

1 Article 4. SPECIAL EDUCATION

2 **R7-2-401. Special Education Standards for Public Agencies Providing Educational Services**

3 **A.** For the purposes of this Article, the Individuals with Disabilities Education Improvement Act (IDEA),  
4 20 U.S.C. 1400 et seq. and its implementing regulations, 34 CFR 300.1 et seq., are incorporated herein  
5 by reference. Copies of the incorporated material can be obtained from the U.S. Government Printing  
6 Office, <https://bookstore.gpo.gov/catalog/laws-regulations> or the Arizona Department of Education,  
7 Exceptional Student Services, 1535 West Jefferson Street, Phoenix, Arizona 85007.

8 **B.** Definitions. All terms defined in the IDEA, its implementing regulations and A.R.S. § 15-761 are  
9 applicable, with the following additions:

10 1. "Accommodations" means the provisions made to allow a student to access the general education  
11 curriculum and demonstrate learning. Accommodations do not substantially change the  
12 instructional level, content or performance criteria, but are made in order to provide a student  
13 equal access to learning and equal opportunity to demonstrate what is known. Accommodations  
14 shall not alter the content of the curriculum or a test, or provide inappropriate assistance to the  
15 student within the context of the test.

16 2. "Administrator" means the chief administrative official or designee authorized to act on behalf of  
17 a public education agency.

18 3. "Boundaries of responsibility" means for:  
19 a. A school district, the geographical area within its legally designated boundaries.  
20 b. A charter school, the population of students enrolled in the charter school.  
21 c. A public education agency other than a school district or charter school, the population of  
22 students receiving educational services from a public education agency.

23 4. "Child with a disability," has the same meaning prescribed in A.R.S. § 15-761.

24 5. "Department" means the Arizona Department of Education.

25 6. "Exceptional Student Services" means the Exceptional Student Services Division of the Arizona  
26 Department of Education.

27 7. "Evaluator" means a person trained and knowledgeable in a field relevant to the child's disability  
28 who administers specific and individualized assessment for the purpose of special education  
29 evaluation and placement.

30 8. "Full and individual evaluation" means procedures used in accordance with the IDEA to determine  
31 whether a child has a disability and the nature and extent of the special education and related  
32 services that the child needs. This evaluation includes:  
33 a. A review of existing information about the child;  
34 b. A decision regarding the need for additional information;  
35 c. If necessary, the collection of additional information; and

- 1           d. A review of all information about the child and a determination of eligibility for special  
2           education services and needs of the child.
- 3           9. "Independent educational evaluation" means an evaluation conducted by an evaluator who is not  
4           employed by the public education agency responsible for the education of the child in question.
- 5           10. "Informed written consent" means a person has been fully informed of all information relevant to  
6           the activity for which consent is sought, in the person's native language or through another mode  
7           of communication; the person understands and agrees in writing to the carrying out of the activity  
8           for which consent is sought; and the person understands that the granting of consent is voluntary  
9           and may be revoked at any time.
- 10  
11          11. "Interpreter" means a person trained to translate orally or in sign language in matters pertaining  
12          to special education identification, evaluation, placement, the provision of free appropriate public  
13          education (FAPE), or assurance of procedural safeguards for parents and students who converse  
14          in a language other than spoken English. Each student's IEP team determines the level of  
15          interpreter skill necessary for the provision of FAPE.
- 16          12. "Multidisciplinary Evaluation Team" has the same meaning prescribed in A.R.S. § 15-761.
- 17          13. "Modifications" means substantial changes in what a student is expected to learn and to  
18          demonstrate. Changes may be made in the instructional level, the content or the performance  
19          criteria. Such changes are made to provide a student with meaningful and productive learning  
20          experiences, environments, and assessments based on individual needs and abilities.
- 21          14. "Private school" means any nonpublic educational institution where academic instruction is  
22          provided, including nonsectarian and parochial schools, that are not under the jurisdiction of the  
23          state or a public education agency.
- 24          15. "Private special education school" means a nonpublic educational institution where instruction is  
25          provided primarily to students with disabilities. The school may also serve students without  
26          disabilities.
- 27          16. "Public education agency" or "PEA" means a school district, charter school, accommodation  
28          school, state supported institution, or other political subdivision of the state that is responsible  
29          for providing education to children with disabilities.
- 30          17. "Qualified professionals" means individuals who have met state approved or recognized degree,  
31          certification, licensure, registration or other requirements that apply in the areas in which the  
32          individuals are providing services such as screening, identification, evaluation, general education,  
33          special education or related services, including supplemental aids and services.
- 34          18. "Specially designed instruction" has the same meaning prescribed in A.R.S. § 15-761.
- 35          19. "Special education teacher" means a teacher holding a special education certificate from the  
36          Arizona Department of Education.
- 37          20. "Suspension" has the same meaning prescribed in A.R.S. § 15-840.

1 **C. Public Awareness.**

- 2 1. Each public education agency shall inform the general public and all parents, within the public  
3 education agency's boundaries of responsibility, of the availability of special education services  
4 for students aged 3 through 21 years and how to access those services. This includes information  
5 regarding early intervention services for children aged birth through 2 years.
- 6 2. School districts are responsible for public awareness in private schools located within their  
7 boundaries of responsibility.

8 **D. Child Identification and Referral.**

- 9 1. Each public education agency shall establish, implement, and make available, either in writing or  
10 electronically, to its school-based personnel and all parents, within the public education agency  
11 boundaries of responsibility, written procedures for the identification and referral of all children  
12 with disabilities, aged birth through 21, including children with disabilities attending private  
13 schools and home schools, regardless of the severity of their disability.
- 14
- 15 2. Each public education agency shall require appropriate school-based personnel to review the  
16 written procedures related to child identification and referral on an annual basis. The public  
17 education agency shall maintain documentation of school-based personnel review.
- 18 3. Procedures for child identification and referral shall meet the requirements of the IDEA and  
19 regulations, A.R.S. Title 15, Chapter 7, Article 4 and these rules.
- 20 4. The public education agency responsible for child identification activities is the school district in  
21 which the parents reside unless:
- 22 a. The student is enrolled in a charter school or public education agency that is not a school  
23 district. In that event, the charter school or public education agency is responsible for child  
24 identification activities;
- 25 b. The student is enrolled in a non-profit private school. In that event, the school district within  
26 whose boundaries the private school is located is responsible for child identification activities.
- 27 5. Identification (screening for possible disabilities) shall be completed within 45 calendar days after:
- 28 a. Entry of each preschool or kindergarten student and any student enrolling without  
29 appropriate records of screening, evaluation, and progress in school; or
- 30 b. Notification to the public education agency by parents of concerns regarding developmental  
31 or educational progress by their child aged 3 years through 21 years.
- 32
- 33 6. Screening procedures shall include vision and hearing status and consideration of the following  
34 areas: cognitive or academic, communication, motor, social or behavioral, and adaptive  
35 development. Screening does not include detailed individualized comprehensive evaluation  
36 procedures.
- 37 7. For a student transferring into a school; the public education agency shall review enrollment data  
38 and educational performance in the prior school. If there is a history of special education for a  
39 student not currently eligible for special education, or poor progress, the name of the student

- 1 shall be submitted to the administrator for consideration of the need for a referral for a full and  
2 individual evaluation or other services.  
3
- 4 8. If a concern about a student is identified through screening procedures or through review of  
5 records, the public education agency shall notify the parents of the student of the concern within  
6 10 school days and inform them of the public education agency procedures to follow-up on the  
7 student's needs.
- 8 9. Each public education agency shall maintain documentation of the identification procedures  
9 utilized, the dates of entry into school or notification by parents made pursuant to subsection  
10 (D)(5), and the dates of screening. The results shall be maintained in the student's permanent  
11 records in a location designated by the administrator. In the case of a student not enrolled, the  
12 results shall be maintained in a location designated by the administrator.
- 13 10. If the identification process indicates a possible disability, the name of the student shall be  
14 submitted to the administrator for consideration of the need for a referral for a full and individual  
15 evaluation or other services. A parent or a student may request an evaluation of the student. For  
16 parentally-placed private school students the school district within whose boundaries the non-  
17 profit private school is located is responsible for such evaluation.  
18
- 19 11. If, after consultation with the parent, the responsible public education agency determines that a  
20 full and individual evaluation is not warranted, the public education agency shall provide prior  
21 written notice and procedural safeguards notice to the parent in a timely manner.
- 22 **E. Evaluation/re-evaluation.**
- 23 1. Each public education agency shall establish, implement, and make available to school-based  
24 personnel and parents within its boundaries of responsibility written procedures for the initial full  
25 and individual evaluation of students suspected of having a disability, and for the re-evaluation of  
26 students previously identified as being eligible for special education.
- 27 2. Procedures for the initial full and individual evaluation of children suspected of having a disability  
28 and for the re-evaluation of students with disabilities shall meet the requirements of IDEA and its  
29 regulations, state statutes and State Board of Education rules.
- 30 3. The initial evaluation of a child being considered for special education, or the re-evaluation per a  
31 parental request of a student already receiving special education services, shall be conducted  
32 within 60 calendar days from the public education agency's receipt of the parent's informed  
33 written consent and shall conclude with the date of the Multidisciplinary Evaluation Team (MET)  
34 determination of eligibility.  
35
- 36 4. If the parent requests the evaluation the PEA must, within a reasonable amount of time not to  
37 exceed 15 school days from the date it receives a parent's written request for an evaluation, either  
38 begin the evaluation by reviewing existing data, or provide prior written notice refusing to  
39 conduct the requested evaluation. The 60-day evaluation period shall commence upon the PEA's  
40 receipt of the parent's informed written consent.

- 1           5. The 60-day evaluation period may be extended for an additional 30 days, provided it is in the best  
2           interest of the child, and the parent and PEA agree in writing to such an extension. Neither the  
3           60-day evaluation period nor any extension shall cause a re-evaluation to exceed the time-lines  
4           for a re-evaluation within three years of the previous evaluation.
  
- 5           6. The public education agency may accept current information about the student from another state,  
6           public agency, public education agency, or through an independent educational evaluation. In  
7           such instances, the Multidisciplinary Evaluation Team shall be responsible for reviewing and  
8           approving or supplementing an evaluation to meet the requirements identified in subsections  
9           (E)(1) through (7).
  
- 10          7. For the following disabilities, the full and individual initial evaluation shall include:
  - 11           a. Emotional disability: verification of a disorder by a qualified professional.
  - 12           b. Hearing impairment:
    - 13               i. An audiological evaluation by a qualified professional, and
    - 14               ii. An evaluation of communication/language proficiency.
  - 15           c. Other health impairment: verification of a health impairment by a qualified professional.
  - 16           d. Specific learning disability: a determination of whether the child exhibits a pattern of  
17           strengths and weaknesses in performance, achievement, or both, relative to age, state-  
18           approved grade-level standards, or intellectual development that meets the public education  
19           agency criteria through one of the following methods:
    - 20               i. A discrepancy between achievement and ability;
    - 21               ii. The child's response to scientific, research-based interventions; or
    - 22               iii. Other alternative research-based procedures.
  - 23           e. Orthopedic impairment: verification of the physical disability by a qualified professional.
  - 24           f. Speech/language impairment: an evaluation by a qualified professional.
  - 25           g. For students whose speech impairments appear to be limited to articulation, voice, or fluency  
26           problems, the written evaluation may be limited to:
    - 27               i. An audiometric screening within the past calendar year,
    - 28               ii. A review of academic history and classroom functioning,
    - 29               iii. An assessment of the speech problem by a speech therapist, or
    - 30               iv. An assessment of the student's functional communication skills.
  - 31           h. Traumatic brain injury: verification of the injury by a qualified professional.
  - 32           i. Visual impairment: verification of a visual impairment by a qualified professional.
  
- 33
- 34          8. The Department shall develop a list, subject to review and approval of the State Board of  
35          Education, of qualified professionals eligible to conduct the appropriate evaluations prescribed in  
36          subsection (E)(7).
  
- 37
- 38          9. The Multidisciplinary Evaluation Team shall determine, in accordance with the IDEA and  
39          regulations, whether the requirements of subsections (E)(7)(a) through (i) are required for a  
40          student's re-evaluation.
  
- 41          **F. Parental Consent.**
  
- 42           1. A public education agency shall obtain informed written consent from the parent of the child with  
43           a disability before the initial provision of special education and related services to the child.

- 1           2. If the parent of a child fails to respond to a request for, or refuses to consent to, the initial  
2           provision of special education and related services, the public education agency may not use  
3           mediation or due process procedures in order to obtain agreement or a ruling that the services  
4           may be provided to the child.
  
- 5           3. If the parent of the child refuses to consent to the initial provision of special education and related  
6           services, or the parent fails to respond to a request to provide consent for the initial provision of  
7           special education and related services, the public education agency:  
8           a. Will not be considered to be in violation of the requirement to make available FAPE to the  
9           child because of the failure to provide the child with the special education and related services  
10           for which the parent refuses to or fails to provide consent, and  
11           b. Is not required to convene an IEP Team meeting or develop an IEP in accordance with these  
12           rules.
  
- 13          4. If, at any time subsequent to the initial provision of special education and related services, the  
14          parent of a child revokes consent in writing for the continued provision of special education and  
15          related services, the public education agency:  
16          a. May not continue to provide special education and related services to the child, but shall  
17          provide prior written notice before ceasing the provision of special education and related  
18          services;  
19          b. May not use the mediation procedures or the due process procedures in order to obtain  
20          agreement or a ruling that the services may be provided to the child;  
21          c. Will not be considered to be in violation of the requirement to make FAPE available to the  
22          child because of the failure to provide the child with further special education and related  
23          services; and  
24          d. Is not required to convene an IEP Team meeting or develop an IEP for the child for further  
25          provision of special education and related services.
  
- 26          5. If a parent revokes consent in writing for their child's receipt of special education services after  
27          the child is initially provided special education and related services, the public agency is not  
28          required to amend the child's education records to remove any references to the child's receipt  
29          of special education and related services because of the revocation of consent.  
30
- 31      **G. Individualized Education Program (IEP).**
  
- 32          1. Each public education agency shall establish, implement, and make available to its school-based  
33          personnel and parents written procedures for the development, implementation, review, and  
34          revision of IEPs.
  
- 35          2. Procedures for IEPs shall meet the requirements of the IDEA and its regulations, state statutes  
36          and State Board of Education rules.
  
- 37          3. Procedures shall include the incorporation of Arizona academic standards as adopted by the State  
38          Board of Education into the development of each IEP and address grade-level expectations and  
39          grade-level content instruction.
  
- 40          4. Each IEP of a student with a disability shall be developed in accordance with IDEA and its  
41          regulations, state statutes and State Board of Education rules. If appropriate to meet the needs

1 of a student and to ensure access to the general curriculum, an IEP team may include specially  
2 designed instruction in the IEP that may be delivered in a variety of educational settings by a  
3 general education teacher or other certificated personnel provided that certificated special  
4 education personnel are involved in the planning, progress monitoring and when appropriate, the  
5 delivery of the specially designed instruction.

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

11 6. A meeting of the IEP team shall be conducted to review and revise each student's IEP at least  
12 annually, or more frequently if the student's progress substantially deviates from what was  
13 anticipated. The public education agency shall provide written notice of the meeting to the  
14 parents of the student to ensure that parents have the opportunity to participate in the meeting.  
15 After the annual review, the public education agency and parent may agree not to convene an IEP  
16 team meeting for the purposes of making changes, and instead may develop a written document  
17 to amend or modify the student's current IEP.

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

21 **H. Least Restrictive Environment.**

22 1. Each public education agency shall establish, implement, and make available to its school-based  
23 personnel and parents, written procedures to ensure the delivery of special education services in  
24 the least restrictive environment as identified by IDEA and its regulations, state statutes and State  
25 Board of Education rules.

26 2. A continuum of services and supports for students with disabilities shall be available through each  
27 public education agency.

28 **I. Procedural Safeguards.**

29 1. Each public education agency shall establish, implement, and make available to school-based  
30 personnel and parents of students with disabilities written procedures to ensure children with  
31 disabilities and their parents are afforded the procedural safeguards required by federal statute  
32 and regulation and state statute. These procedures shall include dissemination to parents  
33 information about the public education agency's and state's dispute resolution options.

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

38 **J. Confidentiality.**

- 1        1. Each public education agency shall establish, implement, and make available to its personnel and  
2        parents written policies and procedures to ensure the confidentiality of records and information  
3        in accordance with the IDEA and its regulations, the Family Educational Rights and Privacy Act  
4        (FERPA) and its regulations, and state statutes.
  
- 5        2. Parents shall be fully informed about the requirements of the IDEA and regulations, including an  
6        annual notice of the policies and procedures that the PEA shall follow regarding storage,  
7        disclosure to a third party, retention, and destruction of personally identifiable information.
  
- 8        3. The rights of parents regarding education records are transferred to the student at age 18, unless  
9        the student has been adjudicated incapacitated, or the student has executed a delegation of rights  
10       to make educational decisions pursuant to A.R.S. § 15-773.
  
- 11       4. Upon receiving a written request, each public education agency shall forward special education  
12       records to any other public education agency in which a student has enrolled or is seeking to  
13       enroll. Records shall be forwarded within the time-frame specified in A.R.S. § 15-828(F). The public  
14       education agency shall also forward records to any other person or agency for which the parents  
15       have given signed consent.
  
- 16       **K. Preschool Programs.** Each public education agency responsible for serving preschool children with  
17       disabilities shall establish, implement, and make available to its personnel and parents, written  
18       procedures for:  
19
  - 20       1. The operation of the preschool program, in accordance with federal statute and regulation, and  
21       state statute, that provides a continuum of placements to students;
  - 22       2. The smooth and effective transition from the Arizona Early Intervention Program to a public  
23       school preschool program in accordance with the agreement between the Department of  
24       Economic Security and the Department; and
  - 25       3. The provision of a minimum of 360 minutes per week of instruction in a program that meets at  
26       least 216 hours over the minimum number of days.
  
- 27       **L. Children in Private Schools.** Each education agency shall establish, implement, and make available to  
28       its personnel and parents written procedures regarding the access to special education services to  
29       students enrolled in private schools by their parents as identified by the IDEA and its regulations, state  
30       statutes and State Board of Education rules.
  
- 31       **M. Department Responsible for General Supervision and Obligations Related to and Methods of Ensuring  
32       Services.**
  - 33       1. The Department is responsible for the general supervision of services to children with disabilities  
34       aged 3 through 21 served through a public education agency.
  
  - 35       2. The Department shall ensure through fund allocation, monitoring, dispute resolution, and  
36       technical assistance that all eligible students receive FAPE in conformance with the IDEA and its  
37       regulations, A.R.S. Title 15, Chapter 7, Article 4, and these rules.



1           3. In exercising its general supervision responsibilities, the Department shall ensure that when it  
2 identifies noncompliance with the requirements of the IDEA Part B, the noncompliance is  
3 corrected as soon as possible, and in no case later than one year after the Department's written  
4 notification to the PEA of its identification of the noncompliance.

5 **N. Procedural Requirements Relating to Public Education Agency Eligibility.**

6           1. Each public education agency shall establish eligibility for funding with the Department in  
7 accordance with the IDEA and its regulations, state statutes and with schedules and methods  
8 prescribed by the Department.

9           2. In the event the Department determines that a public education agency does not meet eligibility  
10 for funding requirements, the public education agency has a right to a hearing before such funding  
11 is withheld.

12           3. The Department may suspend payments during any time period when a public education agency  
13 has not corrected deficiencies in eligibility for federal funds as a result of fiscal requirements of  
14 monitoring, auditing, complaint and due process findings.

15           4. Each public education agency shall, on an annual basis, determine the number of children within  
16 each disability category who have been identified, located, evaluated, and/or receiving special  
17 education services. This includes children residing within the boundaries of responsibility of the  
18 public education agency who have been placed by their parents in private schools or who are  
19 home schooled.

20 **O. Public Participation.**

21           1. Each public education agency shall establish, implement, and make available to personnel and  
22 parents written procedures to ensure that, prior to the adoption of any policies and procedures  
23 needed to comply with federal and state statutes and regulations, there are:  
24           a. Public hearings;  
25           b. Notice of the hearings; and  
26           c. An opportunity for comment available to the general public, including individuals with  
27 disabilities and parents of children with disabilities.

28           2. This requirement does not pertain to day-to-day operating procedures.

29 **P. Suspension and Expulsion.**

30           1. Each public education agency shall establish, implement, and make available to personnel and  
31 parents written procedures for the suspension and expulsion of students with disabilities.

32           2. Each public education agency shall require all school-based staff involved in the disciplinary  
33 process to review the policies and procedures related to suspension and expulsion on an annual  
34 basis. The public education agency shall maintain documentation of staff review.

35           3. Procedures for such suspensions and expulsions shall meet the requirements of the IDEA and its  
36 regulations, and state statutes.