

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-7-301 | Amend |
| R4-7-305 | Amend |
| R4-7-404 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-904(B)(2)
Implementing statutes: A.R.S. §§ 32-921, 32-924, 32-929, 41-1092 et. seq.
- 3. The effective date of the rules:**
March 13, 2001
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 6 A.A.R. 3654, September 22, 2000
Notice of Proposed Rulemaking: 6 A.A.C. 4084, October 27, 2000
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|---|
| Name: | Patrice A. Pritzl
Executive Director |
| Address: | 5060 North 19th Avenue, Suite 416
Phoenix, Arizona 85015 |
| Telephone: | (602) 255-1444 |
| Fax: | (602) 255-4289 |
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
The rules define those parties possessing the authority to sign a subpoena, extend the period in which a rehearing may be requested to 30 days, and clarify the Board's authority to investigate an application for licensure.
- 7. A reference to any study that the agency relied on in its evaluation of or justification for the final rule and where the public may obtain or review the study, all data underlying each study, and analysis of the study, and other supporting material:**
None
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**
The economic impact will be minor. The amendments are technical corrections to existing rule to bring the rule language into compliance with statute and to clarify procedure.
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
Minor technical changes have been made based on suggestions from GRRC staff.

11. A summary of the principal comments and the agency response to them:

None

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS

ARTICLE 3. HEARINGS

Section

R4-7-301. Investigation of a Complaints

R4-7-305. Rehearing; Review of Decision

ARTICLE 4. EXAMINATIONS

Section

R4-7-404. Investigations

ARTICLE 3. HEARINGS

R4-7-301. Investigation of a Complaints

- A. The Board may ~~cause to be investigated~~ investigate any complaint alleging violation of A.R.S. § 32-900 et. seq. or these rules.
- B. ~~During the investigation of a complaint, the affixing of~~ The seal of the Board and the signature of any member of the Board or its Executive Director shall be attestation of a subpoena compelling the production of documentary evidence pursuant to under A.R.S. § 32-929.
- C. ~~If it appears to~~ If the Board ~~that there is~~ finds probable cause ~~to believe~~ that a licensee has violated A.R.S. § 32-900 et seq. or these rules, the Board shall notice the licensee of the ~~set a~~ time and place for public hearing pursuant under to A.R.S. Title 41, Chapter 6, Article ~~6~~ 10.

R4-7-305. Rehearing; Review of Decision

- A. Except as provided in subsection (G), any party in a contested case before the Board ~~who is~~ aggrieved by a decision ~~rendered in such case~~ may file with the Board, a written motion for rehearing or review of the decision specifying the particular grounds not later than ~~fifteen (15)~~ 30 days after service of the decision. ~~a written motion for rehearing or review of the decision specifying the particular grounds therefore.~~
- B. A party may amend a motion for rehearing or review ~~may be amended~~ at any time before the Board rules on the motion before it is ruled upon by the Board. A party may then respond ~~A response may be filed by any other party~~ within ~~ten (10)~~ 15 days after service of ~~such a~~ motion or amended motion. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- C. The Board may grant a rehearing or review of a decision for any of the following causes materially affecting the moving party's rights;
1. Irregularity in the administrative proceedings of the Board, its hearing officer or the prevailing party or any order or abuse of discretion that deprives the moving party of a fair hearing;
 2. Misconduct of the Board or its hearing officer or the prevailing party;
 3. Accident or surprise which could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
 7. ~~That the decision is not justified by the evidence or is contrary to law.~~
 7. That the Board's decision is a result of passion or prejudice; or
 8. That the decision is not justified by the evidence or is contrary to law.

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- D. The Board may affirm or modify the decision or grant a rehearing or review to all or any of the parties ~~and~~ on all or part of the issue for any of the reasons ~~set forth~~ in subsection (C). An order granting a rehearing or review shall specify with particularity the ~~ground or grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters specified for the order.~~
- E. Not later than ~~ten (10)~~ 10 days after a decision is rendered, the decision the Board may ~~on its own initiative~~ after serving each party notice an opportunity to be heard, order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting ~~such~~ a rehearing or review shall specify the grounds on which it is granted.
- F. When a motion for rehearing or review is based upon an affidavits, ~~they~~ the affidavit shall be served with the motion. An opposing party may, within ~~ten (10)~~ 10 days after service, serve an opposing affidavits. The Board may extend the period for serving an opposing affidavits for not more than ~~twenty (20)~~ 20 days for good cause shown or by written stipulation of the parties. A reply affidavits may be permitted.
- G. If the Board makes a specific finding that the immediate effectiveness of a particular decision is necessary for the preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision shall be made within the time limits permitted for application for judicial review of the Board's final decisions.

ARTICLE 4. EXAMINATIONS

R4-7-404. Investigations

If The Board ~~deems it necessary it may, prior to the date of examination,~~ require any an applicant or other person making an affidavit in support of the an application to appear and supply to the Board ~~such further~~ information or documents ~~as the Board deems pertinent in~~ necessary to establishing the qualifications of the applicant.

NOTICE OF FINAL RULEMAKING

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R7-2-401 | Amend |
| R7-2-402 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
 Authorizing statute: A.R.S. § 15-203(A)
 Implementing statute: A.R.S. § 15-761 through A.R.S. § 15-772
 - 3. The effective date of the rule:**
 March 19, 2001
 - 4. A list of all previous notices appearing in the Register addressing the final rule:**
 Notice of Rulemaking Docket Opening: 5 A.A.R. 4535, December 3, 1999
 Notice of Proposed Rulemaking: 6 A.A.R. 313, January 14, 2000
 - 5. The name and address of agency personnel with whom persons may communicate regarding the rule:**
 Name: Corinne L. Velasquez
 Executive Director

 Address: 1535 West Jefferson, Room 418
 Phoenix, Arizona 85007

 Telephone: (602) 542-5057
 Fax: (602) 542-3046

6. An explanation of the rule, including the agency's reasons for initiating the rule:

R7-2-401 and R7-2-402 set forth the guidelines for providing educational services for students with special needs. The Board is amending R7-2-401 and R7-2-402 to comply with the Individuals with Disabilities Education Act (IDEA) 1997 Amendments (34 CFR 300.4 through 300.30), Arizona Revised Statutes and current practices.

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

Not applicable

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business and consumer impact:

There will be no small business impact related to this amendment. There will be no additional economic impact on educational institutions serving students with disabilities or on the consumers of those services with the following exceptions:

Minimal impact: Required distribution of the schools' policies and procedures to staff and parents will create additional paperwork dissemination, however the increased awareness of appropriate actions will reduce the costs of dispute resolution and programmatic non-compliance. The maintenance of screening records on students who are not enrolled will require some additional storage capacity. Some impact: Required testing of all students with disabilities on the statewide assessments or their alternatives will increase costs to the state in the development and administration of the tests but will ensure compliance with federal requirements. Failure to comply would have significant negative impact in the flow of federal funds. An enhanced comprehensive system of personnel development will create additional training costs both for the state and the schools, however most of these costs will be offset by federal funds set aside for this purpose.

Significant impact: Modifications of the evaluation and re-evaluation processes will have a significant positive impact on schools by eliminating unnecessary assessments and lightening the personnel commitments required for many evaluations.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Page 11: Added new paragraph A to incorporate by reference the Individuals with Disabilities Education Act (IDEA) and IDEA regulations in R7-2-401 and R7-2-402, and renumbered paragraphs accordingly.

Pages 6 - 7, Paragraphs (4), (6) and (7): Language was added giving statutory or administrative rule references for individuals licensed to practice audiology, school psychology, and speech/language pathologists, for clarification of intent and in response to public comment.

Page 12: In the definition of "Accommodations", changed "shall not" to "do not".

Page 12: Under "Boundaries of Responsibility", Subsection (5)(b) was reworded for clarification.

Page 13, Paragraph C(1); Page 17, paragraph D(1); Page 29, paragraph E(1); Page 34, paragraph F(1); Page 37, paragraph G: Add "school-based" before "personnel" for clarification of intent and in response to public comment.

Page 13, Paragraph 2: Delete "policies and" and replace with "written", for clarification of intent.

Page 16, Paragraph C(7): After "education", delete "services" and add "for a student not currently eligible for Special Education", for clarification of intent.

Page 20, Paragraph D(5): Change the sentence that begins with "In addition" and ends with "include for", to "For the following disabilities, the full and individual initial evaluation shall include:", for clarification.

Page 21: Paragraph (C)(3), changed "state statutes" to "Title 15, Chapter 7, Article 4", and changed "State Board of Education Rules" to "these rules" for clarification.

Page 37, paragraph G: After "parents", add "of students with disabilities", for clarification of intent.

Page 52: Delete paragraph M, as unnecessary language, and renumber remaining paragraphs to conform.

Page 54: Move the definition of "Private special education school" from R7-2-402 to the definitions Section of R7-2-401.

All references to "regulations" throughout R7-2-401 and R7-2-402 were changed to "IDEA regulations".

11. A summary of the principal comments and the agency response to them:

Comment: Nine written and one oral comment articulated the federal and state requirements for evaluation and suggested that the sporadic references to psychologists in draft rules might lead to substandard evaluations and violations of federal and state law.

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Response: ADE concurs with the comments of the writers relative to federal and state requirements for quality evaluations. The combination of federal language and state eligibility criteria ensures the participation of specific professionals, including psychologists, in certain disabilities evaluations. For those disabilities, ADE did not expand existing language. ADE monitors all public agency evaluations for compliance with federal and state requirements and directs corrective action when deficiencies are found.

Specific areas of concern were:

Mental Retardation

Response: A.R.S. 15-761 defines the categories of mental retardation (mild, moderate, severe) by “performance on standard measures of intellectual and adaptive behavior” below certain levels. The language of “standard measures”, coupled with the federal requirements ensure the participation of a psychologist in the determination of mental retardation under the IDEA in Arizona without specific reference in Board rules. The Special Education Advisory Committee agrees that IDEA requirements and state statute adequately cover this area.

Specific Learning Disabilities

Response: A federal requirement for eligibility for learning disabilities is a severe discrepancy between ability and achievement. The determination of ability involves assessing cognitive processing, which requires technically sound instruments. This ensures the participation of a psychologist without specific reference in Board rules. The Special Education Advisory Committee agrees that IDEA requirements and state statute adequately cover this area.

Autism

Response: Autism is a disorder that requires the participation of multiple examiners. The listing of professions to be involved in the assessment would have to be exhaustive. Relying upon the IDEA language of “a team of people” assessing in “all areas related to the suspected disability” with “valid tests” by “qualified examiners” provides sufficient protection. After extended discussion, including input from a parent of a student with autism, the Special Education Advisory Committee recommended no changes to the language in the proposed rules.

Comment: An objection to public school responsibility for private school children was raised in one written comment.

Response: The responsibilities for private school students are clearly articulated in IDEA and the state has no option to do as the writer requested.

Comment: The same writer and one additional writer expressed a concern about the use of a 60-calendar day timeline for completing evaluations. Preferences for 45 or 60-school days were stated.

Response: ADE, after much public input, elected to leave this requirement as it has been for the last decade. It further clarifies the federal language of “reasonable” and provides a common understanding of that term. The Special Education Advisory Committee continues to agree to disagree on the language in the proposed rule for this item. The panel is split 50/50 with parents strongly supporting the proposed language and school personnel preferring language that uses “school days”.

Comment: One writer suggested that we add to the definitions of accommodations, adaptations, and modifications “any of these may constitute specialized instruction” (R7-2-401(A)(1), (2), and (16)).

Response: Because the definition of “special education” in ARS 15-761.30 contains these elements and is specific in their use, this phrase is unnecessary. This change would also have the potential effect of making all 504 (Rehabilitation Act of 1973) students eligible for special education. If made, such a change should be statutory.

Comment: The same writer suggested the definition of “boundaries of responsibility” is too narrow as it relates to ASDB and charter schools. (R7-2-401(B) and (C)).

Response: Traditional school districts have geographical boundaries. They are clearly responsible for child find activities within those boundaries. ASDB has statewide child find responsibilities for 0-2. After that, the public schools are responsible for identification of students who are visually or hearing impaired. Charter schools, correctional facilities, and state agencies have no geographical boundaries. It would be impossible (and a duplication of effort) to require them to do child find statewide. The rule stipulates their obligation to do child find within their enrollment and the families.

Comment: The same writer requested the screening rule be amended to indicate that a screening may not delay parents right to comprehensive evaluation within 60 days. (R7-401(5)(b)).

Response: A delay is impermissible under IDEA and the 60-day requirement of proposed rules (R7-401 (D)(3)). This language would be redundant.

Comment: The same writer suggested that the language regarding student transfers indicating a history of SE is inconsistent with USDOE directive to implement an IEP in a timely manner. R7-401(C)(7).

Response: The ADE acknowledges that the proposed language could have been misunderstood. We have amended the language to reflect the original intent more accurately.

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Comment: The same writer indicated that a sixty-day period to provide parents with prior written notice if refusing parent's request for evaluation is excessive. R7-401(C)(11).

Response: Under the new evaluation procedures in IDEA, it may take longer to reach a decision not to do further testing. Parents are an integral part of the decision making process.

Comment: The same writer indicated that the MET is not defined in rule. R-7-2-401(D)(3).

Response: This term is currently defined in A.R.S. 15-761 and IDEA.

Comment: The same writer indicated that requiring verification of ED by doctor or psychologist conflicts with federal definition. R-7-401(D)(5)(a).

Response: IDEA does not prohibit this language. The writing team felt this was an appropriate evaluation criterion.

Comment: The same writer asked that a definition of "specific learning disability" be part of board rules. R7-401(D)(5)(d).

Response: All definitions of disabilities in AZ exist in statute, not rule. IDEA does not require statewide criteria and Arizona does not now have any.

Comment: The same writer indicated that the deletion of the requirement that services be provided as soon as possible violates IDEA.

Response: This language is present in IDEA. To state it in rule would be redundant.

Comment: The same writer indicated that the supervisory responsibility of SEA is too narrowly defined. R7-401(K)(2).

Response: IDEA is clear on the responsibilities of the SEA. The proposed language clarifies that the general supervision responsibility of the SEA applies to all public agencies in the state.

Comment: One written comment requested an expanded definition of "Deaf" to include its relationship to a community of people.

Response: All definitions of disabilities in AZ exist in statute, not rule.

Comment: The same writer requested the inclusion of American Sign Language (ASL) in the definition of primary language of the home.

Response: No languages are identified in the proposed rule, as the parents are free to indicate any language they consider their primary language.

Comment: The same writer requested the expansion of qualification for teachers of the deaf in the rules.

Response: This request is not applicable to these rules.

Comment: The same writer and one additional writer asked for the inclusion of specific definitions of various methodologies and communication systems used by hearing impaired students.

Response: This request was submitted to the ADE and the Special Education Advisory Committee while the rules were being drafted. Consensus was not to include the definitions in the proposed rules as methodologies are not defined for any other disability and the terms are not used within the rules.

Comment: The same writers requested the inclusion of a reference to ASDB as an optional resource for schools.

Response: The suggested language repeats A.R.S. 15-1302 and would be redundant in the rules.

Comment: The same writer requested the inclusions of numerous definitions.

Response: The requested definitions are included in IDEA or in state statute and would be redundant in the rules.

Comment: The same writer requested that some role definitions include a reference to the A.R.S. citation defining the role.

Response: ADE does not object but finds redundant the inclusion of the citation for the following: audiologist, speech/language pathologist, licensed psychologist, and psychiatrist. These references do not change the meanings of the definitions. ADE does not object but finds redundant the partial inclusion of the language for school psychologist but objects to the inclusion of the last section of the reference as redundant to the definition of psychologist. The field preferred the use of "doctor of medicine". ADE would not object to the use of "physician" provided the word referred to both M.D. and D.O. ADE objects to the use of the private school definition in A.R.S. 15-101 (18) as it is not specific enough under IDEA.

Comment: The same writer requested the replication of statutory and regulatory language in the ADE rules.

Response: ADE did not replicate language from IDEA or state statute.

Comment: One writer felt the public awareness language in the rule is not supported by IDEA for children aged 0-2.

Response: IDEA (and the preceding EHA) requires child find from birth – 21.

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Comment: The same writer felt the language regarding the dissemination of policies and procedures to various staff was an undue burden and necessitated meetings.

Response: The reading of policies and procedures by staff is a common practice in schools and facilitates compliance with the special education requirements. No methodology is directed in the rule language. Record keeping is indicated for the area of Child Find only.

Comment: The same writer objected to the rules identifying additional evaluation criteria for certain disabilities.

Response: IDEA does not prohibit states from identifying criteria for evaluations. The writing team felt these are appropriate evaluation criteria and the Special Education Advisory Committee concurred.

Comment: The same writer wanted the timeline for an IEP meeting eliminated.

Response: This is an existing requirement that the field saw no need to change, and the Special Education Advisory Committee concurred.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

The Individuals with Disabilities Education Act Amendments of 1997 (IDEA), 20 USC 1400 et seq. as reauthorized on June 4, 1997, and the IDEA 1997 regulations (34 CFR Parts 300.4 through 300.756), effective March 1999. Appears as subsection A in R7-2-401.

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rule follows:

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE 4. SPECIAL EDUCATION

Section

- R7-2-401. Special Education Standards for Public Agencies Providing Educational Services
R7-2-402. Standards for Approval of Programs in Private Special Education Schools

ARTICLE 4. SPECIAL EDUCATION

R7-2-401. Special Education Standards for Public Schools and State-supported Institutions Agencies Providing Educational Services

A. For the purposes of this Article, the Individuals with Disabilities Education Act Amendments of 1997 (IDEA), 20 USC 1400 et seq. as reauthorized on June 4, 1997, and the IDEA 1997 regulations, 34 CFR parts 300.4 through 300.756 effective March 1999, are incorporated herein by reference. Copies of the incorporated material can be obtained from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 37195-7954, Pittsburgh, PA 15250 or the Arizona Department of Education, Exceptional Student Services, 1535 West Jefferson, Phoenix, Arizona 85007. This Article does not include any later amendments or additions to IDEA or IDEA regulations.

AB. Definitions: In addition to definitions in A.R.S. § 15-761 the following definitions in this Article also apply unless the context otherwise requires: All terms defined in the regulations for the Individuals with Disabilities Education Act (IDEA) 1997 Amendments (34 CFR Parts 300.4 through 300.30) and A.R.S. § 15-761 are applicable, with the following additions:

1. “Accommodations” means the provisions made to allow a student to access and demonstrate learning. Accommodations do not substantially change the instructional level, the content or the performance criteria, but are made in order to provide a student equal access to learning and equal opportunity to demonstrate what is known. Accommodations shall not alter the content of the test or provide inappropriate assistance to the student within the context of the test.
2. “Adaptations” means changes made to the environment, curriculum, and instruction or assessment practices in order for a student to be a successful learner. Adaptations include accommodations and modifications. Adaptations are based on an individual student’s strengths and needs.
13. “Administrator” means the chief administrative official or designee of the school district, county or accommodation school or state supported institution (responsible for special education services) of a public agency.
24. “Audiologist” means a person who specializes in the identification and prevention of hearing problems and in the non-medical rehabilitation of those who have hearing problems, impairments and who is licensed to practice audiology according to A.R.S. Title 36, Chapter 17, Article 4 holds a Master’s or Doctoral degree in audiology and holds a Certificate of Clinical Competence in Audiology from the American Speech-Language Hearing Association.

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5. “Boundaries of responsibility” means for:
 - a. a school district, the geographical area within the legally designated boundaries.
 - b. a public agency other than a school district, the population of students enrolled in a charter school or receiving educational services from a public agency.
3. ~~“Autistic” means a child who exhibits a behaviorally defined syndrome characterized by severe communication disturbances, marked impairment of social relatedness, and gross distortions of the capacity to appropriately relate to people and the environment; gross distortions of nonverbal communication, language, cognition, and speech; and gross distortions of developmental rates and sequences.~~
4. ~~“Certified school psychometrist” means a person holding a certificate from the Arizona State Board of Education issued pursuant to R7-2-603(H)(1).~~
5. ~~“Certified school psychologist” means a person holding a certificate from the Arizona State Board of Education issued pursuant to R7-2-603(H)(2) or from the State of Arizona Board of Psychologist Examiners.~~
6. ~~“Certified speech/language therapist” means a person holding a certificate from the Arizona State Board of Education issued pursuant to R7-2-603(F)(10) or (11).~~
7. ~~“Chief administrative official” means superintendent of the school district, county or accommodation school, or chief executive officer of a state supported institution.~~
8. ~~“Comprehensive evaluation” means procedures used in accordance with A.R.S. § 15-766 and R7-2-401(D) to determine whether a child is handicapped and to suggest the nature and extent of the special education and related services that the child needs. The term refers to procedures used selectively with an individual child and does not include basic tests administered to or procedures used with all children in a school, grade or class.~~
6. “Certified school psychologist” means a person holding a certificate from the Arizona state board of education issued pursuant to 7 A.A.C. 2, Article 6, in the area of school psychology.
7. “Certified speech/language therapist” means a person holding a certificate from the Arizona state board of education issued pursuant to 7 A.A.C. 2, Article 6, and a license from the Arizona Department of Health Services as a speech/language pathologist in accordance with A.R.S. Title 36, Chapter 17, Article 4.
8. “Department” means the Arizona Department of Education.
9. “Doctor of medicine” means a person holding a license to practice medicine pursuant to Chapter 13 (medical doctor) or Chapter 17 (doctor of osteopathy) of Title 32, Arizona Revised Statutes.
10. “Evaluator” means a qualified person in a field relevant to the child’s ~~handicap~~ disability who administers specific and individualized assessments for the purpose of possible special education evaluation and placement.
11. “Full and individual evaluation” means procedures used in accordance with the IDEA to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. This evaluation includes:
 - a. A review of existing information about the child; and
 - b. A decision regarding the need for additional information; and
 - c. If necessary, the collection of additional information; and
 - d. A review of all information about the child and a determination of eligibility for special education services and needs of the child.
- ~~11.2. “Independent comprehensive educational evaluation” means a comprehensive an evaluation conducted by a qualified ~~examiner~~ evaluator who is not employed by the LEA or SSI public agency responsible for the education of the child in question.~~
12. ~~“Individualized education program meeting” means a meeting held to develop, review or revise a handicapped child’s individualized education program (IEP).~~
13. ~~“Informed parental consent” has the meaning defined in 34 CFR 300.500, July 1, 1995 ed., which is incorporated herein by reference and on file with the Office of the Secretary of State.~~
- ~~14.13. “Interpreter” means a person trained to translate orally or in sign language in matters pertaining to special education identification, evaluation, and placement, the provision of FAPE, or assurance of procedural safeguards for parents and students who converse in a language other than spoken English. Each student’s IEP team determines the level of interpreter skill necessary for the provision of FAPE.~~
- ~~14.14. “Language in which the child student is proficient” means all languages the language of the child determined in accordance with R7-2-306 including sign language systems.~~
15. “Licensed psychologist” means a person holding a license from the state of Arizona board of psychologist examiners in accordance with A.R.S. Title 32, Chapter 19.1, Article 2.
16. “Limited English proficient (LEP)” means having a low level of skill in comprehending, speaking, reading, or writing the English language because of being from an environment in which another language is spoken.
17. “Local education agency (LEA)” means public school districts as defined in A.R.S. § 15-101 and county accommodation schools.

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18. ~~“Mediation” means an informal problem-solving process for parents and schools to resolve their differences concerning special education programs through the intervention of a neutral person knowledgeable in matters of special education.~~
16. “Modifications” means substantial changes in what a student is expected to learn and to demonstrate. Changes may be made in the instructional level, the content or the performance criteria. Such changes are made to provide a student with meaningful and productive learning experiences, environments, and assessments based on individual needs and abilities.
19. ~~“Multidisciplinary conference (MDC)” means a meeting following the child’s comprehensive evaluation, involving a group of knowledgeable persons, including the parents where the results of the comprehensive evaluation are discussed and eligibility for special education is determined.~~
20. ~~“Multidisciplinary evaluation team” means a team of qualified persons who collaborate to develop recommendations on the specific educational strengths and weaknesses of the child. These recommendations shall come from specific and individualized assessments or evaluations performed.~~
21. ~~“Ophthalmologist” means a doctor of medicine who specializes in the treatment of disorders of the eye.~~
22. ~~“Optometrist” means a person licensed pursuant to Chapter 16 of Title 32, Arizona Revised Statutes.~~
23. ~~“Parent” means one or more natural or adoptive parents, one or more legal guardians, a person acting as a parent of a child or a court appointed surrogate parent. The term does not include the state or its employees if the child is a ward of the state.~~
24. ~~“Primary caregiver” means a person who is responsible for the child and care of the child during most or all non-school waking hours.~~
25. ~~“Primary language of the home (PLH)” means the language identified as the home language on the school enrollment form and the home language survey prescribed by A.R.S. § 15-753.~~
17. “Private school” means any nonpublic educational institution where academic instruction is provided, including nonsectarian and parochial schools, that are not under the jurisdiction of the state or a public agency. “Private school” does not include home schools.
18. “Private special education school” means a private school that is established to serve primarily students with disabilities. The school may also serve students without disabilities.
2619. ~~“Psychiatrist” means a doctor of medicine who specializes in the study, diagnosis, treatment and prevention of mental disorders.~~
2720. ~~“Public agency” means the state educational agency, local educational agencies, intermediate educational units as defined in 34 CFR 300.7, and any a school district, charter school, accommodation school, state supported institution, or other political subdivision of the state which that is incorporated herein by reference and on file with the Office of the Secretary of State responsible for providing education to children with disabilities.~~
28. ~~“Public expense” means the LEA or SSI either pays for the full cost of the comprehensive evaluation or ensures that the comprehensive evaluation is otherwise provided at no cost to the parent.~~
29. ~~“Regular classroom teacher” means a person holding a certificate from the Arizona State Board of Education pursuant to R7-2-603.~~
30. ~~“Socially maladjusted” means a person who chooses the inappropriate behavior in the nature of an antisocial behavior, a behavior disorder, or a conduct disorder which is exhibited to reach a goal.~~
31. ~~“Special education teacher” means a person holding a certificate from the Arizona State Board of Education issued pursuant to R7-2-603(F).~~
32. ~~“State supported institution (SSI)” means any state department, agency or other state entity operating a school or receiving state or federal special education funds. This includes the Arizona State Hospital, the Arizona Department of Corrections, the Arizona State School for the Deaf and the Blind, and the Division of Developmental Disabilities of the Arizona Department of Economic Security.~~
33. ~~“Teacher” means a regular classroom teacher or a special education teacher.~~

BC. Public Awareness:

1. ~~In cooperation with the Arizona Department of Education, each LEA and SSI shall be responsible for creating public awareness of special education opportunities and for advising parents of the rights of handicapped children. Each public agency shall inform the general public and all parents, within the public agency’s boundaries of responsibility, of the availability of special education services for students aged three through 21 years and how to access those services. This includes information regarding early intervention services for children aged birth through 2 years.~~
 - a. ~~Written procedures which are established and implemented by each LEA and SSI in fulfillment of this responsibility must assure that information regarding the rights of handicapped children is made available in language and phraseology which will be understandable to parents, regardless of their ethnic, linguistic or cultural background.~~
 - b. ~~Each LEA and SSI shall document its annual efforts to create public awareness of special education and to inform parents of the rights of handicapped children.~~

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- e. ~~The LEA or SSI shall initiate appropriate procedures to obtain a surrogate parent when there is no parent or guardian able to act as parent.~~
- 2. ~~Each LEA or SSI shall be responsible for seeking out and identifying those children in the LEA or SSI who require special education. Each public agency is responsible for public awareness within their enrolled population (including the families of enrolled students).~~
- 3. ~~In cooperation with the Arizona Department of Education, each LEA and SSI shall develop and implement procedures for locating handicapped children who are not in school or who do not have access to a special education program, and for making an appropriate program available to these children. School districts are responsible for public awareness in private schools located within their geographical boundaries.~~

ED. Child Identification and Referral:

- 1. ~~Each LEA and SSI public agency shall establish, implement, and disseminate to its school-based personnel and all parents, within the public agency boundaries of responsibility, written procedures for identifying the identification and referral of all children requiring special education with disabilities, aged birth through 21, including children with disabilities attending private schools, regardless of the severity of their disability.~~
- 2. ~~Identification procedures (screening) shall include consideration of academic, visual, hearing, communication, emotional and psychomotor problems, but shall not include detailed individual comprehensive evaluation procedures such as psychological testing as specified in subsection (D). Hearing screening shall be in accordance with applicable rules of the Department of Health Services (DHS) for hearing screening, and vision screening shall be in accordance with the DHS guidelines for vision screening. Each public agency will require all school-based staff to review the written procedures related to child identification and referral on an annual basis. The public agency shall maintain documentation of staff review.~~
- 3. ~~Identification consistent with procedures specified in subsection (B), paragraphs (1) and (2) shall be completed within 45 calendar days after entry of each kindergarten student and new student enrolling without appropriate records of screening, evaluation and progress in school. Procedures for child identification and referral shall meet the requirements of the IDEA and regulations, Title 15, Chapter 7, Article 4 and these rules.~~
- 4. ~~If the identification process indicates a possible handicap, the regular classroom teacher or other LEA or SSI personnel shall submit the name of the child to the administrator for referral for comprehensive evaluation or other appropriate services. A parent may request a comprehensive evaluation of the child. A child may also request a comprehensive evaluation of himself. The public agency responsible for child identification activities is the school district in which the parents reside unless:~~
 - a. ~~The student is enrolled in a charter school or public agency that is not a school district. In that event, the charter school or public agency is responsible for child identification activities;~~
 - b. ~~The student is enrolled in a private school. In that event, the school district within whose boundaries the private school is located is responsible for child identification activities.~~
- 5. ~~If the parent does not refer the child, the parent must be provided written notice by the LEA or SSI within seven calendar days of a referral for possible comprehensive evaluation or other appropriate services. Identification (screening for possible disabilities) shall be completed within 45 calendar days after:~~
 - a. ~~The parent and the referring agent must be notified of the disposition within 30 calendar days of the referral. Entry of each kindergarten student and any student enrolling without appropriate records of screening, evaluation, and progress in school; or~~
 - b. ~~If the referral for a special education comprehensive evaluation is denied by the LEA or SSI, the parent must be provided written notice. The content of the written notice shall include: a description of the action proposed or refused by the LEA or SSI; a description of any options the LEA or SSI considered and the reasons why those options were rejected; a description of each evaluation procedure, test, record or report the LEA or SSI used as a basis for the proposal or refusal; a description of any other factors which were relevant to the LEA's or SSI's proposal or refusal; and a full explanation of all the procedural safeguards available to the parent as stated in 34 CFR 300.505 Section 34 CFR 300.505, July 1, 1985 ed., is incorporated herein by reference and on file with the Office of the Secretary of State. Notification to the public agency by parents of concerns regarding developmental or educational progress by their child aged three years through 21 years.~~
- e. ~~If the LEA or SSI has determined that a comprehensive evaluation is needed, written parental consent must be obtained prior to the comprehensive evaluation and within 15 calendar days of the determination of need (disposition of the referral) for a comprehensive evaluation.~~
- 6. ~~Each LEA and SSI shall maintain documentation of the identification procedures utilized, and the dates of entry into school and screening. The results shall be maintained in the child's permanent records in a location designated by the administrator. Screening procedures shall include vision and hearing status and consideration of the following areas: cognitive or academic, communication, motor, social or behavioral, and adaptive development. Screening does not include detailed individualized comprehensive evaluation procedures.~~

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7. Each LEA and SSI shall be responsible for determining and noting in the child's permanent records the primary language of the home and, if other than English, the language in which the child is proficient, pursuant to R7-2-306, and the racial/ethnic background of the child prior to parental consent for comprehensive evaluation. All communication with the parent regarding any special education matter shall be in the primary language of the home. For a student transferring into a school; the public agency 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.
8. If a concern about a student is identified through screening procedures or through review of records, the public agency shall notify the parents of the student of the concern within 10 school days and inform them of the public agency procedures to follow-up on the student's needs.
9. Each public agency shall maintain documentation of the identification procedures utilized, the dates of entry into school or notification by parents made pursuant to subsection (C)(5)(b), and the dates of screening. The results shall be maintained in the student's permanent records in a location designated by the administrator. In the case of a student not enrolled, the results shall be maintained in a location designated by the administrator.
10. 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 a student may request an evaluation of the student. If the parent of an identified student enrolled in a private school does not reside within the school district boundaries, the parent, with the assistance of the school district, shall notify the district in which the parents reside of the needs of the student and the residence school district will assume responsibility follow-up.
11. If, after consultation with the parent, the responsible public agency determines that a full and individual evaluation is not warranted, the public agency shall provide Prior Written Notice and Procedural Safeguards Notice to the parent within 60 calendar days.

DE. Evaluation/Re-evaluation.

1. The referral of a child for a comprehensive evaluation for possible placement in a special education program and related services shall be made under the direction of the administrator after documenting that the parent has received written information pertaining to rights regarding comprehensive evaluation, and following receipt of the written consent of the parent except as specified in subsection (G), paragraph (4) of this rule. Each public agency shall establish, implement, disseminate to its school-based personnel, and make available to 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 re-evaluation of students previously identified as being eligible for special education.
2. The written request for the parent's permission to evaluate shall be in the primary language of the home and shall contain all elements specified in R7-2-405(D)(1) through (4). Procedures for the initial full and individual evaluation of children suspected of having a disability and for the re-evaluation of students with disabilities shall meet the requirements of IDEA and regulations, and state statutes and state board of education rules.
3. The initial evaluation of a child being considered for special education shall be completed as soon as possible, but shall not exceed 60 calendar days from receipt of informed written consent. If the public agency initiates the evaluation, the 60-day period shall commence with the date of receipt of informed written consent and shall conclude with the date of the Multidisciplinary Evaluation Team (MET) determination of eligibility. If the parent requests the evaluation and the MET concurs, the 60-day period shall commence with the date that the written parental request was received by the public agency and shall conclude with the date of the MET determination of eligibility.

A comprehensive evaluation, in writing, appropriate to the child's educational needs shall be conducted:

- a. The child's racial/ethnic background, the primary language of the home and the language in which the child is proficient shall be considered in selecting comprehensive evaluation strategies prior to the comprehensive evaluation and in interpreting results of the comprehensive evaluation.
- b. The comprehensive evaluation shall be conducted by a multidisciplinary team including at least one teacher or other specialist with knowledge in the area of the suspected disability.
- c. Assessments shall include adaptations for children with impaired sensory, motor or communication skills.
- d. The comprehensive evaluation shall be conducted every three years or more frequently if conditions warrant or if the child's parent or teacher requests an evaluation. The child will be evaluated in all areas related to the suspected disability.
- e. Before any action is taken with respect to the initial placement of a student with a disability in a special education service, a comprehensive evaluation for the student's educational needs must be conducted. No single procedure or test shall be used as the sole criterion for determining either eligibility or the appropriate educational program for a student.

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4. ~~Tests and other evaluation methods shall be administered by trained personnel in conformance with the instructions provided by their producer in the language in which the child is proficient and shall have been validated for the specific purpose for which they are used. The public agency may accept current information about the student from another state, public agency, or independent evaluator. 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 (D)(1) through (6).~~
5. ~~If a child has been determined to be limited English proficient, the LEA or SSI shall follow one or more of these procedures: For the following disabilities, the full and individual initial evaluation shall include:~~
 - a. ~~Use an evaluator fluent in the language in which the child is proficient and in English. Emotional disability: verification of a disorder by a psychiatrist, licensed psychologist, or a certified school psychologist.~~
 - b. ~~Use an interpreter knowledgeable in special education comprehensive evaluation/placement procedures to assist with language and testing. Hearing impairment:~~
 - (1) ~~an audiological evaluation by an audiologist; and~~
 - (2) ~~an evaluation of communication/language proficiency.~~
 - c. ~~Use test instruments which do not stress spoken language and which are considered valid and reliable performance measures of functioning. Other health impairment: verification of a health impairment by a doctor of medicine.~~
 - d. ~~Specific learning disability: a determination of whether the discrepancy between achievement and ability meet the public agency criteria.~~
 - e. ~~Orthopedic impairment: verification of the physical disability by a doctor of medicine.~~
 - f. ~~Speech/language impairment: an evaluation by a certified speech/language therapist.~~
 - g. ~~For students whose speech impairments appear to be limited to articulation, voice, or fluency problems, the written evaluation may be limited to:~~
 - (1) ~~an audiometric screening within the past calendar year;~~
 - (2) ~~a review of academic history and classroom functioning;~~
 - (3) ~~an assessment of the speech problem by a speech therapist; or~~
 - (4) ~~an assessment of the student's functional communication skills.~~
 - h. ~~Traumatic brain injury: verification of the injury by a doctor of medicine.~~
 - i. ~~Visual impairment: verification of a visual impairment by an ophthalmologist.~~
6. ~~In lieu of one or more parts of the comprehensive evaluation to be done by or at the request of the LEA or SSI, the LEA or SSI may accept a current comprehensive evaluation of the child, which has been conducted by a professional from another state who has qualifications equivalent to the counterpart Arizona professional for the determination of the child's eligibility for special education. In such instances, the appropriate LEA or SSI diagnostic personnel shall be responsible for reviewing and approving or supplementing the comprehensive evaluation. A multidisciplinary conference must then be conducted to determine eligibility for special education and related services. The Multidisciplinary Evaluation Team shall determine, in accordance with the IDEA and regulations, whether the requirements of (D)(6)(a) through (i) are required for a student's re-evaluation.~~
7. ~~The comprehensive evaluation of a child being considered for special education placement shall be completed within 60 calendar days of the date of written consent. For purposes of this rule, the 60-day period shall commence the date of parental consent to determine eligibility for special education.~~
 - a. ~~If this cannot be accomplished despite reasonable efforts of the LEA or SSI, the parent shall be notified and given an expected date when the comprehensive evaluation will be completed.~~
 - b. ~~When the comprehensive evaluation must be delayed for more than 60 calendar days, the LEA or SSI shall notify the Arizona Department of Education.~~
8. ~~For children whose speech impairments appear to be limited to articulation, voice, or fluency problems, the written comprehensive evaluation shall include:~~
 - a. ~~An audiometric screening within the past calendar year.~~
 - b. ~~A review of the child's academic history and classroom functioning.~~
 - c. ~~An assessment of the child's functional communication skills.~~
 - d. ~~An assessment of the child's speech problem by a certified speech/language therapist.~~
9. ~~For children who are homebound or in a hospital, the written comprehensive evaluation shall include:~~
 - a. ~~Certification by a doctor of medicine that the child is unable to attend regular classes for not less than three school months or is unable to attend regular classes for intermittent periods of time totaling three school months during a school year.~~
 - b. ~~An assessment of the child's current educational level.~~
 - c. ~~Such specialized evaluations as are required to understand the specific educational problem exhibited by the homebound or hospitalized child.~~

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10. In determining whether a child is severely or profoundly mentally handicapped, the comprehensive evaluation shall include components specified in A.R.S. § 15-766(B)(1) through (7), and R7-2-401(D)(12)(a), (b) and (d) and in addition shall include:
 - a. A review of the child's previous medical, psychological, and academic records.
 - b. An individual measure of cognitive development administered by a certified school psychologist. The test used shall be appropriate for the child's functioning level and chronologic age.
 - c. An assessment conducted by a certified school psychologist of social and adaptive skills to include self-help/daily living and environmental factors. This assessment shall include information from parent and teacher.
 - d. Measures of achievement within areas of pre-academic, academic, prevocational, vocational, general knowledge, and comprehension of the environmental demands. This assessment shall be conducted by a certified teacher, certified school psychologist, or certified psychometrist.
 - e. A sensory/perceptual/motor screening, and assessment if deemed necessary following the screening, conducted by a licensed physical therapist or a registered occupational therapist, or a doctor of medicine.
 - f. A communication assessment conducted by a certified speech/language therapist or certified speech/language pathologist, including information on receptive and expressive language and the need for alternative/augmentative communication systems.
 - g. A report from a doctor of medicine regarding any medical inhibitors to learning.
11. In determining whether a child is autistic, the comprehensive evaluation must include components specified in A.R.S. § 15-766(B)(1) through (7) and R7-2-401(D)(12) and in addition must include:
 - a. Written and dated anecdotal records or behavioral observations;
 - b. A comprehensive psychological evaluation conducted by a certified school psychologist, or psychiatrist, which shall include an individual evaluation of intellectual ability and potential and behavioral observations;
 - c. A physical examination which shall include a neurological evaluation if deemed necessary by the examining doctor of medicine, or certified school psychologist.
 - d. An evaluation of speech and language development by a certified speech/language pathologist or a certified speech/language therapist.
12. For all handicapped children, other than speech impaired and homebound and hospitalized (subsection (D), paragraphs (8) and (9) and including those with language impairments, a comprehensive evaluation in writing shall contain in addition to those elements specified in A.R.S. § 15-766(B):
 - a. Consideration of the student's racial/ethnic background as it relates to the selection and use of test instruments and the interpretation of test results.
 - b. The results of current vision and hearing screenings within the past calendar year.
 - c. The results of an educational evaluation.
 - d. The results of an adaptive behavior assessment, if the primary language of the home is other than English. With parental consent, this assessment shall include findings from a visit to the child's home.
13. In addition, the following specialized evaluations are required:
 - a. In determining whether a child has a language impairment, an assessment of the child's language problem shall be conducted by a certified speech/language therapist.
 - b. In determining whether a child is educable mentally handicapped, trainable mentally handicapped or learning disabled, a comprehensive psychological evaluation, including an intellectual assessment. Such psychological evaluations shall be administered by a certified school psychologist, or by a certified psychometrist under the direction of a certified school psychologist. In addition, the adaptive behavior shall be assessed in determining whether a child is educable mentally handicapped or trainable mentally handicapped. Information regarding adaptive behavior shall be obtained from the parent or the primary caregiver.
 - c. An intellectual assessment shall be used but shall not be the exclusive evaluation device in considering a child for placement in classes for the handicapped.
 - d. In evaluating a child suspected of having a learning disability, each LEA or SSI shall include on the multidisciplinary evaluation team:
 - i. The child's regular classroom teacher, or
 - ii. If the child does not have a regular classroom teacher, a regular classroom teacher qualified to teach a child of the same age.
 - e. In determining whether a child is seriously emotionally handicapped, a psychological or psychiatric evaluation including an intellectual assessment by a certified school psychologist or a psychiatrist.
 - f. In determining whether a child is hearing handicapped, a complete audiological evaluation by an audiologist.
 - g. In determining whether a child is visually handicapped, the child shall be evaluated by an ophthalmologist or optometrist.
 - i. For initial placement in a program for the visually handicapped, the child shall have an ophthalmological evaluation to establish whether a disorder is present, whether it is progressive and the severity of the impairment.

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- ii. ~~The educational implications of the impairment shall be provided by an educational specialist in the area of the visual handicap.~~
 - iii. ~~The three-year reevaluation does not require an ophthalmological evaluation unless the multidisciplinary evaluation team has a documented reason to believe the child has a progressive eye disorder.~~
 - h. ~~For initial placement in a program for the physically handicapped, and evaluation of the physical problem by a doctor of medicine in order to establish the severity of the impairment. A description of the educational implications shall be provided by an education specialist in the area of the disability. The three-year reevaluation does not require an evaluation by a doctor of medicine unless the multidisciplinary evaluation team has a documented reason to believe that reevaluation by a doctor of medicine is needed.~~
 - i. ~~In determining whether a child is multiple handicapped, a comprehensive evaluation meeting the requirements for each handicapping condition being considered as part of the MH condition.~~
14. ~~In determining whether a child is learning disabled:~~
- a. ~~The multidisciplinary evaluation team shall determine whether the child has a significant discrepancy between achievement and intellectual ability in one or more of the following areas:~~
 - i. ~~Oral expression;~~
 - ii. ~~Listening comprehension;~~
 - iii. ~~Written expression;~~
 - iv. ~~Basic reading skill;~~
 - v. ~~Reading comprehension;~~
 - vi. ~~Mathematics calculation; or~~
 - vii. ~~Mathematics reasoning.~~
 - b. ~~The multidisciplinary evaluation team may not identify a child as having a learning disability if the significant discrepancy between ability and achievement is primarily the result of one or more of the following:~~
 - i. ~~A visual, hearing or motor handicap;~~
 - ii. ~~Mental retardation;~~
 - iii. ~~Emotional disturbance;~~
 - iv. ~~Environmental, cultural or economic disadvantage.~~
 - e. ~~At least one multidisciplinary evaluation team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.~~
 - d. ~~The multidisciplinary evaluation team shall prepare a written report of the results of the comprehensive evaluation. The report must include a statement of:~~
 - i. ~~Whether the child has a learning disability;~~
 - ii. ~~The basis for making the determination;~~
 - iii. ~~The relevant behavior noted during the observation of the child;~~
 - iv. ~~The relationship of that behavior to the child's academic functioning;~~
 - v. ~~The educationally relevant medical findings, if any;~~
 - vi. ~~Whether there is a significant discrepancy between achievement and ability which is not correctable without special education and related services;~~
 - vii. ~~The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.~~
 - e. ~~Each multidisciplinary evaluation team member shall certify in writing whether the report reflects his conclusion. If it does not reflect his conclusion, the multidisciplinary evaluation team member must submit a separate statement presenting his conclusion.~~
15. ~~In determining whether a child is seriously emotionally handicapped:~~
- a. ~~The multidisciplinary evaluation team shall determine the presence of a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects educational performance:~~
 - i. ~~An inability to learn which cannot be explained by intellectual, sensory, or health factors;~~
 - ii. ~~An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;~~
 - iii. ~~Inappropriate types of behavior or feelings under normal circumstances;~~
 - iv. ~~A tendency to develop physical symptoms or fears associated with personal or school problems;~~
 - v. ~~A general pervasive mood of unhappiness or depression.~~
 - b. ~~SEH includes a child who is schizophrenic.~~
 - e. ~~SEH does not include a child who is socially maladjusted, unless it is determined that he is also seriously emotionally handicapped. Manifestations of socially maladjusted behavior do not constitute eligibility for special education in the absence of a handicapping condition.~~

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EE. Multidisciplinary conference: Individualized Education Program (IEP).

1. ~~After a child for whom special education placement and related services are being considered has been evaluated, a multidisciplinary conference shall be held. Each public agency shall establish, implement, and disseminate to its school-based personnel, and make available to parents, written procedures for the development, implementation, review, and revision of IEPs.~~
 - a. ~~The persons who shall participate in the conference or individuals to be consulted prior to the conference shall include:~~
 - i. ~~The school principal or administrator;~~
 - ii. ~~The person responsible for administering or conducting special education programs in the LEA or SSI;~~
 - iii. ~~A teacher who has been instructing the child, or a regular classroom teacher qualified to teach a child of that age, if the child has not had a regular classroom teacher;~~
 - iv. ~~Personnel involved in the comprehensive evaluation of the child or those persons reviewing outside comprehensive evaluations;~~
 - v. ~~The parent of a child, unless he has given written indication that he does not wish to participate. If no parent can attend, the LEA or SSI shall use other methods to ensure parental participation such as home contact, individual or conference telephone calls. LEA's and SSI's shall document all efforts made to ensure parental participation;~~
 - vi. ~~A special education teacher who is qualified to provide the special services designed for the child;~~
 - vii. ~~Personnel involved in the language proficiency assessment, required by R7-2-306, in the case of a student whose language proficiency is other than English;~~
 - viii. ~~The child, if requested by the parent or if of the age of majority;~~
 - ix. ~~All persons mentioned in this subparagraph must be contacted prior to the conference, but only the following must meet together in a formal conference:~~
 - (1) ~~The professional personnel involved in the comprehensive evaluation;~~
 - (2) ~~An appropriate teacher;~~
 - (3) ~~The parent except as specified in subdivision (v) of this subparagraph; and~~
 - (4) ~~In the case of a student whose language proficiency is other than English, the personnel involved in the language proficiency assessment.~~
 - b. ~~The parent has the right to invite a person or persons who may assist the parent in planning the child's educational program.~~
 - c. ~~In the case of a limited English proficient or hearing impaired parent or child, the LEA or SSI shall provide a trained interpreter.~~
 - d. ~~If the parent has given written indication that he does not wish to participate, one of the other persons mentioned in this subparagraph must attend in order that three persons are present.~~
 - e. ~~Eligibility for special education shall be determined by the multidisciplinary evaluation team following consideration given to the parent's input and observations, and based on the results of the comprehensive evaluation and handicapping conditions defined in A.R.S. § 15-761 and this Section.~~
 - f. ~~Difficulty in writing, speaking, or understanding the English language due to an environmental background wherein a language other than English is spoken primarily or exclusively shall not by itself be considered a sufficient basis to require special education.~~
 - g. ~~All conferences involving a parent must be scheduled at a mutually agreed time and place. Prior to any conference, written notice shall be sent to the parent in the primary language of the home except in the case where the primary language of the home is not commonly written. If the LEA or SSI has reason to believe that written notice will not be received or understood by the parent or that the parent will not be motivated by the notice to respond to the notice or attend the conference, additional means of notification shall be employed. The notice shall contain an explanation of the conference including the purpose, time, location and the positions held by staff who will attend. The notice shall also invite the parent to review the comprehensive evaluation documents prior to the conference in order that the parent can fully participate. The notice shall explain how such a review of records can be arranged.~~
2. ~~The purpose of this multidisciplinary conference shall be to discuss: Procedures for IEPs shall meet the requirements of the IDEA and regulations, and state statutes and state board of education rules.~~
 - a. ~~Results of the comprehensive evaluation.~~
 - b. ~~Eligibility for special education placement.~~
 - c. ~~The parent shall be informed that placement will not be made or changed without parental consent, of their rights to obtain independent comprehensive evaluation, to seek review of placement and records, and to withhold or withdraw consent for special education placement. A voice recording may be made of the explanations and the parent's acknowledgment of understanding.~~

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- d. The parent shall notify the public agency in writing if the parent is in disagreement with the public agency's comprehensive evaluation. A parent has the right to an independent comprehensive evaluation at public expense if the parent disagrees with a comprehensive evaluation obtained by the public agency. However, the public agency may initiate a hearing to show that its comprehensive evaluation is appropriate. If the final decision is that the public agency's comprehensive evaluation is appropriate, the parent still has the right to an independent comprehensive evaluation, but not at public expense. The parent or the public agency may initiate a hearing on this matter pursuant to R7-2-405.
3. Procedures shall include the incorporation of Arizona Academic Standards into the development of each IEP. IEP goals aligned with the Arizona Academic Standards shall identify the specific level within the Standard that is being addressed.
4. Each student with a disability shall participate in the Arizona Student Assessment Program. The level at which a student will be assessed shall be documented on the student's IEP and shall be at least at the student's instructional level. The IEP shall also document instructional and assessment adaptations required by the student.
5. A meeting 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 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.
6. A parent or public agency may request in writing a review of the IEP. Such review shall take place within 15 school days of the receipt of the request or at a mutually agreed upon time but not to exceed 30 school days.

FG. Individualized education program (IEP): Least Restrictive Environment.

1. An individualized education program shall be developed for every handicapped child prior to placement in a special education program. A meeting must be held for this purpose annually and more often if revisions are necessary for continuing students. Each public agency shall establish, implement, and disseminate to its school-based personnel, and make available to parents, written procedures to ensure the delivery of special education services in the least restrictive environment as identified by IDEA and regulations, and state statutes and state board of education rules.
2. Prior to the meeting, the parent shall be given written notification in the primary language of the home except in the case where the primary language is not commonly written. Additionally, if the LEA or SSI has reason to believe that written notice will not be received or understood by the parent or that the parent will not be motivated by the notice to respond to the notice or attend the conference, additional means of notification shall be employed. The notice must state the purpose of the meeting, time, location and positions held by staff who will be attending. A continuum of services and supports for students with disabilities shall be available through each public agency.
3. The individualized education program planning conference must include the child's teacher, a representative of the LEA or SSI, other than the child's teacher, who is qualified to provide or supervise the provision of special education; one or both of the child's parents; the child where appropriate; the evaluator when it is the initial IEP meeting; and other individuals, at the discretion of the parent or public agency. These individuals participate equally in the decision-making process to determine the specific educational needs of the child and in making recommendations for special education placement. In the case of the attendance of a limited English proficient or hearing impaired parent or child, the LEA or SSI shall provide a trained interpreter.
4. If a parent cannot attend the meeting, the LEA or SSI shall use other methods to ensure parental participation such as home contact, individual or conference telephone calls. LEA's and SSI's shall document all efforts made to ensure parental participation.
5. The written individualized education program for each child shall include:
 - a. A statement of the child's present levels of education performance;
 - b. A statement of annual goals;
 - e. A statement of measurable short-term instructional objectives;
 - d. A statement of the specific special education and related services to be provided to the child (if no related services are to be provided, this fact must be stated);
 - e. A description of the extent to which the child will be able to participate in regular education programs and the extent to which the child will be able to participate with nonhandicapped children in nonacademic and extracurricular activities such as meals, recess periods, athletics, clubs, referrals to other agencies, and employment;
 - f. The projected dates for initiation and the anticipated duration of services;
 - g. Objective criteria, evaluation procedures, and schedules for determining whether instructional objectives are being achieved on at least an annual basis;
 - h. A statement of whether the child will be educated in the school which he would attend if not handicapped and reasons why education will occur in other than the school which the child would attend if not handicapped;
 - i. For students who are limited English proficient, the language of instruction shall be specified.
6. Written information shall be provided to handicapped students and their parents concerning the opportunities available in the areas of prevocational, work experience, vocational education and related career development programs and the requirements for eligibility for enrollment in each of these programs no later than the beginning of the ninth grade.

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- a. ~~During the initial IEP meeting, and any subsequent meeting to review the IEP, consideration must be given to the need for prevocational, work experience, vocational education and related career development programs for each special education student. This consideration can occur at any IEP meeting but must occur no later than the beginning of the ninth grade.~~
- b. ~~For students identified as needing prevocational, work experience, vocational education or related career development programs, the IEP or the individualized vocational education program shall include goals and objectives and the extent of services to be provided.~~
7. ~~A meeting must be conducted to review and revise each child's IEP at least once each school year, but more frequently if the child's progress substantially deviates from what was anticipated.~~
8. ~~A parent or the public agency may request in writing a review of the IEP. Such review shall take place within 15 school days of the LEA's or SSI's receipt of the request to review the IEP.~~
9. ~~Once each semester a written review of progress related to the child's IEP shall be submitted by the special education teacher to the parent of the child.~~

GH. Placement and review of placement: Procedural Safeguards.

Each public agency shall establish, implement, and disseminate to its 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 to parents information about the public agency's and state's dispute resolution options.

1. ~~No child may be placed in a special education program unless the personnel providing the program or service meet the standards for certification and endorsement pursuant to R7-2-601, R7-2-602 and R7-2-603.~~
2. ~~In making a recommendation for special education placement, the participants in the IEP meeting shall ensure:~~
 - a. ~~That special classes, separate schooling, or other removal of handicapped children from the regular educational environment shall occur only when the nature of severity of the handicap is such that education in regular classes or in a building with nonhandicapped children, even with the use of supplementary aids and services, cannot be accomplished satisfactorily.~~
 - b. ~~That a continuum of alternative placements is available to the child and that prior to placing the child, alternative placements listed in 34 CFR 300.13 are considered and documentation provided indicating the reasons for not selecting any placements that would be less restrictive. Section 34 CFR 300.13, July 1, 1985 ed., is incorporated herein by reference and on file with the Office of the Secretary of State.~~
 - e. ~~That the child's placement results from and is based on the individualized education program;~~
 - d. ~~That unless the IEP for a student with a disability requires some other arrangement, the student is educated in the school which the student would attend if not disabled;~~
 - e. ~~That the placement of a student with a disability is as close as possible to the student's home;~~
 - f. ~~That consideration is given to any potentially harmful effect on the child or on the quality of services needed.~~
3. ~~Each of the items indicated in paragraph (2) of this subsection shall be submitted in writing to the administrator, or the person designated as responsible for special education. This report shall be maintained as a part of the student's record.~~
4. ~~The parent of the child shall indicate by signature on a form which is written both in the primary language of the home and in English, understanding of the placement, parental rights, and agreement or disagreement concerning the proposed placement. When written documentation is not possible because of the absence of a written language system, parental agreement or disagreement may be documented by a tape recording.~~
5. ~~Upon the recommendation of the multidisciplinary evaluation team, the administrator or such person designated as responsible for special education shall place the child in a special education program. No child shall be placed or retained in a special education program without the written approval of the parent unless subsection (G), paragraph (4) applies.~~
6. ~~Pursuant to authorization for the placement, the recommended programs and services shall be provided as soon as possible following the completion of the IEP and the determination of placement. When placement must be delayed, the LEA or SSI shall notify the parent and the Arizona Department of Education, in writing, and place the child in a program by agreement with another LEA or SSI or a private agency.~~
7. ~~All special education placements, including those in private schools, shall be made on a trial basis.~~
8. ~~The child's placement shall be reevaluated when needed to determine continued placement or termination of special education services.~~
9. ~~Continuation of or a change in the special education placement of a child pursuant to an annual formal review of that placement shall be with the written consent of the parent except as specified in subsection (G), paragraph (4) of this rule. Each LEA and SSI shall establish procedures for conducting a placement review with the parent and for obtaining written authorization for the continuation of placement or a proposed change of placement.~~

10. ~~Before special education programs and services for the child may be terminated by the LEA or SSI, the results of a complete review of the child's educational status must confirm that termination of such programs and services is in the best interests of the child. The parent of the child shall also be included in the review process if termination of programs and services is being considered, but written consent for termination of services is not required. If the parent disagrees with the termination recommendation, the parent shall be provided an explanation as to due process rights pursuant to R7-2-405.~~
11. ~~Each LEA or SSI shall establish and implement policies and procedures related to parental consent which meet the requirements of 34 CFR 300.504 and 300.505, as published in the Federal Register, dated September 29, 1992, which are incorporated by reference and on file with the Office of the Secretary of State. Written notice provided in accordance with these policies and procedures shall be given to the parent of a student with a disability a reasonable time before the LEA or SSI proposes or refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free and appropriate public education.~~

HI. ~~Work experience program:~~ Confidentiality.

1. ~~Each student enrolled in a special education work experience program shall have been declared eligible for and be receiving special education services and shall be at least 16 years of age. Each public agency shall establish, implement, and disseminate to its personnel, and make available to parents, written policies and procedures to ensure the confidentiality of records and information in accordance with the IDEA, the Family Education Right to Privacy Act (FERPA) and regulations, and state statutes.~~
2. ~~Prior to placement in a special education work experience program, the student shall receive a vocation assessment which assesses the student's interests, skills, abilities, needs, work habits and behaviors. Upon receiving a written request, each public agency shall forward special education records to any other public agency in which a student is attempting to enroll. Records shall be forwarded within the time frame specified in A.R.S. § 15-828 (F). The public agency shall also forward records to any other person or agency for which the parents have given signed consent.~~
3. ~~A written vocational plan based on the vocational assessment shall be prepared. This plan shall describe the goals of the work experience program, and the objectives for each student's participation in the program.~~
4. ~~If a work experience placement is not available or participation is terminated, the handicapped student shall be provided with a full-time instructional program.~~
5. ~~Students shall be placed in a work environment and work a minimum of 225 minutes per week. This placement shall be based on the abilities and needs of the individual student documented through the vocational assessment provided for in paragraph (2) of this subsection.~~
6. ~~A training plan and agreement shall be developed in written form for each student identifying specific responsibilities of the student, employer and others involved. The agreement shall outline the tasks to be learned and performed by the student in the specific work experience placement. The LEA or SSI shall document that the parent has approved participation in a work environment.~~
7. ~~Students enrolled in the special education work experience program shall receive related instruction in life and employability skills and skills related to their work placement.~~
8. ~~Monitoring of a student's work experience by the LEA or SSI work experience coordinator shall be done a minimum of one time every nine weeks and shall include an employer evaluation of the student's performance.~~
9. ~~Every special education work experience program shall be coordinated by a special education teacher and be approved by the Arizona Department of Education, Division of Special Education.~~

IJ. ~~School districts having seriously emotionally handicapped students enrolled in a separate facility owned and operated by the district and specifically designed for severely handicapped students pursuant to A.R.S. § 15-765(I) are eligible for Group B funding as defined in A.R.S. § 15-901(B)(8):~~ Preschool Programs.

1. Each public agency responsible for serving preschool children with disabilities shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures for:
 - a. The operation of the preschool program in accordance with federal statute and regulation, and state statute;
 - b. The smooth and effective transition from the Arizona Early Intervention Program (AzEIP) to a public school preschool program in accordance with the agreement between the Department of Economic Security and the Department; and
 - c. The provision of a minimum of 360 minutes of instruction in a program that operates at least three days a week.

JK. ~~Preschool special education programs:~~ Children in Private Schools.

Each public agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures regarding the access to special education services to students enrolled in private schools as identified by the IDEA and regulations, and state statutes and state board of education rules.

1. ~~Special education preschool programs must be operated in accordance with all state and federal laws and regulations applicable to the education of the handicapped.~~
2. ~~A student enrolled in a preschool program must receive a minimum of 360 minutes of instruction per week in a program that operates for at least three days per week.~~

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3. In order for an LEA's or an SSI's student to be counted for funding for a special education preschool program, the student must reach age three before September 1 of the current school year.
 - a. The governing board of a school district may, however, admit children who have not reached age three before September 1 if it is determined by the governing board to be in the best interest of the child and if the child will reach age three by January 1 of the current school year.
 - b. Each LEA special education student must be enrolled in a program by December 1 and each SSI special education student by October 1 of the school year for which funding is requested in order to be counted for funding.
4. A public agency may apply to the State Board of Education for funding for a special education preschool program.
5. Funding per student for a special education preschool program shall equal one-half of the sum of the following:
 - a. For speech handicapped or educable mentally handicapped students, the base level as provided in A.R.S. § 15-901 multiplied by two.
 - b. For hearing handicapped, trainable mentally handicapped, physical handicapped, multiple handicapped, or visually handicapped students, the sum of the base for kindergarten through grade eight and the support level weight for the category as provided in A.R.S. § 15-943 multiplied by the base level as provided in A.R.S. § 15-901.
 - c. For speech handicapped, educable mentally handicapped, hearing handicapped, trainable mentally handicapped, physically handicapped, multiple handicapped, or visually handicapped, the capital outlay revenue limit per student as provided in A.R.S. § 15-961(A)(1).
6. LEA's and SSI's may not admit a child to a preschool program for handicapped children unless the child is evaluated and recommended for placement as provided in A.R.S. §§ 15-766 and 15-767 and this rule.

L. State Education Agency Responsible for General Supervision and Obligations Related to and Methods of Ensuring Services.

1. The Department is responsible for the general supervision of services to children with disabilities aged 3 through 21 served through a public agency.
2. The Department shall ensure through fund allocation, monitoring, dispute resolution, and technical assistance that all eligible students receive a free appropriate public education in conformance with the IDEA and regulations, Title 15, Chapter 7, Article 4 and these rules.

M. Procedural Requirements Relating to Public Agency Eligibility.

1. Each public agency shall establish eligibility for funding with the Arizona Department in accordance with the IDEA and regulations, and state statutes and with schedule and method prescribed by the Department.
2. In the event the Department determines a public agency does not meet eligibility for funding requirements, the public agency has a right to a hearing before the state board of education before such funding is withheld.
3. The Department may temporarily interrupt payments during any time period when a public agency has not corrected deficiencies in eligibility for federal funds as a result of fiscal requirements of monitoring, auditing, complaint and due process findings.
4. Each public agency shall, on an annual basis, determine the number of children within each disability category who have been identified, located, evaluated, and/or receiving special education services. This includes children residing within the boundaries of responsibility of the public agency who have been placed by their parents in private schools.

N. Public Participation.

1. Each public agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures to ensure that, prior to the adoption of any policies and procedures needed to comply with federal and state statutes and regulations, there are:
 - a. public hearings,
 - b. notice of the hearings, and
 - c. an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities
2. This requirement does not pertain to day-to-day operating procedures.

O. Suspension and Expulsion.

1. Each public agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures for the suspension and expulsion of students with disabilities.
2. Each public agency 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 public agency shall maintain documentation of staff review.
3. Procedures for such suspensions and expulsions shall meet the requirements of the IDEA and regulations, and state statutes.

R7-2-402. Standards for approval of special education programs in private schools

- A. Definitions.** All terms defined in the regulations for the Individuals with Disabilities Education Act (IDEA) 1997 Amendments (34 CFR parts 300.4 through 300.30), A.R.S. §15-761, and state board of education rule A.A.C. R7-2-401 are applicable.

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- ~~AB.~~ No ~~child student~~ may be placed by ~~the local school district (“LEA”)~~ a public agency in a private school special education school program unless the facility has been approved as meeting the standards as outlined in this rule, and the ~~LEA assures that it~~ public agency is unable to provide satisfactory education and services through its own facilities and personnel.
- ~~BC.~~ In order for a private special education school to be approved by the ~~Division of Special Education to contract with LEA’s Department for the purpose of contracting with a public agency,~~ the private facility ~~must~~ shall:
1. Provide special education instructional programs for ~~handicapped children, as defined in A.R.S. § 15-1011, which students with disabilities that~~ are at least comparable to those provided by the public schools of Arizona and meet the requirements of IDEA.
 2. Provide ~~an instructional program description to include the following documentation:~~
 - a. ~~Goals and objectives for each program. Policies and procedures based on IDEA and state statutes;~~
 - b. ~~Number, ages, and categories of children to be served. Curriculum that is aligned with the Arizona Academic Standards;~~
 - c. ~~Grouping plan to be used such as by exceptionality, age, and like factors. A completed application;~~
 - d. ~~Procedures for maintaining, evaluating, and recording pupil progress. Copies of all teacher and related service personnel certifications and licenses; and~~
 - e. ~~Teacher responsibilities and time percentages. If applicable, a copy of North Central Accreditation.~~
 - f. ~~Equipment, materials, or special techniques to be used.~~
 3. Provide certified special education teachers in each classroom ~~certificated in the areas of exceptionality for which programs are approved to implement the IEPs of those students assigned to that classroom.~~
 4. ~~Emergency special education certificates will be approved only if the candidate will qualify for valid Arizona special education certification within one school year. Provide related services to meet the needs of the students as indicated on their IEPs.~~
 5. ~~Provide professional ancillary services appropriate to the needs of the children to be served by the facility.~~
 6. Provide administration personnel such as head teacher, principal, or other administrator certificated in an administrative area or experienced and certified in the appropriate area of special education.
 7. Provide an education that meets the standards that apply to education provided by the public agency.
 7. ~~Utilize facilities which are at least comparable to those used by the public schools of Arizona.~~
 8. ~~Maintain student records in accordance with the statutory requirements of A.R.S. § 15-151 and 20 U.S.C. §§ 1401 et seq.~~
 9. ~~Accept all responsibilities concerning instructional programs to the handicapped child disabled student and parent or guardian which that are required of the public schools of Arizona. Ultimate responsibility for any student under contract in a private special education school rests with the LEA public agency contracting for his/her the students’ education.~~
 10. ~~Maintain adequate liability insurance.~~
 11. ~~Maintain an accounting system and budget which includes the costs of operation, maintenance, transportation, and capital outlay, and which is open to review upon request.~~
 12. ~~Maintain an attendance reporting system which that provides LEA’s and the Division of Special Education public agencies and the Department with the information they each require required information.~~
 13. ~~Provide notification to contracting LEA’s and the Division of Special Education public agencies and the Department of any changes in staff or deletion of programs within 10 school days of the change or deletion.~~
 14. ~~Permit on-site evaluation of the program by the Division of Special Education Department or its designees, and the representatives of the LEA’s public agencies.~~
 15. ~~Request approval to contract with public agencies schools from the Division of Special Education Department in accordance with the prescribed procedures.~~