

Cien Aguas International School

**Policies and Procedures for the Provision of Special
Education Services for Students with Disabilities and
Gifted Students**

Chapter 1. – CHILD FIND / INTERVENTIONS



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Chapter 1. – CHILD FIND / INTERVENTIONS

I. CHILD FIND RESPONSIBILITIES

Authority: 34 CFR §300.111 Child find.

(a) General.

(1) The NMPED ensures that--

- (i) All children with disabilities residing in New Mexico, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and**
- (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.**

(b) Use of term developmental delay.

The following provisions apply with respect to implementing the child find requirements of this section:

(1) The NMPED has adopted a definition of developmental delay under §300.8(b).

(2) The NMPED will not require **Cien Aguas International School to adopt and use the term developmental delay for any children within its jurisdiction.**

(3) If **Cien Aguas International School uses the term developmental delay for children described in §300.8(b), **Cien Aguas International School** will conform to both the State's definition of that term and to the age range that has been adopted by the NMPED. *(See I. B. for Cien Aguas International School decision on developmentally delayed)***

(c) Other children in child find. Child find also will include--

- (1) Children who are suspected of being a “child with a disability” under §300.8 and in need of special education, even though they are advancing from grade to grade; and**
- (2) Highly mobile children, including migrant children.**

Authority: 34 CFR §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.* Cien Aguas International School will comply with Child Find requirements for these students.

Cien Aguas International School will appoint a surrogate parent (*Chapter 2.-Procedural Safeguards*) for an unaccompanied homeless child. A homeless child includes an individual who lacks a fixed, regular, and adequate nighttime residence or includes:

- children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
- children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of 42 U.S.C. §11302(a)(2)(C));
- children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- migratory children (as such term is defined in 20 U.S.C. §6399) who qualify as homeless for the purposes of this part because the children are living in circumstances described above.

A. Child Find - General Requirements for all Special Education students, including Gifted Students

Authority: NMAC 6.31.2.10 IDENTIFICATION

§§300.111, 300.131, 300.301-306 and these or other department rules and standards. For preschool children, child find screenings shall serve as interventions under Subsection B of 6.31.2.10 NMAC.

Cien Aguas International School will disseminate information to the community concerning services offered to all individuals with disabilities and maintain records of efforts that may include:

1. *Providing information regarding availability of screenings and other services through the school office mailings, brochures, and other print media;*
2. *Participating in a network of public information dissemination to assist with locating highly mobile and migrant children, which includes contacting other agencies, day care facilities, community public locations such as doctor offices, hospitals, laundry facilities, and facilities providing services to students with disabilities;*
3. *Providing Child Find information to local private schools and discussing with private school officials regarding the MLSS process;*
4. *Reviewing this process on a yearly basis, updating staff about on-going "Child Find" activities implemented in the community;*
5. *Maintaining confidentiality of all personally identifiable information used and collected in this system in the same manner that Special Education records are maintained;*
6. *Maintaining documentation of all Child Find activities including the dates of each activity and the results of each activity; and*
7. *Training appropriate staff for maintaining the documentation of all Child Find activities located in Cien Aguas International School.*
8. *Annual screening will be performed by qualified Cien Aguas International School personnel and may include:*
 - *general health screening, including social/behavioral health*
 - *vision screening performed to verify indicators of loss of sight, acuity, or other possible vision related problems;*
 - *hearing screening to verify any hearing risk indicators;*
 - *speech and language screening to verify problems in the formulation or articulation of speech or any delay in the development of language;*
 - *screening for home language*
 - *academic screening for school age children to determine the significance of academic delays; and*
 - *screening for secondary level students who are at-risk of dropping out, or who have dropped out, to verify that the reasons for dropping out are not related to a previously unidentified disability.*

All screenings and evaluations resulting from child find activities are free to parents.

B. Child Find - Developmentally Delayed

Authority: NMAC 6.31.2.7 DEFINITIONS B. (4.) (See also Chapter

Authority: NMAC §6.31.2.10 IDENTIFICATION AND ELIGIBILITY DETERMINATIONS

F. Eligibility determinations.

- (a) The developmentally delayed classification may be used at the option of individual local education agencies but may only be used for children who do not qualify for special education under any other disability category.
- (b) Children who are classified as developmentally delayed must be reevaluated during the school year in which they turn 9 and will no longer be eligible in this category when they become 10. A student who does not qualify under any other available category at age 10 will no longer be eligible for special education and related services. §6.31.2.10 NMAC.
(More information on disabilities may be found in Chapter 4)

II. CHILD FIND - AGES

§300.101 Free appropriate public education (FAPE). *(See also Chapter 8 General Administration)*

(b) FAPE for children beginning at age 3.

(1) The NMPED ensures that—

- (i) FAPE is available to each eligible child residing in New Mexico beginning no later than the child's third birthday; and**
- (ii) An IEP or an IFSP is in effect for the child by that date, in accordance with §300.323(b).**

(2) If a child's third birthday occurs during the summer, the child's IEP Team will determine the date when services under the IEP or IFSP will begin.

Authority: NMSA 1978 Sec. 22-13-5 Special education.

Cien Aguas International School will provide special education and related services appropriate to meet the needs of all children requiring special education and related services.

Authority: NMAC 6.31.2.7 DEFINITIONS:

B. The following terms shall have the following meanings for purposes of these rules.

- (2) "Child with a disability" means a child who meets all requirements of 34 CFR §300.8 and who:
 - (a) is aged 3 through 21 or will turn 3 at any time during the school year;
 - (b) has been evaluated in accordance with 34 CFR §§300.304-300.311 and any additional requirements of these or other public education department rules and standards and as having one or more of the disabilities specified in 34 CFR §300.8 including intellectual disability, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, emotional disturbance, orthopedic impairment, autism, traumatic brain injury, and other health impairment, a specific learning disability, deaf blindness, or being developmentally delayed as defined in paragraph (4) below; and who has not received a high school diploma; and
 - (c) at the discretion of each local educational agency and subject to the additional requirements of Paragraph (2) of Subsection F of 6.31.2.10 NMAC, the term "child with a disability" may include a child aged 3 through 9 who is evaluated as being developmentally delayed and who, because of that condition, needs special education and related services. *(See section I. B. Developmentally Delayed in this Chapter: 1. Child Find / Interventions)*
- (4) "Developmentally delayed" means a child aged 3 through 9 or who will turn 3 at any time during the school year: with documented delays in development which are at least two standard deviations below the mean on a standardized test instrument or 30 per cent below chronological age; and who in the professional judgment of the IEP team and one or more qualified evaluators needs special education and related services in at least one of the following five areas: communication development, cognitive development, physical development, social or emotional development or adaptive development. Use of the developmentally delayed option by individual local educational agencies is subject to the further requirements of Paragraph (2) of Subsection F of 6.31.2.10 NMAC. Local education agencies must use appropriate diagnostic instruments and procedures to ensure that the child qualifies as a child with a developmental delay in accordance with the definition in this paragraph. *(See also Chapter 2 and 3)*

III. REFERRALS FOR SPECIAL EDUCATION EVALUATION

Authority: 34 CFR §300.301 Initial evaluations.

- (a) **Request for initial evaluation.** Consistent with the consent requirements in §300.300, either a parent of a child, or a staff person with **Cien Aguas International School**, may initiate a request for an initial evaluation to determine if the child is a child with a disability.

Authority: 34 CFR §300.309 Determining the existence of a specific learning disability.

- (b) **To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group will consider, as part of the evaluation described in §§300.304 through 300.306, data that demonstrates that—**
- (1) **Prior to, or as a part of the referral process, the child was provided appropriate instruction delivered by qualified personnel; and**
 - (2) **Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.**

All referrals for evaluation to the special education department will go through the SAT process in order to document appropriate interventions and strategies. In the case of a Child Find student who is clearly a student with a disability and is in need of special education services, the SAT may refer to the Special Education Eligibility Determination Team (EDT) for evaluation. All procedural safeguards including Notice and Consent for Evaluation must be provided to the parent or adult student as described in Chapter 2. Procedural Safeguards.

IV. TIMELINE – REFERRAL TO EVALUATION

Authority: 34 CFR §300.301 Initial evaluations.

- (a) **General.** The local education agency will conduct a full and individual initial evaluation, in accordance with §§300.305 and 300.306, before the initial provision of special education and related services to a child with a disability under this part.
- (b) **Request for initial evaluation.** Consistent with the consent requirements in §300.300, either a parent of a child, or LEA, may initiate a request for an initial evaluation to determine if the child is a child with a disability.
- (c) **Procedures for initial evaluation.** The initial evaluation—
- (1) (i) **Will be conducted within 60 days of receiving parental consent for the evaluation;**
 - (2) **Will consist of procedures—**
 - (i) **To determine if the child is a child with a disability under §300.8; and**
 - (ii) **To determine the educational needs of the child.**
- (d) **Exception.** The time frame described in paragraph I(1) of this section shall not apply to **Cien Aguas International School** if—
- (1) **The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or**
 - (2) **A child enrolls in a school of another public agency after the relevant time frame in paragraph I(1) of this section has begun, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability under §300.8.**
- (e) **The exception in paragraph (d)(2) of this section applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed.**

Authority: NMAC 6.31.2.10 IDENTIFICATION, EVALUATIONS AND ELIGIBILITY DETERMINATIONS

- D. Evaluations and reevaluations
- (1) Initial evaluations

- (d) Exception to the 60-day time frame. The requirements of this subsection do not apply:
 - (i) if the parent of a child repeatedly fails or refuses to produce the child for the evaluation; or
 - (ii) if the child enrolls in a school of another LEA after the 60-day time frame in this subsection has begun, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability under 34 CFR §300.8.
- (e) The exception to the 60 day time frame in Item (ii) of Subparagraph (d) of Paragraph (1) of Subsection D of 6.31.2.10 NMAC applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed.

V. SPECIAL EDUCATION DEPARTMENT RESPONSIBILITIES

A. SAT Referral Packet - Data Collected

34 CFR §300.309 Determining the existence of a specific learning disability.

- (c) **Cien Aguas International School** must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes described in §§300.301 and 300.303, unless extended by mutual written agreement of the child's parents and a group of qualified professionals, as described in §300.306(1)(1)--

§300.301 Initial evaluations.

- (a) **General.**
- (b) **Request for initial evaluation.** Consistent with the consent requirements in §300.300, either a parent of a child, or Cien Aguas International School, may initiate a request for an initial evaluation to determine if the child is a child with a disability.
- (c) **Procedures for initial evaluation.** The initial evaluation—
 - (1) (i) Must be conducted **within 60 days of receiving parental consent** for the evaluation; or

Authority: NMAC 6.31.2.10 IDENTIFICATION, EVALUATIONS AND ELIGIBILITY DETERMINATIONS

D. Evaluations and reevaluations

(1) Initial evaluations

(c) Procedures for initial evaluation.

- (iii) **Cien Aguas International School** shall maintain a record of the receipt, processing and disposition of any referral for an individualized evaluation. All appropriate evaluation data, including complete SAT file documentation and summary reports from all individuals evaluating the child shall be reported in writing for presentation to the eligibility determination team.
- (iv) A parent may request an initial special education evaluation at any time during the SAT process. If Cien Aguas International School agrees with the parent that the child may be a child who is eligible for special education services, Cien Aguas International School must evaluate the child. If Cien Aguas International School declines the parent's request for an evaluation, Cien Aguas International School must issue prior written notice in accordance with 34CFR Sec. 300.503. The parent can challenge this decision by requesting a due process hearing.

Authority: NMAC 6.31.2.13 ADDITIONAL RIGHTS - D. Notice requirements and F. Parental consent You will find Notice and Consent for Evaluation in Chapter 2 Procedural Safeguards.

You will find the Invitation to the IEP meeting in Chapter 5 - IEP and Chapter 2 - Procedural Safeguards.

Cien Aguas International School diagnosticians will complete the required Procedural Safeguards notice Parent and Student Rights in Special Education, provide Notice of Evaluation and obtain parental Consent for Evaluation using necessary forms that incorporate all of the federal and state requirements.

B. Multidisciplinary Team or Eligibility Determination Team Evaluation Conducted

The professional group (including input from the parent) will review the evaluation as described in Chapter 3 - Evaluation and Chapter 4 – Disabilities/Gifted. When *Cien Aguas International School* evaluation team has determined the child is a child with a disability and an IEP Team meeting is needed, the parent will be invited to attend an IEP meeting using appropriate forms addressing required federal and state elements. Based on the evaluation, the child may have been determined to be a gifted student and need an IEP Team meeting to determine appropriate special education services.

C. Timeline from Evaluation to IEP Meeting:

Cien Aguas International School will provide a written parent invitation to the IEP meeting when the group has determined the child is a child with a disability and an IEP meeting is needed. The meeting will be arranged at a mutually agreeable time. The school principal / special education director will designate the person responsible for scheduling the IEP meeting with the parent and other required members. The specific requirements for the invitation to the IEP meeting are found in Chapter 2 Procedural Safeguards. Required members are found in Chapter 5 – IEP.

D. Timeline from Evaluation to IEP Meeting:

Authority: 34CFR §300.323 When IEPs must be in effect.

- (c) Initial IEPs; provision of services. **Cien Aguas International School** ensures that—
- (1) A meeting to develop an IEP for a child is conducted within 30-days of a determination that the child needs special education and related services; and
 - (2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.
- As soon as possible is defined by Cien Aguas International School to be within 5 school days of the IEP meeting, the student will be receiving required services as determined by the IEP Team.*

See also Chapter 5 – IEP

E. Transfers from Outside the District – already in Special Education

For students who are new to *Cien Aguas International School* and have received special education services in the student's previous school district, regular SAT referral procedures are bypassed. Procedures to be followed are included in Chapter 5. – IEP within the Transfer section.

VI. REFERRALS FOR SPECIFIC AREAS:

Any evaluation of an existing special education student is NOT a referral and does not include the SAT committee. Any evaluation of an existing special education student is a reevaluation and should follow all requirements of §300.305 found in Chapter 3-Evaluations.

A. Adapted Physical Education

The SAT may include a request for a physical education evaluation upon initial referral. However, students already receiving special education services will have an IEP Team or the EDT make a request for an adapted / special PE evaluation to determine if specially designed physical education is required for the student.

Authority: 34 CFR §300.108 Physical education.

The NMPED ensures that **Cien Aguas International School** will comply with the following:

- (a) **General.** Physical education services, specially designed if necessary, will be made available to every child with a disability receiving FAPE, unless **Cien Aguas International School** enrolls children without disabilities and does not provide PE to children without disabilities in the same grades.
- (b) **Regular physical education.** Each child with a disability will be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless—
 - (1) The child is enrolled full time in a separate facility; or
 - (2) The child needs specially designed physical education, as prescribed in the child's IEP.
- (c) **Special physical education.** If specially designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child will provide the services directly or make arrangements for those services to be provided through other public or private programs.
- (d) **Education in separate facilities.** If **Cien Aguas International School** is responsible for the education of a child with a disability who is enrolled in a separate facility, the child will receive appropriate physical education services in compliance with this section.

[Authority: 20 U.S.C. §1412(a)(5)(A)]

B. Assistive Technology Team

The SAT is not necessary for the assistive technology consideration. The need for assistive technology will be considered in each full and individual evaluation conducted by the special education department.

(For more information see also FIE Chapter 3 and IEP Chapter 5)

Authority: 34 CFR §300.105 Assistive technology.

- (a) **Cien Aguas International School** must ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in §§300.5 and 300.6, respectively, are made available to a child with a disability if required as a part of the child's—
 - (1) Special education under §300.36;
 - (2) Related services under §300.34; or
 - (3) Supplementary aids and services under §§300.38 and 300.114(a)(2)(ii).
- (b) On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP Team determines that the child needs access to those devices in order to receive FAPE. (Authority: 20 U.S.C. §§1412(a)(1), 1412(a)(12)(B)(i))

B Homebound Instructional Services

The SAT may include a request for an evaluation upon initial referral for homebound services. However, students already receiving special education services will receive a request for homebound services from the IEP committee. (For more information see also Chapter 3. - Evaluation and Chapter 5. - IEP and Chapter 6. - LRE)

C Limited English Proficient (LEP) Culturally and Linguistically Diverse (CLD)

(For more information see also Full and Individual Evaluation (FIE) Chapter 3)

Authority: 34 CFR §300.306 Determination of eligibility.

- (b) Special rule for eligibility determination. A child must not be determined to be a child with a disability under this part-
 - (1) If the determinant factor for that determination is--
 - (i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA); *(for ESEA see Chapter 3.- Evaluation)*
 - (ii) Lack of instruction in math; or
 - (iii) Limited English proficiency; and
 - (2) If the child does not otherwise meet the eligibility criteria under §300.8(a).

Authority: NMAC §6.31.2.10 IDENTIFICATION, EVALUATIONS AND ELIGIBILITY

DETERMINATIONS

E. Procedural requirements for the assessment and evaluation of culturally and linguistically diverse children.

(3) **Cien Aguas International School** must consider information about a child's language proficiency in determining how to conduct the evaluation of the child to prevent misidentification. A child may not be determined to be a child with a disability if the determinant factor for that eligibility determination is limited English proficiency. Comparing academic achievement results of grade level peers in **Cien Aguas International School** with similar cultural and linguistic backgrounds should guide this determination process and ensure that the child is exhibiting the characteristics of a disability and not merely language difference in accordance with 34 CFR §300.306(b)(1).

Family

- Priorities, strengths, and concerns for their child have been identified.
- General cultural values, beliefs, and practices have been identified.
- Language use in the home and community has been identified.
- Exposure and use of first (L1) and second language (L2) has been described.

Child

- World view assessed (Is the child demonstrating cultural values, behaviors and language abilities different from that of his/her parents?)
- Language dominance identified.
- Exposure and use of first (L1) and second language (L2) has been described.
- Developmental strengths, emerging skills, and needs identified (screening, parent report, observation, etc.).

Considerations of Learning Difficulties (From Barrera, I., 1995)

- Loss of competence and self-confidence stemming from shaming and unfamiliarity with communicative strategies, behaviors and expectations within an early childhood setting.
- Limited English Proficiency.
- Diversity in funds of knowledge (Culturally Specific Learning).

Early Developmental Opportunities (Adapted from Barrera, I., 1995)

- There is consistent positive emotional support from one or more adults within the home/family setting.
- Regular opportunities to play however that is defined by a group.
- There are opportunities for safe exploration of the child's surrounding environment.
- Positive mentoring interactions with adults, siblings, and other individuals for the purpose of teaching about future roles and responsibilities are evident.
- Freedom from overwhelming trauma.

Poverty (From Barrera, I., 1995)

- Evidence of family income.
- Family size compared to income.
- Educational levels of parents.
- Occupation of parents.
- Participation in school lunch program.
- Evidence of need for outside assistance (e.g., welfare assistance)
- Stability of living conditions (e.g., mobility, change in caregivers)
- Degree of access to extended family and larger community.

Note: If it is determined by the early childhood referral team that one, or a combination of the previously mentioned variables and considerations, is the primary reason for concern, the Student Assistance Team members must look for other family/child supports in the community.

c. New Mexico School for the Blind and Visually Impaired (NMSBVI)

The SAT will not make referrals to the NMSBVI.

Students with visual impairments that impact their education may be eligible for NMSVI Outreach or other services. A student can be referred by an agency or by **Cien Aguas International School**, or by a physician, parent or guardian. When the referral is by a physician, parent or guardian, **Cien Aguas International School** will be notified and asked to become part of the referral process. A joint powers agreement is reached between the local district/agency and NMSBVI, and an itinerant teacher is assigned to the student and does an assessment. If it is determined the student has a visual impairment that impacts his/her education, **Cien Aguas International School** will organize a team to make an individualized education plan for the student. That plan determines what kind of and how much service, if any, the student should receive from NMSBVI.

d. New Mexico School for the Deaf (NMSD)

The SAT will not make referrals to the NMSD.

Children and youth who are enrolled in public school programs, their families and their educational teams are eligible for the New Mexico School for the Deaf outreach and other services. **Cien Aguas International School** will make recommendations based on the IEP committee and current evaluations. When the referral is by a physician, parent or guardian, **Cien Aguas International School** will be notified and asked to become part of the referral process. Some services from the NMSD include certified teachers of the Deaf and Hard of Hearing providing

assistance to schools, comprehensive student evaluations conducted by staff fluent in the student's mode of communication, certified in their areas of expertise and experienced in evaluating students who are Deaf or Hard of Hearing. **Cien Aguas International School** will make recommendations based on the IEP committee and current evaluations.

E. Occupational Therapy and / or Physical Therapy

The SAT may include a request for an OT/PT evaluation upon initial referral to special education. However, students already receiving special education services will receive a request for an OT/PT evaluation from the EDT or the IEP Team.

F. Related Services

Authority: 34 CFR § 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 intellectually disabled, 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, another 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.

(See also Chapter 5 Related Services)

G. Residential Services

The IEP committee will determine what if any services cannot be provided by Cien Aguas International School. All requirements for placement in the least restrictive environment will be followed by the IEP team.

Authority: 6.31.2.9 PUBLIC AGENCY RESPONSIBILITIES:

A. Public agency funding and staffing.

- (3) Placement of students in private residential treatment centers, or other out of home treatment or habilitation programs, by the IEP team or by a due process decision. In no event shall a child with an IEP be allowed to remain in an out of home treatment or habilitation program for more than 10 days without receiving special education and related services. The school district in which the qualified student or school-age person lives, whether in-state or out-of-state, is responsible for the educational, nonmedical care and room and board costs of that placement.
 - (a) Agreements between the resident school district of the qualified student or school-age person and a private residential treatment center must be on the form posted on the department's website or on a form otherwise approved by the department and must be reviewed and approved by the secretary of public education.
 - (b) Agreements must provide for:
 - (i) student evaluations and eligibility;
 - (ii) an educational program for each qualified student or school-age person that meets state standards for such programs, except that teachers employed by private schools are not required to be highly qualified;
 - (iii) the provision of special education and related services in conformance with an IEP that meets the requirements of federal and state law and applicable regulations and rules;
 - (iv) adequate classroom or other physical space that allows the school district to provide an appropriate education;
 - (v) a detailed description of the costs for the placement; and
 - (vi) an acknowledgement of the authority of the local school board and the department to conduct on-site evaluations of programs and student progress to ensure that state standards are met.
- (4) Placement of students in public residential treatment centers, or other out of home treatment or habilitation programs, by the IEP team or by a due process decision. The sending school shall be responsible for the provision of special education and related services. In no event shall a child with an IEP be allowed to remain in an out of home treatment or habilitation program for more than 10 days without receiving special education and related services.

(For more information on Public Agency Responsibility, see also Chapter 6 and 8)

H. Speech and Language Services

34 CFR § 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 intellectually disabled, 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, 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.**

(b) *See Chapter 4. – Disabilities / Exceptionalities*

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

(11) Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, language impairment, or a voice impairment, that adversely affects a child's educational performance.

In New Mexico, speech and/or language impairments are those disorders that adversely affect a student's educational performance by interfering with or limiting the student's "ability to receive, send, process, and comprehend concepts or verbal, nonverbal, and graphic symbol systems." Speech and language impairments may be exhibited as disorders ranging from mild to severe and may be developmental or acquired. A speech-language impairment is to be differentiated from a speech-language difference which may be due to bilingualism, dialectical or cultural differences in language use, or being non-English dominant. A communication difference/dialect is a variation of a communication system used by a group of individuals that reflects and is determined by shared regional, social, or cultural/ethnic factors and should not be considered a disorder of speech or language.

Careful consideration must be given by the SAT committee that the student's speech or language is not a communication difference. Those students will not be eligible for special education in the area of speech or language.