervention services for children aged birth through 2 years.

- *AAC R7-2-401.D Child Identification and Referral:*

1) The School shall establish, implement and make available (either in writing or electronically) to its school-based personnel and all parents within the School's boundaries of responsibility, written procedures for the identification and referral of all children with disabilities, birth through 21 years, regardless of the severity of their disability.

2) The School will require the appropriate school-based personnel to review the written procedures related to child identification and referral on an annual basis and maintain documentation of the school-based personnel review.

3) Identification (screening for possible disabilities) shall be completed within 45 calendar days after: a) entry of each preschool or kindergarten student and any student enrolling without appropriate records or screening, evaluation, and progress in school; or b) notification to the School by parents of concerns regarding the developmental or educational progress by their child (ages 3 years through 21 years).

4) Screening procedures shall include vision and hearing status and consideration of the following areas: a) cognitive or academic; b) communication; c) motor; d) social or behavioral; and e) adaptive development. Screening procedures do not include detailed and comprehensive evaluation procedures.

5) For a student transferring into a school, the School shall review enrollment data and educational performance in the prior school. If there is a history of special education for a student not currently eligible for special education or poor progress, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services.

6) If a concern about a student is identified through screening procedures or review of records, the School shall notify the parents of the student of the concern within 10 school days and inform them of the School's procedures to follow-up on the student's needs.

7) The School shall maintain documentation of the identification procedures utilized, the dates of entry into school, notification by parents of a concern and the dates of screening. The results shall be maintained in the student's permanent records.

8) If the identification process indicates a possible disability, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services. A parent or student who has reached the age of majority may request an evaluation of the student.

9) If, after consultation with the parent, the School determines that a full and individual evaluation is not warranted, the School shall provide prior written notice and procedural safeguards notice to the parent in a timely manner.

2. Evaluation.

Policy: A full and individual initial evaluation will be conducted by the School before the initial provision of special education and related services to a child with a disability in accordance with §§300.300-300.311 of the IDEA regulations. A reevaluation of each child with a disability will be conducted by the School in accordance with §§300.300-300.311 of the IDEA regulations.

Procedures:

- *§300.300 Parental Consent*

1) When the School proposes to conduct an initial evaluation to determine if a child qualifies as a child with a disability, after reviewing existing data with the parents and providing prior written notice, the School will obtain informed consent from the parent of the child before collecting any additional data.

a) Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services.
b) The School must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation.

2) For initial evaluations only, if the child is a ward of the state, is not residing with the child's parent, the School is not required to obtain consent from the parent if: a) Despite reasonable efforts to do so, the School cannot discover the whereabouts of the parents of the child; b) The rights of the parents of the child have been terminated by the court; c) The rights of the parent to make educational decisions have been subrogated by a judge and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

3) The School may, but is not required to, seek informed consent through due process procedures if the parent of a child who is enrolled or seeking to enroll in the School refuses consent for an initial evaluation, or fails to respond to a request for consent.

4) The School must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child and must make reasonable efforts to obtain that consent.

5) If a parent refuses consent for the initial provision of special education and related services, the School may not seek consent though due process hearing procedures. The School: a) Will not be considered to be in violation to provide FAPE; b) Is not required to convene an IEP Team meeting or develop an IEP for the child.

6) The School must obtain informed consent prior to conducting any reevaluation of a child with a disability. If the parent refuses consent, the School may utilize due process hearing procedures to seek consent but does not violate its obligation if it declines to pursue the evaluation or reevaluation. The informed parental consent for reevaluation need not be obtained if the School can demonstrate that: a) it made

reasonable efforts to obtain such consent and has documented those attempts; b) the child's parent has failed to respond.

7) Parental consent is not required before: a) Reviewing existing data as part of an evaluation or reevaluation; or b) Administering a test or other evaluation that is administered to all children unless consent is required of parents of all children prior to administration.

8) A public agency may not use a parent's refusal to consent to one service or activity under this section to deny the parent or child any other service, benefit, or activity of the School, except as required by this part.

- *§300.301 Initial Evaluations*

1) Consistent with consent requirements of §300.300, either a parent of a child or the School may initiate a request for an initial evaluation to determine if a child is a child with a disability.

2) The initial evaluation must: a) Be completed within 60 days of receiving parental consent for the evaluation unless i) the parents and the School agree that it is in the best interest of the child to extend the timeline to complete the evaluation for an additional 30 days; ii) the child enrolls in the School from another public agency after the parent has provided consent and before the determination of eligibility by the other agency. In that event, the School will ensure prompt completion of the evaluation; or iii) the parent of a child with a disability repeatedly fails or refuses to produce the child for the evaluation; b) Consist of procedures to determine if the child is a child with a disability and to determine the educational needs of the child.

- *§300.303 Reevaluations*

1) The School will conduct a reevaluation of a child with a disability if: a) The School determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation, or b) If the child's parents or teacher requests a reevaluation, except that the School will not conduct a reevaluation more than once a year unless the parent and agency agree otherwise.

2) The School will conduct a reevaluation team meeting at least once every 3 years, unless the parent and the School agree that reevaluation is unnecessary.

- *§300.304 Evaluation Procedures*

1) The School will provide prior written notice to the parents of a child who has, or who is suspected of having, a disability that describes the evaluation procedures that the School proposes to conduct.

2) In conducting an evaluation or reevaluation, the School will: a) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent in

order to determine i) whether the child is a child with a disability; and ii) if the child is a child with a disability, information related to enabling the Child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities); b) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and c) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

3) The School will ensure that evaluation materials and strategies: a) Are selected and administered so as not to be discriminatory on a racial or cultural basis; b) Are administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so; c) Are used for the purposes for which the assessment(s) or measure(s) are valid and reliable; d) Are administered by trained and knowledgeable personnel; e) Are administered in accordance with the instructions provided by the assessment publisher; f) Are selected and administered so as to ensure that if administered to a child with impaired sensory, manual, or speaking skills, 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 impairments (unless those skills are the factors being measured); g) Assess the child in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, adaptive behavior, communicative status, and motor abilities; h) Are sufficiently comprehensive to identify all of the child's special education and related service's needs, whether or not those needs are commonly associated with the child's disability; i) Provide relevant information that directly assists in determining the educational needs of the child.

4) Evaluations of children who transfer to or from another public agency in the same school year are coordinated with the prior and subsequent schools, in order to expedite the completion of a full evaluation.

- *§300.305 Additional Evaluation Requirements*

1) As part of an initial evaluation (if appropriate), and as part of any reevaluation, the IEP Team and other qualified professionals, as appropriate, will: a) Review existing evaluation data on the child including i) evaluations and information provided by the parents; ii) current classroom-based, local and state-wide assessments, and classroom-based observations; iii) observations by teachers, and related services providers; b) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine whether: i) the child is or continues to be a child with a disability, and, if so, the educational needs of the child; ii) the present levels of academic achievement and related developmental needs of the child; iii) whether the child needs special education and related services to enable the child to meet measurable annual IEP

goals and to participate, as appropriate, in the general education curriculum; c) The IEP Team will meet to review the existing data.

2) If additional data are needed, the School will administer the assessments required to obtain the additional data.

3) If additional data are not needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs, the School will notify the parents of: a) The determination and the reasons for the determination; and b) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs.

4) The School will evaluate a child before determining that the child is no longer a child with a disability except when the termination is due to graduation with a regular high school diploma or the child reaching age 22.

5) When the child's eligibility terminates because of graduation or reaching age 22, the School will provide a summary of the child's academic achievement and functional performance that includes recommendations on how to assist the child in meeting the child's postsecondary goals.

- *§300.306 Determination of Eligibility*

1) Upon completion of the evaluation process, the School will ensure that: a) A group of qualified professionals and the parent of the child determine: i) if the child is a child with a disability under the Individuals with Disabilities Education Act and the Arizona State Statutes; and ii) if so, the educational needs of the child; b) The parents are provided, at no cost, a copy of the evaluation report and eligibility determination.

2) A child will not be determined to be a child with a disability if the primary factor for the determination is: a) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in 1208(3) of the ESEA); b) Lack of appropriate instruction in math; or c) Limited English proficiency.

3) The eligibility determination, including education needs, will be based on all of the information sources used in the evaluation process, and if deemed eligible and in need of special education and related services, an IEP will be developed in accordance with §300.320 through 300.324.

- *§300.307 Additional Procedures for Identifying Children with Specific Learning Disabilities*

Option 1: The School will use the state-adopted criteria for determining whether a child has a specific learning disability through a process based on the child's response to scientific, research-based intervention in conformity with IDEA Regulations §300.307-311.

Option 2: The School will establish criteria for determining whether a child has a specific learning disability through the identification of a severe discrepancy between intellectual ability and achievement in conformity with IDEA Regulations §300.307-311.

Option 3: The School will determine, on an individual child basis, the criteria for determining whether a child has a specific learning disability using one of the following criteria in conformity with IDEA Regulations §300.307-311: a) The state-adopted criteria based on a child's response to scientific, research-based intervention; or b) The identification of a severe discrepancy between intellectual ability and achievement.

- *§300.308 Additional Group Members.* The determination of whether a child suspected of having a specific learning disability is a child with a disability must be made by the child's parents and a team of qualified professionals which must include: 1) The child's regular teacher or if the child does not have a regular teacher, then a regular teacher qualified to teach children of that age; 2) For a child of less than school age, an individual qualified by the State to teach children of his/her age; 3) At least one person qualified to conduct individual diagnostic evaluations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

- *§300.309 Determining the Existence of a Specific Learning Disability*

1) A child may be determined to have a specific learning disability if: a) The child does not achieve adequately for the child's age or to meet State–approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age, or meet State–approved grade level standards: i) Oral expression; ii) Listening comprehension; iii) Written expression; iv) Basic reading skill; v) Reading fluency skills; vi) Reading comprehension; vii) Mathematics calculation; viii) Mathematics problem solving; b) The child does not make sufficient progress to meet age or State–approved grade-level standards in one or more of the areas above when using a process based on the child's response to scientific, research-based intervention; or c) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State–approved grade level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments.

2) The findings of this section are not primarily the result of: a) A visual, hearing or motor disability; b) Intellectual Disability; c) Emotional disturbance; d) Cultural factors; e) Environmental or economic disadvantage; or f) Limited English proficiency.

3) The group must ensure that the underachievement is not due to a lack of appropriate instruction in reading or math and consider: a) Data that demonstrate that prior to, or as part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and b) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

4) The School must promptly request parent consent to evaluate if, prior to referral, the child has not made adequate progress after an appropriate period of time when provided instruction described in (3)(a) and (b).

- *§300.310 Observation*

1) The School must ensure that the child is observed in his/her learning environment, including the regular classroom setting, to document the child's academic performance and behavior in the areas of difficulty.

2) In the case of a child less than school age or out of school, a group member must observe the child in an environment appropriate for a child that age.

- *§300.311 Specific Documentation for the Eligibility Determination*

1) For a child suspected of having a specific learning disability, the eligibility determination must contain a statement of: a) Whether the child has a specific learning disability; b) The basis for making the determination, including an assurance the determination was made in accordance with the Individuals with Disabilities Education Act; c) The relevant behavior, if any, noted during the observation and the relationship of that behavior to the child's academic functioning; d) The educationally relevant medical findings, if any; e) Whether the child does not achieve adequately for his/her age or to meet State-approved grade level standards consistent with (1)(a); and does not make sufficient progress to meet age or State-approved grade level standards consistent with (1)(b); f) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State approved grade level standards or intellectual development consistent with (1)(c); or g) The determination of the group concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency of the child's achievement level.

2) If the child participated in a process that assessed the child's response to scientific, research-based intervention, the determination must include: a) The instructional strategies used and the student-centered data collected; b) The documentation that the child's parents were notified about the State's policies regarding the amount and nature of student performance that would be collected and the general education services that would be provided; c) Strategies for increasing the rate of learning; and d) The parent's right to request an evaluation.

3) Each group member must certify in writing whether the report reflects the member's conclusion. If it does not, the group member must submit a separate statement presenting the member's conclusions.

- *AAC R7-2-401.E Evaluation/Reevaluation*

1) The School shall establish, implement, and make available to school-based personnel and parents within its boundaries of responsibility written procedures for the initial full and individual evaluation of students suspected of having a disability, and for the reevaluation of students previously identified as being eligible for special education.

2) Procedures for the initial full and individual evaluation of children suspected of having a disability and for the reevaluation of students with disabilities shall meet the

requirements of IDEA and its regulations, state statutes, and State Board of Education rules.

3) The initial evaluation of a child being considered for special education, or the reevaluation per a parental request of a student already receiving special education services, shall be conducted within 60 calendar days from the public education agency's receipt of the parent's informed written consent and shall conclude with date of the multidisciplinary evaluation team (MET) determination of eligibility.

4) If the parent requests the evaluation, the School must, within a reasonable amount of time not to exceed 15 school days from the date it receives a parent's written request for an evaluation, either begin the evaluation by reviewing existing data or provide prior written notice refusing to conduct the requested evaluation. The 60- day evaluation period shall commence upon the School's receipt of the parent's informed written consent.

5) The 60-day evaluation period may be extended for an additional 30 days, provided it is in the best interest of the child and the parent and the School agree in writing to such an extension. Neither the 60-day evaluation period nor any extension shall cause a reevaluation to exceed the timelines for a reevaluation within three years of the previous evaluation

6) The School may accept current information about the student from another state, public agency, public education agency, or through an independent educational evaluation. In such instances, the multidisciplinary evaluation team shall be responsible for reviewing and approving or supplementing an evaluation to meet the requirements identified in subsections (E)(1) through (7).

7) For the following disabilities, the full and individual initial evaluation shall include:

a) Emotional disability: verification of a disorder by a qualified professional.

b) Hearing impairment: i) An audiological evaluation by a qualified professional, and ii) An evaluation of communication/language proficiency.

c) Other health impairment: verification of a health impairment by a qualified professional.

d) Specific learning disability: a determination of whether the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development that meets the public education agency criteria through one of the following methods: i) A discrepancy between achievement and ability; ii) The child's response to scientific, research-based interventions; or iii) Other alternative research-based procedures.

e) Orthopedic impairment: verification of the physical disability by a qualified professional.

f) Speech/language impairment: an evaluation by a qualified professional.

g) For students whose speech impairments appear to be limited to articulation, voice, or fluency problems, the written evaluation may be limited to: i) An audiometric screening within the past calendar year, ii) A review of academic history and classroom functioning, iii) An assessment of the speech problem by a speech therapist, or iv) An assessment of the student's functional communication skills.

h) Traumatic brain injury: verification of the injury by a qualified professional.

i) Visual impairment: verification of a visual impairment by a qualified professional.

8) The Department of Education has developed a list, subject to review and approval of the State Board of Education, of qualified professionals eligible to conduct the appropriate evaluations prescribed in subsection 7), above.

9) The multidisciplinary evaluation team shall determine, in accordance with the IDEA and regulations, whether the requirements of subsections 7, above, are required for a student's reevaluation.

3. Free Appropriate Public Education (FAPE).

Policy: A free appropriate public education (FAPE) will be available to all children within the boundaries of responsibility of the School, including children with disabilities who have been suspended or expelled from school as provided for in §300.530(d) of the IDEA regulations.

Procedures:

- *§300.306 Determination of Eligibility* (see above)
- *§300.308 Additional Group Members*. The School will make the determination that a child is eligible for special education and related services on an individual basis by a properly constituted team.
- *§300.101 Free Appropriate Public Education*

1) For preschool children (3 to 5): The School will refer any children who are suspected of having a disability to the appropriate Unified District or Elementary District for evaluation and, if appropriate, for services.

2) For school-aged children (5 to 21): The School will make FAPE available to any child within its boundaries of responsibility who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.

- *A.R.S. § 15-764 Powers and Duties of the School District Governing Board or County School Superintendent*

1) The School will establish policy and procedures with regard to allowable pupil-teacher ratios and pupil-staff ratios within the School for provision of special education services.

2) The special education programs and services established by the School shall be conducted only in a school facility which houses regular education classes or in other facilities approved by the division of special education.

- *§300.105 Assistive Technology*

1) The School will ensure that assistive technology devices or services or both will be available to a child with a disability, if required, as a part of: a) Special education; b) Related services; c) Supplementary aids and service.

2) On a case-by-case basis, the School will ensure the use of school-purchased assistive technology devices in a child's home or other setting if the child's IEP Team determines that the child needs access to those devices in order to receive FAPE.

- *§300.106 Extended School Year Services (ESY)*

1) The School will make extended school year services available as necessary to provide FAPE to children with disabilities. ESY services will be provided only if a child's IEP team determines, in accordance with §§300.320-300.324, that the services are necessary for the provision of FAPE. Services will not be limited to a particular category of disability or unilaterally limited to the type, amount, or duration of services.

2) The ESY services that are provided to a child with a disability will: a) Be provided beyond the normal school year of the School; b) Be provided in accordance with the child's IEP; c) Be provided at no cost to the parents of the child; and d) Meet the standards of the State.

- *§300.107 Nonacademic Services*

1) The School will afford children with disabilities and equal opportunity for participation in nonacademic and extracurricular services and activities including, as determined appropriate and necessary by the child's IEP team, the provision of supplementary aids and services.

2) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the School, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the School and assistance in making outside employment available.

- *§300.108 Physical Education*

1) The School will make regular physical education services available to children with disabilities to the same extent that the School provide those services to children

without disabilities, unless: a) The child is enrolled full time in a separate facility; or b) The child needs specially designed physical education as prescribed in the child's IEP.

2) If a child is enrolled in a separate facility, the School will ensure that the child receives appropriate physical education services.

3) If special physical education is prescribed in a child's IEP, the School will provide for those services, either directly or through other public or private programs.

- *§300.110 Program Options.* The School will ensure that children with disabilities have available to them the variety of education programs and services that are available to nondisabled children, including art, music, industrial arts, consumer and homemaking education, and vocational education.

- *§300.113 Routine Checking of Hearing Aids and External Components of Surgically Implanted Medical Devices*

1) The School will ensure that the hearing aids worn in school by children with hearing impairments are functioning properly; and

2) The external components of surgically implanted medical devices (e.g., cochlear implants) are functioning properly, except that the School will not be responsible for any post-surgical maintenance, programming or replacement of any component, external or internal, of the medical device.

- *§300.154 Methods of Ensuring Services*

1) The School may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under IDEA, as permitted under the public benefits or insurance program, except that the School: a) May not require parents to sign up for or enroll in public benefits or insurance programs to receive FAPE; b) May not require parents to incur out-of-pocket expenses such as payment of a deductible or co-pay for services required by IDEA, but may pay the cost that parents otherwise would be required to pay; c) May not use a child's public benefit if that use would i) Decrease lifetime benefits; ii) Result in the family paying for non-school services that would otherwise be paid for by public benefits; iii) Increase premiums or lead to discontinuation of benefits; or iv) Risk loss of eligibility.

2) The School must notify parents that their refusal to allow access to their public benefits does not relieve the school of its responsibility to provide all required IDEA services.

3) The School must obtain a one-time written consent from the parent, after providing written notification and before accessing the child's or the parent's public benefits for the first time. The consent must specify a) The personally identifiable information that may be disclosed; b) The purpose of the disclosure; and c) The agency to which the disclosure may be made.

4) The public education agency must provide a written notification to the child's parents before accessing the child's or parent's public benefits for the first time and prior to obtaining the one- time parental consent and annually thereafter

- *AAC R7-2-401. F Parental Consent*

1) The School shall obtain informed written consent from the parent of the child with a disability before the initial provision of special education and related services to the child.

2) If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the public education agency may not use mediation or due process procedures in order to obtain agreement or a ruling that the services may be provided to the child.

3) If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the School: a) will not be considered to be in violation of the requirement to make available FAPE to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent, and b) Is not required to convene an IEP team meeting or develop an IEP in accordance with these rules.

4) If, at any time after the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the School: a) May not continue to provide special education and related services to the child, but shall provide prior written notice before ceasing the provision of special education and related services; b) May not use the mediation procedures or the due process procedures in order to obtain agreement or a ruling that the services may be provided to the child; c) Will 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 d) Is not required to convene an IEP team meeting or develop an IEP for the child for further provision of special education and related services.

5) If a parent revokes consent in writing for the child's receipt of special education services after the child is initially provided special education and related services, the School 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.

4. Least Restrictive Environment (LRE).

Policy: Children with disabilities, including children in public or private institutions or other care facilities, will be educated to the maximum extent appropriate with children who are not disabled in accordance with §§300.114-300.117 of the IDEA regulations.

Procedures:

- *§300.114 Least Restrictive Environment (LRE) Requirements.* The School will ensure that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

- *§300.115 Continuum of Alternative Placements*

1) The School will make available a continuum of alternative placements to meet the needs of children with disabilities for special education and related services.

2) The continuum of alternative placements will include: a) Instruction in regular classes, special classes, special schools, home instruction, and instruction in hospital and institutions; b) Supplementary services, such as a resource room or itinerant instruction, to be provided in conjunction with regular class placement.

- *§300.116 Placements*

1) The placement decision for each child will be: a) Made by a group that includes the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; b) In conformity with the LRE provisions of the IDEA regulations; c) Determined at least annually; d) Based on the child's IEP; and e) As close as possible to the child's home.

2) Unless the IEP of a child requires some other arrangement, the child will be educated in the school that he or she would attend if not disabled.

3) In selecting the LRE, consideration will be given to any potential harmful effect on the child or on the quality of services that s/he needs.

4) A child with a disability will not be removed from age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

- *§300.117 Nonacademic Settings*

1) In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and other nonacademic activities, the School must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child.

2) The School will ensure that the supplementary aides and services determined by the IEP Team to be appropriate and necessary are provided to allow the child to participate in nonacademic settings.

- *AAC R7-2-401.H Least Restrictive Environment*

1) The School shall establish, implement, and make available to school-based personnel and parents of students with disabilities written procedures to ensure the

delivery of special education services in the least restrictive environment as identified by IDEA and its regulations, the state statutes, and the State Board of Education rules.

2) A continuum of services and supports for students with disabilities shall be available through the School.

5. Individualized Education Program (IEP).

Policy: The School shall ensure that an IEP is developed and implemented for each eligible child served by the School and for each eligible child placed in or referred to a private school or facility by the School in accordance with §300.320-325 of the IDEA regulations.

Procedures:

- *§300.320 Contents of the IEP.*

The contents of each IEP will include a statement of:

a) The child's present levels of academic achievement and functional performance, including

i) How the child's disability affects the child's involvement and progress in the general curriculum; or

ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

b) Measurable annual goals, including academic and functional goals designed to:

i) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

ii) Meet each of the child's other educational needs that result from the child's disability;

iii) For children with disabilities who take alternate assessments (MSAA and AIMS A) aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

c) How the child's progress toward meeting the IEP goals will be measured and when periodic reports on the child's progress toward the goals will be provided;

d) The special education and related services to be provided to the child, the supplementary aids and services to be provided to the child or on behalf of the child, the program modifications or supports for school personnel that will be provided to enable the child

i) To advance appropriately toward attaining the annual goals;

ii) To be involved in and progress in the general education curriculum and to participate in extracurricular and other nonacademic activities with other children with disabilities and nondisabled children;

e) The extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and other nonacademic activities;

f) Any individual accommodations that are needed to measure the academic achievement and functional performance of the child on State and district-wide assessments;

g) If the IEP team determines that the child must take an alternate assessment instead of a particular regular State or district-wide assessment of student achievement, a statement of why:

i) the child cannot participate in the regular assessment; and

ii) the particular alternate assessment selected is appropriate for the child;

h) The projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications;

i) Transition goals and services, as required by AAC R7-2-401.G(A), and set forth below.

j) Beginning not later than one year before a student reaches the age of 18, the IEP will include a statement that the parents and the student have been informed of the rights under Part B, if any, that will transfer to the student on reaching the age of 18.

- *§300.321 The IEP Team*

1) The IEP team for each child with a disability will include:

a) The parents of the child;

b) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);

c) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;

d) A representative of the School who i) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; ii) is knowledgeable about the general education curriculum; and iii) is knowledgeable about the availability of resources of the School; iv) may be a School team member described in (b) through (f) if the above criteria are met;

e) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in (b) through (f);

f) At the discretion of the parent or the School, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

g) Whenever appropriate, the child with a disability.

The School must invite a child with a disability of any age to an IEP meeting if the purpose of the meeting is to consider postsecondary goals and transition services needed to assist the child in reaching the IEP goals.

If the student does not attend the transition-related IEP meeting, the School will take other steps to ensure that the student's preferences and interests are considered.

h) To the extent appropriate and with consent of the parents or the adult child, the School will invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

i) For a child who is transitioning from AzEIP, representatives from AzEIP must be invited to the initial IEP if the parent requests.

2) A member of the IEP team described in (1)(a) through (1)(e) is not required to attend the IEP meeting if the parent and the school agree in writing prior to the meeting that attendance is not necessary because the member's area of curriculum or related services is not being modified or discussed in the meeting.

3) A member of the IEP team described in (1)(a) through (1)(e) may be excused from attending the IEP meeting in whole or part when the meeting involves a modification to or discussion of the member's area of the curriculum or related services if the parent, in writing and the School consent to the excusal, and the member submits, in writing to the IEP team, input into the development of the IEP prior to the meeting.

4) In the case of a child previously served by AzEIP, an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the AzEIP service coordinator to assist with the smooth transition of services.

- *§300.322 Parent Participation*

1) The School will take steps to ensure parent(s) of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate by: a) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and b) Scheduling the meeting at a mutually agreed on time and place.

2) The meeting notice will: a) Indicate the purpose, time, and location of the meeting and who will be in attendance; and b) Inform the parents of the provisions relating to the participation of other individuals who have knowledge or special expertise about the child and of representatives of the AzEIP (if the meeting is for an initial IEP of a child transitioning from AzEIP).

3) Beginning not later than the first IEP to be in effect when the child turns 16, the notice will also: a) Indicate that a purpose of the meeting will be the consideration of postsecondary goals and transition services; b) Indicate that the School will invite the student; and c) Identify any other agency that will be invited to send a representative.

4) If neither parent can attend, the School will use other methods to ensure parent participation, including individual or conference telephone calls.

5) A meeting may be conducted without a parent in attendance if the School are unable to convince the parents that they should attend. In this case, the School will maintain a record of its attempts to arrange a mutually agreed on time and place, such as: a) Detailed records of telephone calls made or attempted and the results of those calls; b) Copies of correspondence sent to the parents' and any responses received; and c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

6) The School will take whatever action is necessary to help the parent understand the proceedings at the IEP meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.

7) The School will give the parent a copy of the child's IEP at no cost to the parent.

- *§300.323 When IEPs Must Be in Effect*

1) At the beginning of each school year, the School must have in effect for each child with a disability in its jurisdiction, an IEP as defined in 300.320.

2) The School will ensure that: a) A meeting to develop an IEP for an eligible child is conducted within 30 days of a determination of eligibility for special education and related services; b) As soon as possible following the development of the IEP, the services indicated in the IEP are made available to the child. An IEP will be in effect at the beginning of each school year.

3) For a child aged 2.9-5 years previously served by AzEIP, the IEP team will consider the contents of the child's IFSP. An IFSP may service as the IEP of the child if: a) The School has provided the parents with a detailed explanation of the differences between an IEP and an IFSP; b) The parent and the School agree in writing to the use of an IFSP; c) The IFSP contains an educational component that promotes school readiness and includes pre-literacy, language and numeric skills; and d) The IFSP is developed in accordance with IEP procedures.

4) The School will ensure that each child's IEP is accessible to each regular education teacher, special education teacher, related service provider and any other service provider is who responsible for implementing the IEP. Each teacher and related service provider will be informed of his or her specific responsibilities in implementing the IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

5) For a child with an IEP who transfers into the School from another public agency in Arizona, the School, in consultation with the parents, will provide a free appropriate public education (including services comparable to the services described in

the existing IEP) until the School: a) Reviews and adopts the child's IEP from the previous public agency, or b) Develops, adopts, and implements a new IEP.

6) For a child with an IEP who transfers into the School from another state, the School, in consultation with the parents, will provide a free appropriate public education (including services comparable to the services described in the existing IEP) until the School: a) Conducts an evaluation for eligibility for special education in Arizona, or determines that such an evaluation is unnecessary; and b) Develops, adopts, and implements a new IEP, if appropriate.

7) To facilitate the transition of a child enrolling from another public education agency, either from within or from outside of Arizona, the School will take reasonable steps to promptly obtain the child's education records, including all records pertaining to special education, from the previous public agency in which the child was enrolled.

8) When a records request is received from another public agency, from either within or outside of Arizona, the School will promptly respond to the request.

- *§300.324 Development, Review, and Revision of an IEP*

1) In developing each child's IEP, the IEP team will consider: a) The strengths of the child and the concerns of the parents for enhancing the education of their child; b) The results of the initial or most recent evaluation of the child; and c) The academic, developmental, and functional needs of the child.

2) In consideration of special factors, the IEP team must: a) In the case of a child whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies to address that behavior; b) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP; c) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille) that instruction in Braille or the use of Braille is not appropriate for the child; d) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communication with peers and professional personnel 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; e) Consider whether the child requires assistive technology devices and services.

3) The regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP, including the determination of: a) Appropriate positive behavioral interventions and strategies for the child; and b) Supplementary aids and

services, program modifications, and/or supports for school personnel that will be provided for the child, consistent with §300.320(a)(4).

4) In making changes to the IEP after the annual IEP meeting, the parent and the School may agree to amend the IEP without a meeting for the purpose of making those changes and, instead, develop a written document to amend or modify the child's current IEP. The School must: a) Inform all members of the child's IEP team of those changes, and b) Upon request, provide the parents with the revised copy of the IEP.

5) To the extent possible, the School will encourage the consolidation of evaluation, reevaluation and IEP meetings for a child.

6) The School will ensure that the IEP team reviews the child's IEP periodically, but not less than annually, to determine if goals are being achieved, and revise the IEP, when appropriate, to address: a) any lack of expected progress toward the annual goals and in the general education curriculum, if appropriate; b) the results of any reevaluation; c) information about the child provided to, or by the parents; d) the child's anticipated needs, or other matters.

7) If a participating agency other than the School fails to provide the transition services in an IEP, the School must reconvene the IEP team to identify alternative strategies to meet the child's transition outcomes.

- *§300.325 Private School Placements by the School*

1) Before the School place a child with a disability in a private school or facility, the School must initiate and conduct a meeting to develop an IEP for the child and ensure that a representative of the private school or facility attends the meeting in person or by conference call.

2) Subsequent IEP reviews may be initiated and conducted by the private school at the discretion of the School. However, the School must ensure that: a) The parents and public agency representative are involved in any decisions about the child's IEP; and b) The parents and public agency representative agree to any proposed changes in the IEP before those changes are implemented.

3) The School remains responsible to ensure FAPE to a child placed by the School in a private school or facility.

- *§300.327 Educational Placements.* The School must ensure that the parents of a child with a disability are members of any group that makes decisions on the educational placement of their child.

- *AAC R7-2-401.G Individualized Education Program (IEP)*

1) The School shall establish, implement, and make available to its school-based personnel and parents written procedures for the development, implementation, review, and revision of IEPs.

2) Procedures for IEPs shall meet the requirements of the IDEA and its regulations, the state statutes, and the State Board of Education rules.

3) Procedures shall include the incorporation of Arizona academic standards as adopted by the State Board of Education into the development of each IEP and address grade-level expectations and grade-level content instruction.

4) Each IEP of a student with a disability shall be developed in accordance with IDEA and its regulations, state statutes, and State Board of Education rules. If appropriate to meet the needs of a student and to ensure access to the general curriculum, an IEP team may include specially designed instruction in the IEP that may be delivered in a variety of educational settings by a general education teacher or other certificated personnel provided that certificated special education personnel are involved in the planning, progress monitoring, and when appropriate, the delivery of the specially designed instruction.

A. Transition services: Beginning not later than the first IEP to be in effect when the child completes 9th grade or reaches age 16, whichever is first, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include—
    a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
    b. The transition services (including courses of study) needed to assist the child in reaching those goals; and
    c. The estimated date of graduation for the student, including the course of study that specifically aligns to the student's individual transition plan.
        i. At least one year before the anticipated high school graduation date of the child with a disability, written notice shall be provided to the child's parent or guardian or to the child with a disability who is at least eighteen years of age.

B. Transfer of rights at age of majority. Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under § 300.520.

5) Each student with a disability who has an IEP shall participate in the state assessment system. Students with disabilities can test with or without accommodations or modifications as indicated in the student's IEP. Students who are determined to have a significant cognitive disability based on the established eligibility criteria will be assessed with the state's alternate assessments as determined by the IEP team.

6) A meeting of the IEP team shall be conducted to review and revise each student's IEP at least annually, or more frequently if the student's progress substantially

deviates from what was anticipated. The public education agency shall provide written notice of the meeting to the parents of the student to ensure that parents have the opportunity to participate in the meeting. After the annual review, the public education agency and parent may agree not to convene an IEP team meeting for the purposes of making changes, and instead may develop a written document to amend or modify the student's current IEP.

7) A parent or public education agency may request in writing a review of the IEP and shall identify the basis for requesting review. Such review shall take place within 45 school days of the receipt of the request at a mutually agreed upon date and time.

6. Procedural Safeguards.

Policy: The School will establish, maintain, and implement procedural safeguards that meet the requirements of §300.500 through 300.536 of the IDEA Regulations.

Procedures:

- *§300.501 Opportunity to Examine Records; Parent Participation in Meetings*

1) The School will ensure that the parents of a child with a disability shall be given an opportunity to inspect and review all education records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child.

2) The School will ensure that the parents of a child with a disability shall: a) Be given an opportunity to participate in meetings with respect to the identification, evaluation, educational placement and the provision of FAPE to the child; b) Be provided notice consistent with §300.322 to ensure they have opportunity to participate in meetings; c) Be members of any group that makes decisions on the educational placement of their child.

3) If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the School must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.

4) A placement decision may be made by a group without the involvement of the parent, if the School is unable to obtain the parent's participation and has maintained a record of its attempts to ensure their involvement.

- *§300.502 Independent Educational Evaluation*

1) The parents of a child with a disability have the right to obtain an independent educational evaluation of their child. The School must provide to parents, upon request for an independent educational evaluation: a) Information about where an independent educational evaluation may be obtained; and b) The School criteria applicable for independent educational evaluations. The School criteria for the independent educational evaluation must be the same as the criteria the School uses when it conducts an evaluation, to the extent consistent with the parent's right to an evaluation.

2) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the School. If a parent requests an independent educational evaluation at public expense, the School must, without unnecessary delay, either: a) File for a due process hearing to show that its evaluation is appropriate; or b) Ensure that an independent educational evaluation is provided at public expense, unless the School demonstrates in a hearing that the evaluation obtained by the parent did not meet agency criteria.

3) If a due process hearing decision is that the School's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

4) If a parent requests an independent educational evaluation, the School may ask for the parent's reasons for the objections but may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a request for due process to defend its evaluation.

5) A parent is entitled to only one independent educational evaluation at public expense each time the School conducts an evaluation with which the parent disagrees.

6) The results of any independent educational evaluation which is obtained by or provided to the School: a) Must be considered by the School, if it meets agency criteria, in any decision with respect to the provision of FAPE to the child; and b) May be presented by any party as evidence in a due process hearing.

7) If a hearing officer requests an independent educational evaluation as part of a due process hearing, the cost of the evaluation must be at public expense.

- *§300.503 Prior Notice by the School; Content of Notice*

1) Written notice must be given to the parents of a child with a disability a reasonable time before the School: a) Proposes to initiate or change the identification, evaluation or educational placement of the child or the provision of FAPE to the child; or b) Refuses to initiate or change the identification, evaluation or educational placement of the child or the provision of FAPE to the child.

2) The notice must include: a) A description of the action proposed or refused by the School; b) An explanation of why the School proposes or refuses to take the action; c) A description of each evaluation procedure, assessment, record or report the School used as a basis for the proposed or refused action; d) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; e) Sources for parents to contact to obtain assistance in understanding the provisions of this part; f) A description of other options that the IEP Team considered and the reasons why those options were rejected; g) A description of other factors that are relevant to the School proposal or refusal.

3) The notice must be written in language understandable to the general public, provided in the native language or other mode of communication used by the parent.

4) If the native language or other mode of communication used by the parent is not a written language, the School must ensure: a) the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; b) That the parent understands the content of the notice; c) That there is written evidence of these requirements.

- *§300.504 Procedural Safeguards Notice*

1) A copy of the procedural safeguards available to the parent of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents: a) Upon initial referral or parent request for evaluation; b) Upon receipt of a first complaint to the State or first request for a due process hearing in a school year; c) When a disciplinary change of placement /removal has been initiated; d) Upon request by a parent.

2) The procedural safeguards notice must include a full explanation of all the procedural safeguards available under §300.148, §§300.151 through 300.153, §300.300, §§300.502 through 300.503, §§300.505 through 300.515, §300.520, §§300.530 through 536, and §§300.610 through 300.625 relating to: a) Independent educational evaluations; b) Prior written notice; c) Parental consent; d) Access to education records; e) Opportunity to present and resolve complaints through the due process hearing and State complaint procedures, including: i) The time period in which to file a complaint; ii) The opportunity for Sonoran Science Academy to resolve the complaint; iii) The difference between due process hearing and State complaint procedures, jurisdictions, issues that may be raised, timelines, and relevant procedures; f) The availability of mediation; g) The child's placement during the due process hearing; h) Procedures for students subject to placement in an interim alternative educational setting; i) Requirements for unilateral placements by parents of children in private schools at public expense; j) Due process hearings including requirements for disclosure of evaluation results and recommendations; k) Civil actions, including timelines and l) attorneys' fees. This notice must meet the same requirements for understandable language as for the written prior notice described in §300.503.

- *§300.505 Electronic Mail.* The parent of a child with a disability may elect to receive required notices by an electronic mail communication if the School makes that option available.

- *§300.506 Mediation*

1) The School offers the procedures available through the Arizona Department of Education's Exceptional Student Services Dispute Resolution to allow parties to disputes, including those matters arising prior to a request for a due process hearing, to resolve disputes through mediation. Procedures will ensure that the mediation process: a) Is voluntary on the part of the parties; b) Is not used to deny or delay a parent's right to a

due process hearing or any other right under the IDEA; c) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

2) The School may establish procedures to offer to parents and schools that choose not to use mediation an opportunity to meet, at a time and location convenient to the parties, with a disinterested party: a) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center, or community parent resource center; b) Who would explain the benefits of, and encourage the mediation process to the parents;

- *§300.507 Filing a Due Process Complaint*

1) A parent or the School may file a request for a due process hearing relating to the identification, evaluation or educational placement of a child with a disability.

2) The request for a due process hearing must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged violation.

3) The School must inform the parent of any free or low cost legal and other relevant services available in the area upon parent request.

- *§300.508 Due Process Complaint (Hearing)*

1) The School will have procedures that require either party, or the attorney representing a party, to provide to the other party a confidential due process complaint.

2) The party filing the notice for a hearing must forward a copy of the request to the State.

3) The due process hearing complaint must include the following, in order, for the complaint to be heard: a) The name of the child; b) The residential address of the child; c) The school of attendance; d) A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and e) A proposed resolution of the problem to the extent known and available to the party at the time.

4) The due process complaint will be deemed sufficient unless the party receiving the complaint notifies the hearing officer and the other party in writing, within 15 days of receipt of the complaint, that it believes the complaint does not meet the content requirements.

5) Within five days of receipt of notice, the hearing officer must determine whether the complaint meets the requirements and notify the parties, in writing, of that determination.

6) A party may amend its due process complaint only if: a) The other party consents in writing and is given an opportunity to resolve the complaint through the resolution process; or b) The hearing officer grants permission, but in no case later than five days before the due process hearing begins.

7) If a party files an amended complaint, the relevant timelines begin again.

8) If the School has not sent a prior written notice to the parent regarding the subject matter contained in the due process complaint, it must do so within 10 days of receiving the complaint.

9) Within 10 days of receiving the complaint, the receiving party will send to the other party a response that specifically addresses the issues raised in the due process complaint.

- *§300.510 Resolution Process*

1) Within 15 days of receiving the notice of the parent's due process complaint, and prior to the initiation of a due process hearing, the School must convene a meeting with the parent and the relevant members of the IEP Team who have specific knowledge of the facts identified in the complaint that: a) Includes a representative of the School who has agency decision-making authority; b) May not include an attorney of the School unless the parent is accompanied by an attorney.

2) The purpose of the meeting is for the parent of the child to discuss the due process complaint, and the factual basis of the complaint, so the School has the opportunity to resolve the dispute.

3) The resolution meeting need not be held if: a) The parent and the School agree in writing to waive the meeting; or b) The parent and the School agree to use the mediation process.

4) The parent and the School determine the relevant IEP Team members to attend the meeting.

5) If the School has not resolved the complaint to the satisfaction of the parent within 30 days of the receipt of the complaint, the due process hearing may occur. The timeline for issuing a final decision begins at the end of this 30-day period.

6) The failure of the parent to participate in the resolution meeting that has not been mutually agreed to be waived, will delay the timelines for the resolution process and due process hearing until the meeting is held.

7) If the School is unable to obtain the participation of the parent after reasonable efforts have been made and documented, the School may, at the conclusion of the 30-day period, request the hearing officer dismiss the parent's due process complaint.

8) If the School fails to hold the resolution meeting within 15 days of receiving the complaint or fails to participate in the meeting, the parent may request that the hearing officer begin the hearing timeline.

9) The 45-day timeline for the due process hearing starts the day after: a) Both parties agree in writing to waive the resolution meeting; or b) After either the mediation or resolution meeting starts but before the end of the 30-day resolution period, the parties agree in writing that no agreement is possible; or c) If both parties agree in writing to

continue the mediation at the end of the 30-day resolution period, but later, one party withdraws from the mediation process.

10) If a resolution is reached at the meeting, the parties must execute a legally binding agreement that is: a) Signed by both the parent and public agency representative who has authority to legally bind the School; and b) enforceable in any State court of competent jurisdiction or in a district court of the U.S.

11) Either party may void the agreement within 3 business days of the agreement's execution.

- *§300.518 Child's Status During Proceedings*

1) The child involved in the due process hearing complaint must remain in his or her current educational placement: a) Unless a discipline appeal has been filed as provided in §300.533; b) During the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing under §300.507; or c) Unless the School and parents of the child agree otherwise.

2) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.

3) If the complaint involves an application for initial services for a child who has turned three and transitioning from Part C to Part B, the School is not required to provide the Part C services the child had been receiving. If the child is found eligible for special education and related services under Part B, and the parent consents to the initial provision of services under §300.300(b), then the School must provide those services that are not in dispute.

4) If the hearing officer 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 parent for the purposes of (1)(c) of this section.

- *§300.519 Surrogate Parents*

1) The School will ensure that the rights of a child are protected by assigning an individual to act as a surrogate for the parents when: a) No parent can be identified; b) After reasonable efforts are made, no parent can be located; c) The child is a ward of the State (with no foster parent); d) The child is an unaccompanied homeless youth as defined by the McKinney-Vento Homeless Assistance Act;

2) The School will have a method for determining when a surrogate parent is needed and for making surrogate parent assignments.

3) The School will ensure that a person selected as a surrogate parent: a) Is not an employee of the State, the School, or any other agency that is involved in the education or care of the child; b) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and c) Has knowledge and skills that ensure adequate representation of the child.

4) In the case of an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents until a surrogate parent can be appointed that meets all the requirements of this section.

- *§300.520 Transfer of Parental Rights at Age of Majority*

1) When a child with a disability reaches age 18, unless that child has been determined to be incompetent: a) The School will provide any notice required by the IDEA regulations to both the child and the parents; and b) All rights accorded to parents under Part B of the Act transfer to the child

2) When the rights are transferred, the School will provide notice to the child and parent of the transfer of rights.

- *AAC R7-2-401.I Procedural Safeguards*

1) The School shall establish, implement, and make available to school-based personnel and parents of students with disabilities written procedures to ensure children with disabilities and their parents are afforded the procedural safeguards required by federal statute and regulation and state statute. These procedures shall include dissemination of information to parents about the School's and the state's dispute resolution options.

2) In accordance with the requirements of IDEA, prior written notice shall be provided to the parents of a child within a reasonable time after the School proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, educational placement or provision of FAPE to the child, but before the decision is implemented.

7. Discipline.

Policy: A child with a disability may be disciplined for a violation of the student code of conduct, including removal from his or her current placement to an appropriate interim alternative educational setting, another setting, suspension, or expulsion in accordance with IDEA Regulations §§300.530 through 300.536.

Procedures:

- *§300.530 Authority of School Personnel*

1) On a case-by-case basis and in consideration of any unique circumstances, school personnel may remove a child with a disability who violates a student code of conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement under §300.536.

2) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the School must provide services to the extent required to: a) Enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting his/her IEP goals; and b) Receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

3) The School is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 days or less in that school year, if it provides services to non-disabled children similarly removed.

4) After a child with a disability has been removed from his or her current placement for 10 school days, and the current removal is for not more than 10 consecutive school days and not a change of placement, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed, so as to enable the child to continue to participate in the general education curriculum and to progress toward meeting the IEP goals.

5) If the removal is a change in placement, the child's IEP Team determines the appropriate services.

6) Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the School, parent, and relevant members of the IEP Team must review all relevant information in the student's file, the IEP, teacher observations, and any relevant information to determine: a) if the conduct was caused by, or had a direct and substantial relationship to, the child's disability; or b) if the conduct in question was the direct result of the School's failure to implement the IEP.

7) The conduct must be determined to be a manifestation of the disability if either (6) (a) or (b) occurred, and, if the IEP was not implemented, the School must take immediate steps to remedy that deficiency.

8) If the School, parent, and relevant members of the IEP team determine that the conduct was a manifestation of the child's disability, the child must be returned to the placement from which the child was removed, unless the parent and the School agree to a change of placement. The IEP Team must either: a) Conduct a functional behavioral assessment, unless already done, and implement a behavioral intervention plan; or b) If a behavioral intervention plan has already been developed, review the plan and modify it, as necessary, to address the behavior.

9) School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to manifestation of disability if the child: a) Carries a weapon to or possesses a weapon at school, on school premises, to or at a school function under the jurisdiction of a state or public education agency; b)

Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a state or public education agency; or c) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a state or public education agency.

10) The School will notify parents and provide notice of procedural safeguard on the day the School determines the student has violated the code of conduct, and the violation constitutes and change in placement (i.e., interim alternative education setting).

- *AAC R7-2-401.P Suspension and Expulsion:*

  1) The School shall establish, implement and make available to personnel and parents written procedures for the suspension and expulsion of students with disabilities. Such procedures consist of the disciplinary procedures applicable to all School students, as modified by these Special Education policies.

  2) The School shall require all school-based staff involved in the disciplinary process to review the policies and procedures related to suspension and expulsion on an annual basis. The School shall maintain documentation of staff review.

  3) Procedures for such suspensions and expulsions shall meet the requirements of the Individuals with Disabilities Education Act (IDEA) and its regulations, and state statutes.

- *§300.531 Determination of Setting.* When a disciplinary removal constitutes a change in placement, the child's IEP Team determines the interim alternative educational setting for services.

- *§300.532 Appeal*

1) The parent of a child with a disability who disagrees with any decision regarding placement under §§300.530 and 300.531 or the manifestation determination may appeal the decision by requesting an expedited due process hearing in conformance with §§300.310 through 300.314 and AAC R7-2-405.I.

2) When the School believes that maintaining the current placement of the child is substantially likely to cause injury to the child or others, the School may appeal the decision by requesting an expedited due process hearing in conformance with §§300.310 through 300.314 and AAC R7-2-405.I.

- *§300.533 Placement During Appeals*. The student must remain in the interim alternative educational setting pending the decision of the hearing officer or expiration of the interim setting, whichever comes first, unless the parent and public agency agree otherwise.

- *§300.534 Protections for Children Not Determined Eligible for Special Education and Related Services*

1) A non-eligible student who engaged in a behavior that violated a code of student conduct may assert protections if the School had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred. The School must be deemed to have such knowledge if: a) The parent of the child expressed concern in writing to supervisory or administrative personnel of the School, or a teacher of the child, that the child is in need of special education and related services; b) The parent of the child requested an evaluation of the child pursuant to §§300.300 through 300.311; or c) The teacher of the child, or other personnel of the School, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education or to other supervisory personnel of the School.

2) The School would not be deemed to have knowledge if the parent of the child: a) Has not allowed an IDEA evaluation of the child; b) Has refused special education services for the child; or c) The child has been evaluated and determined to not be a child with a disability under IDEA.

3) If the School does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be disciplined as other children without disabilities who engage in comparable behaviors.

4) If an evaluation is requested during the time in which a child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, the child remains in the educational placement determined by the School, which can include suspension or expulsion without educational services. If the child is determined to be a child with a disability, the School must provide special education and related services in accordance with this part, including the requirements of §§300.530 through 300.536.

- *§300.535 Referral to and Action by Law Enforcement and Judicial Authorities*

1) The School may report a crime committed by a child with a disability to appropriate authorities to enable them to exercise their responsibilities.

2) An agency reporting a crime committed by a child with a disability will ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the School reports the crime, but only to the extent permitted by FERPA.

- *§300.536 Change of Placement Because of Disciplinary Removals*

1) A change of placement occurs if: a) The removal is for more than 10 consecutive school days; or b) The child has been subjected to a series of removals that constitute a pattern i) because the series of removals total more than 10 school days in a school year; ii) because the child's behavior is substantially similar to the behavior in

previous incidents that resulted in a series of removals; and iii) because of such additional factors 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.

2) The School will determine on a case-by-case basis whether a pattern of removals constitutes a change of placement, and such determinations are subject to review through due process and judicial proceedings.

8. Confidentiality.

Policy: The School will ensure that protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the School will be in accordance with §§300.611 through 300.627.

Procedures:

- *§300.613 Access Rights.*

1) The School must permit parents to inspect and review any education records relating to their children that are collected, maintained or used by the School under IDEA. The School must comply with a request without unnecessary delay and in no case more than 45 days after the request has been made, and before: a) Any IEP meeting; b) Any hearing involving a due process complaint or disciplinary hearing; or c) Any resolution session.

2) The right to inspect and review education records includes: a) The right to a response from the School to reasonable requests for explanations and interpretations of the records; b) The right to request that the School provide copies of the records if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and c) The right to have a representative of the parent inspect and review the records.

3) The School may presume that the parent has authority to inspect and review records relating to his or her child unless the School has been advised to the contrary by legal proceeding involving guardianship, separation and divorce.

- *§300.614 Record of Access.* The School will keep a record of parties obtaining access to education records collected, maintained or used under IDEA (except access by parents and authorized employees of The School, including: a) The name of the party; b) The date access was given; and c) The purpose for which the party is authorized to use the records.

- *§300.615 Records on More Than One Child.* If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child.

- *§300.616 Lists of Types and Locations of Information.* The School must provide parents on request a list of the types and locations of education records collected, maintained or used by the School.

- *§300.617 Fees*

1) The School may charge a fee for copies of records that are made for parents if the fee does not effectively prevent the parents from exercising their right to inspect and review records.

2) The School may not charge a fee to search for or to retrieve information.

- *§300.618 Amendment of Records at Parent's Request.*

1) A parent who believes that information in the education records collected, maintained or used by the School is inaccurate or misleading or violates the privacy or other rights of the child, may request the School to amend the information.

2) The School must decide whether to amend the information in accordance with the request in a reasonable period of time of receipt of the request.

3) If the School refuses to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under §300.619.

- §300.619 Opportunity for a Hearing. The School must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

- *§300.620 Result of Hearing*

1) If, as a result of a hearing, the School decides to amend information determined inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must do so accordingly and so inform the parent in writing.

2) If, as a result of a hearing, the School decides that the information is not inaccurate, is misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parent of the parent's right to place in the maintained records a statement commenting on the information or setting forth any reasons for disagreeing with the School's decision.

- *§300.622 Consent*

1) Parental consent must be obtained before personally identifiable information is disclosed to parties other than participating agencies, unless the information is contained in education records and the disclosure is authorized without parent consent under FERPA.

2) Parental consent must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with §300.321.

3) If a child is enrolled, or is going to enroll, in a private school that is not located in the boundaries of the district of the parent's residence, parental consent must be

obtained before any personally identifiable information about the child is released between officials in the district where the private school is located and officials in the district of the parent's residence.

- *AAC R7-2-401.J(4) Confidentiality:* Upon receiving a written request, the School shall forward special education records to any other public education agency in which a student has enrolled or is seeking to enroll. Records shall be forwarded within the time-frame specified in A.R.S 15-828(F). The public education agency shall also forward records to any other person or agency for which the parents have given signed consent.

- *§300.623 Safeguards*

1) The School must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

2) One official at the School must assume responsibility for ensuring the confidentiality of any personally identifiable information.

3) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under 300.123 and FERPA (34 CFR part 99).

4) The School must maintain, for public inspection, a current listing of the names and positions of its employees who may have access to personally identifiable information.

- *AAC R7-2-401.J(1) Confidentiality:* The School shall establish, implement, and make available to its personnel and parents written policies and procedures to ensure the confidentiality of records and information in accordance with the Individuals with Disabilities Education Act (IDEA) and its regulations, the Family Educational Rights and Privacy Act (FERPA) and its regulations, and state statutes.

- *§300.624 Destruction of Information*

1) The School must inform parents when personally identifiable information collected, maintained, or used for IDEA purposes is no longer needed to provide educational services to the child.

2) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

- *AAC R7-2-401.J(2) Confidentiality:* Parents shall be fully informed about the requirements of the IDEA and regulations, including an annual notice of the policies and procedures that the School shall follow regarding storage, disclosure to a third party, retention, and destruction of personally identifiable information.

- *§300.625 Children's Rights*

1) The rights of the parents regarding educational records are transferred to the student at age 18 under FERPA.

2) If the rights of the parents regarding educational records are transferred to the student at age 18 under the IDEA, the School must provide any notice required under the procedural safeguards provisions.

- *AAC R7-2-401.J(3) Confidentiality*: The rights of parents regarding education records are transferred to the student at age 18, unless the student has been adjudicated incapacitated, or the student has executed a delegation of rights to make educational decisions pursuant to A.R.S. §15-773.

9. Graduation.

Policy: The School shall provide a FAPE to all eligible students until termination of eligibility due to graduation from secondary school with a regular diploma or due to exceeding 21 years of age, in accordance with §300.305 and A.R.S. § 15-701.01(A)(3) and (B).

Procedures:

- *A.R.S. § 15-701.01(B) and AAC R7-2-301(D)(1)*

1) The School shall prescribe graduation criteria for students with disabilities from its high schools, which shall include accomplishment of the academic standards in at least reading, writing, mathematics, science, and social studies, as determined by district assessment.

2) The School shall develop a course of study and graduation and promotion requirements for all students placed in special education programs in accordance with R7-2-401 et seq.

- *§300.102 Limitation-Exception to FAPE for Certain Ages*

1) The School will not be obligated to provide FAPE to students with disabilities who have graduated from high school with a regular high school diploma.

2) The exception does not apply to children who have graduated from high school but have not been awarded a regular high school diploma.

3) Graduation from high school with a regular high school diploma constitutes a change of placement requiring prior written notice in accordance with §300.503.

- *§300.305 Additional Requirements for Evaluations and Reevaluations*

1) An evaluation is not required before the termination of a child's eligibility due to graduation from secondary school with a regular diploma or due to exceeding 21 years of age.

2) For a child no longer eligible due to graduation or exceeding the age of eligibility, a public agency must provide the child with a summary of the child's

academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's post-secondary goals.

- *A.R.S. § 15-701.01(3) High School Graduation; Requirements*

Pupils with disabilities as defined in A.R.S. § 15-761 or children who receive special education as defined in 15-763 shall not be required to achieve passing scores on the statewide assessment or test that is identical to the civics portion of the naturalization test under section 15-701.01 in order to graduate from high school unless the pupil is learning at a level appropriate for the pupil's grade level in a specific academic area and unless a passing score on the statewide assessment or test that is identical to the civics portion of the naturalization test under section 15-701.01 is specifically required in a specific academic area by the pupil's IEP as mutually agreed on by the pupil's parents (or 18 year old student) and IEP Team. The pupil's IEP shall include any necessary testing accommodations. Special education services shall be provided at no cost to the parents of children with disabilities.

Section 504

It is the School's policy that no otherwise qualified individual with a disability be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under the School's educational programs and activities, solely by reason of her or his disability. Questions regarding the School's Section 504 policies may be referred to the School's Section 504 Coordinator.

10. Disability under Section 504. For the purposes of this policy, a student who has a qualifying disability within the intent of Section 504 is one who: has a physical or mental impairment that substantially limits one or more major life activities, including but not limited to, learning; or has a record of such impairment; or is regarded as having such impairment.

Students may be eligible for services under the provisions of Section 504 even though they do not require services pursuant to the IDEA. Students may be technically eligible for the protections of Section 504 even if they do not require a 504 accommodation plan.

11. Identification and Referral Procedures. The School has an affirmative obligation to identify and evaluate students with suspected disabilities under Section 504. Any student who needs or is believed to need accommodations under Section 504 may be referred by a parent, teacher, or other school employee to be considered for evaluation. The School must obtain parental consent before conducting an evaluation.

12. Evaluations/Re-evaluations. The decision to qualify a student for Section 504 services is made by a multidisciplinary team, including individuals knowledgeable about the student, the meaning of the evaluation data, and the potential placement options. 34 C.F.R. § 104.35(c). This team may include parents, guardians, teachers, school psychologists, administrators, and others as determined by the referral for eligibility consideration.

In addition to the information provided by the parents, information from a variety of sources may be considered in the evaluation process, including for example:

- Standardized achievement tests
- Medical information including hearing, vision, medications, and any relevant developmental history
- Academic grades and transcripts
- Primary language (home and student)
- Discipline records
- Attendance
- School history
- Teacher reports/observations

Evaluations under Section 504 are not limited to formal evaluation instruments. Because the disabilities that may fall under Section 504 are broader than the specific disabilities listed in IDEA, evaluative information for a student may come from a number of sources, including aptitude and achievement tests, teacher recommendations, the student's physical condition, the student's social or cultural background, or the student's adaptive behavior.

After reviewing the relevant information, the team will determine whether the student is a student with a disability, as defined in Section 6.10. In order to be eligible for protections under Section 504, the student's ability to perform a major life activity must be substantially limited. The definition of "substantially limited" is broadly construed, as the purpose of Section 504 is to provide "broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act." Relevant factors may include: (1) the nature and severity of the impairment; (2) the duration or expected duration of the impairment; and (3) the permanent, long-term impact of the impairment.

Although the definition of "substantially limited" is broad, the fact that a student has a diagnosed physical or mental impairment does not automatically mean the student will qualify under Section 504, or that a qualified student needs an accommodation plan.

A final decision will be made by the School in writing, and the parents or guardian of the student shall be notified of the Section 504 procedural safeguards available to them, including the right to an impartial hearing and review.

Students who are determined to be eligible under Section 504 will be reevaluated periodically, including before any significant change in placement.

13. Section 504 Accommodation Plans. If the team determines that the student is eligible for Section 504 protections, the team will develop a Section 504 Accommodation Plan, if needed.

The Section 504 team determines what accommodations are needed to achieve equality/comparability of access to educational activities for the student with a disability in the least restrictive environment. In addition to the normal and usual academic and school activities, students must also be given an equal opportunity to participate in non-academic and

extracurricular services and activities, such as recreational and athletic activities, and school-sponsored clubs, events and activities. Participation in such non-academic activities may require accommodations. 34 C.F.R. § 104.34(b).

The accommodations for the student should be documented in the Section 504 Accommodation Plan.

14. Implementation of Section 504 Accommodation Plans. All of the professional and paraprofessional staff who work with the student will be apprised of and have access to a copy of the student's Section 504 Accommodation Plan. Staff shall implement the Section 504 Accommodation Plan fully and in a timely manner in alignment with the plan's initiation date.

15. Review of Accommodation Plans. On a periodic basis, the team will reconvene to review the plan. At the meeting, the following questions will be asked:

- Is the student still eligible for under Section 504?
- Does the student still need a Section 504 Accommodation Plan?
- Is there new information that needs to be considered?
- Are the current accommodations working?
- Do any changes need to be made to the plan?

Based on the answers to the above questions, the team may decide to continue the same accommodation plan, make changes to the plan, or discontinue the plan because the student is no longer eligible.

16. Discipline. Discipline of students qualifying under Section 504 only shall generally be offered the discipline-related protections comparable to those offered to students with a qualifying disability under IDEA, except that such students:

- May be disciplined in the same manner and to the same as any student without a disability if the conduct involves a student who currently is engaging in the illegal use of drugs or in the use of alcohol.
- May be long-term suspended or expelled without any services for misconduct that is not a manifestation of their disability.

17. Procedural Safeguards. Procedural safeguards include notice, an opportunity to examine the student's relevant records, an impartial due process hearing with the opportunity for participation by the student's parents or guardian and representation of counsel, and a review procedure.

18. Due Process Hearings. Parents who disagree with decisions concerning the identification, evaluation, or educational placement of their child under Section 504 shall have the right to an impartial hearing ("Section 504 due process hearing"), with opportunity for participation by the parents and their counsel.

Parents requesting a hearing should submit a written request to the School's Section 504 Coordinator and include the following information:

- The name of the child and the person making the request;

- The address of the residence of the child;
- The name of the school that the child is attending;
- In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)) available contact information for the child, and the name of the school that the child is attending;
- A description of the nature of the problem relating to alleged discrimination under §504, including facts relating to the problem;
- A proposed resolution of the problem to the extent known and available to the party at the time;
- At least two proposed dates for the hearing; and
- Indication of whether the hearing will be closed or open to the public.

The proceedings will be presided over and decided by an impartial hearing officer. Impartial hearing officer means an individual who has no knowledge or involvement in the decision being challenged, and who is selected to preside at a due process hearing to assure that proper procedures are followed and to assure the prompt and equitable resolution of the complaint.

19. Section 504 Due-Process Hearing Procedures.

A notice of hearing shall be provided to the parents at least 10 days prior to the date set for the hearing. The notice shall contain a statement of time, place, and nature of the hearing. The hearing notice will also indicate that parents may be represented by legal counsel and that the student may be present at the hearing. All written correspondence shall be provided in English and/or interpreted in the parent's primary language.

The impartial hearing officer shall preside at the hearing and shall conduct the proceedings in an impartial manner so that all parties involved have an opportunity to present their evidence and question and cross-examine witnesses who know about the student's disability. In cases where there are language differences, an interpreter shall be provided.

The impartial hearing officer will determine whether a violation of Section 504 requirements has occurred and will render a decision in writing in a timely manner. The impartial hearing officer may grant a continuance at the request of one of the parties, if both parties agree. The decision or a separate notification from the School will inform the parties that either may appeal the decision to the appropriate state or federal court.

The decision made by the impartial hearing officer is final, and the parties shall abide by the decision of impartial hearing officer unless the decision is appealed to a federal court of competent jurisdiction and the decision is stayed by the court.

A written or audio recording of the Section 504 due process hearing shall be on file at the School office and will be available for review upon request to the parents and/or any of the involved parties at no cost.

20. Additional Procedures. The School, in consultation with the School's 504 Coordinator, shall develop any additional procedures that are needed to implement these policies and ensure the rights of parents and students under Section 504 are secured.