

## ASSISTANCE TO STATES FOR THE EDUCATION OF CHILDREN WITH DISABILITIES 34 C.F.R. PART 300

### SUBPART A—GENERAL

#### Purposes and Applicability

**§300.1 Purposes.** The purposes of this part are--

- (a) To ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;
- (b) To ensure that the rights of children with disabilities and their parents are protected;
- (c) To assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities; and
- (d) To assess and ensure the effectiveness of efforts to educate children with disabilities. (Authority: 20 U.S.C. 1400(d))

**§300.2 Applicability of this part to State and local agencies.**

**(a) States.** This part applies to each State that receives payments under Part B of the Act, as defined in §300.4.

**(b) Public agencies within the State.** The provisions of this part--

(1) Apply to all political subdivisions of the State that are involved in the education of children with disabilities, including:

- (i) The State educational agency (SEA).
- (ii) Local educational agencies (LEAs), educational service agencies (ESAs), and public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA.
- (iii) Other State agencies and schools (such as Departments of Mental Health and Welfare and State schools for children with deafness or children with blindness).
- (iv) State and local juvenile and adult correctional facilities; and

(2) Are binding on each public agency in the State that provides special education and related services to children with disabilities, regardless of whether that agency is receiving funds under Part B of the Act.

**(c) Private schools and facilities.** Each public agency in the State is responsible for ensuring that the rights and protections under Part B of the Act are given to children with disabilities--

- (1) Referred to or placed in private schools and facilities by that public agency; or
- (2) Placed in private schools by their parents under the provisions of §300.148. (Authority: 20 U.S.C. 1412)

#### Definitions Used in This Part

**§300.4 Act.** Act means the Individuals with Disabilities Education Act, as amended. (Authority: 20 U.S.C. 1400(a))

**§300.5 Assistive technology device.** Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of that device. (Authority: 20 U.S.C. 1401(1))

**§300.6 Assistive technology service.** Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes--

- (a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
- (b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- (c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

- (d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and
- (f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child. (Authority: 20 U.S.C. 1401(2))

**§300.7 Charter school.** Charter school has the meaning given the term in section 5210(1) of the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. 6301 et seq. (ESEA). (Authority: 20 U.S.C. 7221i(1))

**§300.8 Child with a disability.**

**(a) General.**

(1) Child with a disability means a child evaluated in accordance with §§300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as emotional disturbance), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(2)

(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.

(ii) If, consistent with §300.38(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.

**(b) Children aged three through nine experiencing developmental delays.** Child with a disability for children aged three through nine (or any subset of that age range, including ages three through five), may, subject to the conditions described in §300.111(b), include a child--

(1) Who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(2) Who, by reason thereof, needs special education and related services.

**(c) Definitions of disability terms.** The terms used in this definition of a child with a disability are defined as follows:

(1) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

(i) Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in paragraph (c)(4) of this section.

(ii) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in paragraph (c)(1)(i) of this section are satisfied.

(2) Deaf-blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

(3) Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's educational performance.

(4)

(i) Emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(C) Inappropriate types of behavior or feelings under normal circumstances.

(D) A general pervasive mood of unhappiness or depression.

(E) A tendency to develop physical symptoms or fears associated with personal or school problems.

(ii) Emotional disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance under paragraph (c)(4)(i) of this section.

**§300.9 Consent.** Consent means that--

- (a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
- (b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
- (c)
  - (1) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime.
  - (2) If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked). (Authority: 20 U.S.C. 1414(a)(1)(D))

**§300.10 Core academic subjects.** Core academic subjects means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. (Authority: 20 U.S.C. 1401(4))

**§300.11 Day; business day; school day.**

- (a) Day means calendar day unless otherwise indicated as business day or school day.
- (b) Business day means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day, as in §300.148(c)(1)(ii)).
- (c)
  - (1) School day means any day, including a partial day, that children are in attendance at school for instructional purposes.
  - (2) School day has the same meaning for all children in school, including children with and without disabilities. (Authority: 20 U.S.C. 1221e-3)

**§300.12 Educational service agency.** Educational service agency means--

- (a) A regional public multiservice agency--
  - (1) Authorized by State law to develop, manage, and provide services or programs to LEAs;
  - (2) Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State;
- (b) Includes any other public institution or agency having administrative control and direction over a public elementary school or secondary school; and
- (c) Includes entities that meet the definition of intermediate educational unit in section 602(23) of the Act as in effect prior to June 4, 1997. (Authority: 20 U.S.C. 1401(5))

**§300.13 Elementary school.** Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law. (Authority: 20 U.S.C. 1401(6))

**§300.14 Equipment.** Equipment means--

- (a) Machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house the machinery, utilities, or equipment; and
- (b) All other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials. (Authority: 20 U.S.C. 1401(7))

**§300.15 Evaluation.** Evaluation means procedures used in accordance with §§300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. (Authority: 20 U.S.C. 1414(a)-(c))

**§300.16 Excess costs.** Excess costs means those costs that are in excess of the average annual per-student expenditure in an LEA during the preceding school year for an elementary school or secondary school student, as may be appropriate, and that must be computed after deducting--

- (a) Amounts received--
  - (1) Under Part B of the Act;
  - (2) Under Part A of title I of the ESEA; and
  - (3) Under Parts A and B of title III of the ESEA and;

(b) Any State or local funds expended for programs that would qualify for assistance under any of the parts described in paragraph (a) of this section, but excluding any amounts for capital outlay or debt service. (See Appendix A to part 300 for an example of how excess costs must be calculated.) (Authority: 20 U.S.C. 1401(8))

**§300.17 Free appropriate public education.** Free appropriate public education or FAPE means special education and related services that--

- (a) Are provided at public expense, under public supervision and direction, and without charge;
- (b) Meet the standards of the SEA, including the requirements of this part;
- (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and
- (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§300.320 through 300.324. (Authority: 20 U.S.C. 1401(9))

**§300.17. Highly qualified special education teachers.**

**(a) Requirements for special education teachers teaching core academic subjects.** For any public elementary or secondary school special education teacher teaching core academic subjects, the term highly qualified has the meaning given the term in section 9101 of the ESEA and 34 CFR 200.56, except that the requirements for highly qualified also--

- (1) Include the requirements described in paragraph (b) of this section; and
- (2) Include the option for teachers to meet the requirements of section 9101 of the ESEA by meeting the requirements of paragraphs (c) and (d) of this section.

**(b) Requirements for highly qualified special education teachers in general.**

(1) When used with respect to any public elementary school or secondary school special education teacher teaching in a State, highly qualified requires that--

- (i) The teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, highly qualified means that the teacher meets the certification or licensing requirements, if any, set forth in the State's public charter school law;
- (ii) The teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
- (iii) The teacher holds at least a bachelor's degree.

(2) A teacher will be considered to meet the standard in paragraph (b)(1)(i) of this section if that teacher is participating in an alternative route to special education certification program under which--

- (i) The teacher--
  - (A) Receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teaching;
  - (B) Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program;
  - (C) Assumes functions as a teacher only for a specified period of time not to exceed three years; and
  - (D) Demonstrates satisfactory progress toward full certification as prescribed by the State; and
- (ii) The State ensures, through its certification and licensure process, that the provisions in paragraph (b)(2)(i) of this section are met.

(3) Any public elementary school or secondary school special education teacher teaching in a State, who is not teaching a core academic subject, is highly qualified if the teacher meets the requirements in paragraph (b)(1) or the requirements in (b)(1)(iii) and (b)(2) of this section.

**(c) Requirements for special education teachers teaching to alternate achievement standards.** When used with respect to a special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards established under 34 CFR 200.1(d), highly qualified means the teacher, whether new or not new to the profession, may either--

- (1) Meet the applicable requirements of section 9101 of the ESEA and 34 CFR 200.56 for any elementary, middle, or secondary school teacher who is new or not new to the profession; or
- (2) Meet the requirements of paragraph (B) or (C) of section 9101(23) of the ESEA as applied to an elementary school teacher, or, in the case of instruction above the elementary level, meet the requirements of paragraph (B) or (C) of section 9101(23) of the ESEA as applied to an elementary school teacher and have subject matter knowledge appropriate to the level of instruction being provided and needed to effectively teach to those standards, as determined by the State.

**(d) Requirements for special education teachers teaching multiple subjects.** Subject to paragraph (e) of this section, when used with respect to a special education teacher who teaches two or more core academic subjects exclusively to children with disabilities, highly qualified means that the teacher may either--

- (1) Meet the applicable requirements of section 9101 of the ESEA and 34 CFR 200.56(b) or (c);
- (2) In the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher who is not new to the profession under 34 CFR 200.56(c) which may include a single, high objective uniform State standard of evaluation (HOUSSE) covering multiple subjects; or
- (3) In the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate, not later than two years after the date of employment, competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher under 34 CFR 200.56(c), which may include a single HOUSSE covering multiple subjects.

**(e) Separate HOUSSE standards for special education teachers.** Provided that any adaptations of the State's HOUSSE would not establish a lower standard for the content knowledge requirements for special education teachers and meets all the requirements for a HOUSSE for regular education teachers--

- (1) A State may develop a separate HOUSSE for special education teachers; and
- (2) The standards described in paragraph (e)(1) of this section may include single HOUSSE evaluations that cover multiple subjects.

**(f) Rule of construction.** Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this part shall be construed to create a right of action on behalf of an individual student or class of students for the failure of a particular SEA or LEA employee to be highly qualified, or to prevent a parent from filing a complaint under §§300.151 through 300.153 about staff qualifications with the SEA as provided for under this part.

**(g) Applicability of definition to ESEA; and clarification of new special education teacher.**

- (1) A teacher who is highly qualified under this section is considered highly qualified for purposes of the ESEA.
- (2) For purposes of §300.18(d)(3), a fully certified regular education teacher who subsequently becomes fully certified or licensed as a special education teacher is a new special education teacher when first hired as a special education teacher.

**(h) Private school teachers not covered.** The requirements in this section do not apply to teachers hired by private elementary schools and secondary schools including private school teachers hired or contracted by LEAs to provide equitable services to parentally-placed private school children with disabilities under §300.138. (Authority: 20 U.S.C. 1401(10))

**§300.19 Homeless children.** Homeless children has the meaning given the term homeless children and youths in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 et seq. (Authority: 20 U.S.C. 1401(11))

**§300.20 Include.** Include means that the items named are not all of the possible items that are covered, whether like or unlike the ones named. (Authority: 20 U.S.C. 1221e-3)

**§300.21 Indian and Indian tribe.**

- (a) Indian means an individual who is a member of an Indian tribe.
- (b) Indian tribe means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq.). (Authority: 20 U.S.C. 1401(12) and (13))
- (c) Nothing in this definition is intended to indicate that the Secretary of the Interior is required to provide services or funding to a State Indian tribe that is not listed in the Federal Register list of Indian entities recognized as eligible to receive services from the United States, published pursuant to Section 104 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a-1. (Authority: 20 U.S.C. 1401(12) and (13))

**§300.22 Individualized education program.** Individualized education program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with §§300.320 through 300.324. (Authority: 20 U.S.C. 1401(14))

**§300.23 Individualized education program team.** Individualized education program team or IEP Team means a group of individuals described in §300.321 that is responsible for developing, reviewing, or revising an IEP for a child with a disability. (Authority: 20 U.S.C. 1414(d)(1)(B))

§300.24 Individualized family service plan. Individualized family service plan or IFSP has the meaning given the term in section 636 of the Act. (Authority: 20 U.S.C. 1401(15))

**§300.25 Infant or toddler with a disability.** Infant or toddler with a disability--

- (a) Means an individual under three years of age who needs early intervention services because the individual--
- (1) Is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or
  - (2) Has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay; and
- (b) May also include, at a State's discretion--
- (1) At-risk infants and toddlers; and
  - (2) Children with disabilities who are eligible for services under section 619 and who previously received services under Part C of the Act until such children enter, or are eligible under State law to enter, kindergarten or elementary school, as appropriate, provided that any programs under Part C of the Act serving such children shall include--
    - (i) An educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills; and
    - (ii) A written notification to parents of their rights and responsibilities in determining whether their child will continue to receive services under Part C of the Act or participate in preschool programs under section 619.(Authority: 20 U.S.C. 1401(16) and 1432(5))

**§300.26 Institution of higher education.** Institution of higher education--

- (a) Has the meaning given the term in section 101 of the Higher Education Act of 1965, as amended, 20 U.S.C. 1021 et seq. (HEA); and
- (b) Also includes any community college receiving funds from the Secretary of the Interior under the Tribally Controlled Community College or University Assistance Act of 1978, 25 U.S.C. 1801, et seq. (Authority: 20 U.S.C. 1401(17))

**§300.27 Limited English proficient.** Limited English proficient has the meaning given the term in section 9101(25) of the ESEA. (Authority: 20 U.S.C. 1401(18))

**§300.28 Local educational agency.**

- (a) **General.** Local educational agency or LEA means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.
- (b) **Educational service agencies and other public institutions or agencies.** The term includes--
- (1) An educational service agency, as defined in §300.12; and
  - (2) Any other public institution or agency having administrative control and direction of a public elementary school or secondary school, including a public charter school that is established as an LEA under State law.
- (c) **BIA funded schools.** BIA funded schools include an elementary school or secondary school funded by the Bureau of Indian Affairs, and not subject to the jurisdiction of any SEA other than the Bureau of Indian Affairs, but only to the extent that the inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the Act with the smallest student population. (Authority: 20 U.S.C. 1401(19))

**§300.29 Native language.**

- (a) Native language, when used with respect to an individual who is limited English proficient, means the following:
- (1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (a)(2) of this section.
  - (2) In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.
- (b) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication). (Authority: 20 U.S.C. 1401(20))

**§300.30 Parent.**

- (a) Parent means--

- (1) A biological or adoptive parent of a child;
  - (2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
  - (3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
  - (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
  - (5) A surrogate parent who has been appointed in accordance with §300.519 or section 639(a)(5) of the Act.
- (b)
- (1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.
  - (2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this section. (Authority: 20 U.S.C. 1401(23))

**§300.31. Parent training and information center.** Parent training and information center means a center assisted under sections 671 or 672 of the Act. (Authority: 20 U.S.C. 1401(25))

**§300.32 Personally identifiable.** Personally identifiable means information that contains--

- (a) The name of the child, the child's parent, or other family member;
- (b) The address of the child;
- (c) A personal identifier, such as the child's social security number or student number; or
- (d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty. (Authority: 20 U.S.C. 1415(a))

**§300.33 Public agency.** Public agency includes the SEA, LEAs, ESAs, nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and any other political subdivisions of the State that are responsible for providing education to children with disabilities. (Authority: 20 U.S.C. 1412(a)(11))

**§300.34 Related services.**

**(a) General.** Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

**(b) Exception; services that apply to children with surgically implanted devices, including cochlear implants.**

- (1) Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.
- (2) Nothing in paragraph (b)(1) of this section—
  - (i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be necessary for the child to receive FAPE.
  - (ii) Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or
  - (iii) Prevents the routine checking of an external component of a surgically-implanted device to make sure it is functioning properly, as required in §300.113(b).

**(c) Individual related services terms defined.** The terms used in this definition are defined as follows:

- (1) Audiology includes--
  - (i) Identification of children with hearing loss;
  - (ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

- (iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;
  - (iv) Creation and administration of programs for prevention of hearing loss;
  - (v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and
  - (vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.
- (2) Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.
- (3) Early identification and assessment of disabilities in children means the implementation of a formal plan for identifying a disability as early as possible in a child's life.
- (4) Interpreting services includes--
- (i) The following, when used with respect to children who are deaf or hard of hearing: Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and
  - (ii) Special interpreting services for children who are deaf-blind.
- (5) Medical services means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.
- (6) Occupational therapy --
- (i) Means services provided by a qualified occupational therapist; and
  - (ii) Includes--
    - (A) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;
    - (B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and
    - (C) Preventing, through early intervention, initial or further impairment or loss of function.
- (7) Orientation and mobility services --
- (i) Means services provided to blind or visually impaired children by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and
  - (ii) Includes teaching children the following, as appropriate:
    - (A) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);
    - (B) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;
    - (C) To understand and use remaining vision and distance low vision aids; and
    - (D) Other concepts, techniques, and tools.
- (8)(i) Parent counseling and training means assisting parents in understanding the special needs of their child;
- (ii) Providing parents with information about child development; and
  - (iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.
- (9) Physical therapy means services provided by a qualified physical therapist.
- (10) Psychological services includes--
- (i) Administering psychological and educational tests, and other assessment procedures;
  - (ii) Interpreting assessment results;
  - (iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
  - (iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
  - (v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and
  - (vi) Assisting in developing positive behavioral intervention strategies.
- (11) Recreation includes--
- (i) Assessment of leisure function;
  - (ii) Therapeutic recreation services;
  - (iii) Recreation programs in schools and community agencies; and
  - (iv) Leisure education.
- (12) Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services

provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq.

(13) School health services and school nurse services means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

(14) Social work services in schools includes--

- (i) Preparing a social or developmental history on a child with a disability;
- (ii) Group and individual counseling with the child and family;
- (iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
- (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
- (v) Assisting in developing positive behavioral intervention strategies.

(15) Speech-language pathology services includes--

- (i) Identification of children with speech or language impairments;
- (ii) Diagnosis and appraisal of specific speech or language impairments;
- (iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
- (iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and
- (v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.

(16) Transportation includes--

- (i) Travel to and from school and between schools;
- (ii) Travel in and around school buildings; and
- (iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability. (Authority: 20 U.S.C. 1401(26))

**§300.35 Scientifically based research.** Scientifically based research has the meaning given the term in section 9101(37) of the ESEA. (Authority: 20 U.S.C. 1411(e)(2)(C)(xi))

**§300.36 Secondary school.** Secondary school means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12. (Authority: 20 U.S.C. 1401(27))

**§300.37 Services plan.** Services plan means a written statement that describes the special education and related services the LEA will provide to a parentally-placed child with a disability enrolled in a private school who has been designated to receive services, including the location of the services and any transportation necessary, consistent with §300.132, and is developed and implemented in accordance with §§300.137 through 300.139. (Authority: 20 U.S.C. 1412(a)(10)(A))

**§300.38 Secretary.** Secretary means the Secretary of Education. (Authority: 20 U.S.C. 1401(28))

**§300.39 Special education.**

**(a) General.**

(1) Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including--

- (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
- (ii) Instruction in physical education.

(2) Special education includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section--

- (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;
- (ii) Travel training; and
- (iii) Vocational education.

**(b) Individual special education terms defined.** The terms in this definition are defined as follows:

(1) At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

- (2) Physical education means--
- (i) The development of--
    - (A) Physical and motor fitness;
    - (B) Fundamental motor skills and patterns; and
    - (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and
  - (ii) Includes special physical education, adapted physical education, movement education, and motor development.
- (3) Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction--
- (i) To address the unique needs of the child that result from the child's disability; and
  - (ii) To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children.
- (4) Travel training means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to--
- (i) Develop an awareness of the environment in which they live; and
  - (ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).
- (5) Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.
- (6) Vocational and technical education means organized educational activities that--
- (i) Offer a sequence of courses that--
    - (A) Provides individuals with the rigorous and challenging academic and technical knowledge and skills the individuals need to prepare for further education and for careers (other than careers requiring a Master's or doctoral degree) in current or emerging employment sectors;
    - (B) May include the provision of skills or courses necessary to enroll in a sequence of courses that meet the requirements of this subparagraph; and
    - (C) Provides, at the postsecondary level, for a 1- year certificate, an associate degree, or industry-recognized credential; and
  - (ii) Include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, or an individual. (Authority: 20 U.S.C. 1401(29))

**§300.40 State.** State means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas. (Authority: 20 U.S.C. 1401(31))

**§300.41 State educational agency.** State educational agency or SEA means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law. (Authority: 20 U.S.C. 1401(32))

**§300.42. Supplementary aids and services.** Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§300.114 through 300.116. (Authority: 20 U.S.C. 1401(33))

**§300.43. Transition services.**

- (a) Transition services means a coordinated set of activities for a child with a disability that--
- (1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
  - (2) Is based on the individual child's needs, taking into account the child's strengths, preferences and interests; and includes--
    - (i) Instruction;
    - (ii) Related services;
    - (iii) Community experiences;

(iv) The development of employment and other post-school adult living objectives; and

(v) If appropriate, acquisition of daily living skills and functional vocational evaluation.

(b) Transition services for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education. (Authority: 20 U.S.C. 1401(34))

**§300.44. Universal design.** Universal design has the meaning given the term in section 3 of the Assistive Technology Act of 1998, as amended, 29 U.S.C. 3002. (Authority: 20 U.S.C. 1401(35))

**§300.45 Ward of the State.**

**(a) General.** Subject to paragraph (b) of this section, ward of the State means a child who, as determined by the State where the child resides, is--

(1) A foster child;

(2) A ward of the State; or

(3) In the custody of a public child welfare agency.

**(b) Exception.** Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent in §300.30. (Authority: 20 U.S.C. 1401(36))

**END OF SUBPART A**