

**Dakota Valley School District Comprehensive Plan for Special Education
Program Narrative
June 2025**

Sec. 300.201 Consistency with State policies.




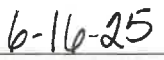
The LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures, established under Secs. 300.101 through 300.163, and 300.165 through 300.174. (Authority: 20 U.S.C. 1413(a)(1))

South Dakota Administrative Rule 24:05:21:01. Local education agency comprehensive plans- Contents.

Each local education agency must have a current comprehensive plan approved by the school board on file with the district superintendent or designee. Documentation supporting the implementation of the local school district's comprehensive plan shall be maintained by the district for review by Special Education Programs staff during onsite monitoring visits. Districts shall update comprehensive plans consistent with 24:05:21:01.02 and recertify their content annually.

The Dakota Valley School District has formally adopted the following policies and procedures as the district's comprehensive plan for special education. These policies and procedures were originally approved by the school board on June 12, 2023. As indicated by the signatures below, the authorizing officials acknowledges the district will meet all requirements of the Individuals with Disabilities Education Act and Article 24:05 through the implementation of these policies and procedures and furthermore, provides assurances that it meets each of the conditions in 34 CFR 300.201 through 300.213.

CERTIFICATION: I certify that I have read and reviewed the above assurance and will comply with all provisions of applicable federal and state laws.

	Dr. Tonia Warzecha, Superintendent Dakota Valley School District 1150 Northshore Drive North Sioux City, SD 57049	
Signature of Authorizing Official	Typed Name, Title, and Address	Date
	Linda Steele, Director of Special Services Dakota Valley School District 1150 Northshore Drive North Sioux City, SD 57049	
Signature of Authorizing Official	Typed Name, Title, and Address	Date

*This page must be signed by the school district official listed above and returned to:

Department of Education
 Special Education Programs
 800 Governor's Drive
 Pierre, SD 57501

Dakota Valley School District LEA Comprehensive Plan: Program Narrative

SECTION I: Free and Appropriate Public Education (FAPE) 34 C.F.R. §§ 300.101-300.108, 300.110; ARSD 24:05:13:02

The district will make available to all children with disabilities residing in the district(s) between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in 300.530(d); 24:05:26 and 24:05:26.01, ARSD. Specific reference in the narrative includes:

- FAPE beginning at age 3; 300.101(b); ARSD 24:05:13:02
- Children advancing from grade to grade; 300.101(c); ARSD 24:05:13:02
- Limitations- age exceptions to FAPE; 300.102; ARSD 24:05:22:04.01
- FAPE- methods and payments; 300.103; ARSD 24:05:19:08
- Residential placement; 300.104; ARSD 24:05:19:08
- Assistive technology; 300.105; ARSD 24:05:27:20, ARSD 24:05:27:18, ARSD 24:05:27:19
- Extended school year services; 300.106; ARSD 24:05:25:26
- Nonacademic services; 300.107; ARSD 24:05:28:06
- Physical education; 300.108; ARSD 24:05:28:08
- Program options; 300.110; ARSD 24:05:28:04

FAPE beginning at age 3; 300.101(b); ARSD 24:05:13:02

The Dakota Valley School District will make a Free Appropriate Public Education (FAPE) available to all students with disabilities who reside within the boundaries of the district between the ages of 3 and 21 years of age. This includes any student with a disability who has been suspended or expelled. All eligible preschool aged students will have FAPE made available to them by their third birthday, including those whose birthdays fall during the summer months.

- **Children advancing from grade to grade; 300.101(c); ARSD 24:05:13:02**

All eligible students with disabilities, regardless of whether they are advancing from grade to grade, will have FAPE available to them on an individualized basis as determined annually by the student's IEP team. Exceptions to FAPE for students aged 3-21 includes those students who have graduated from high school with the regular high school diploma. For students with disabilities who turn 21 years of age during the fiscal year, the Dakota Valley School District will provide FAPE until June 30 during the year in which they turn twenty-one.

In addition, the Dakota Valley School District will make FAPE available to children from birth to three who qualify for prolonged assistance according to South Dakota State eligibility criteria.

- **Limitations- age exceptions to FAPE; 300.102; ARSD 24:05:22:04.01**

All students determined eligible for special education or special education and related services through a multidisciplinary evaluation and who subsequently have an individual education program (IEP) inclusive from age 3 thru the completion of an approved public or nonpublic school secondary program or through age 21, as designated in that child's individual education program and as set forth in SDCL 13-37-1.

- **FAPE- methods and payments; 300.103; ARSD 24:05:19:08**

The district will apply federal, state, and local funds consistent with the IDEA and special education administrative rules to meet obligations outlined in individual IEPs for the provision of FAPE without delay and at no cost to parents. In addition, the district may bill Medicaid for eligible students receiving services according to criteria contained in the most current South Dakota Medicaid Billing and Policy Manual.

- **Residential placement; 300.104; ARSD 24:05:19:08**

When an IEP team determines a residential placement is the student's least restrictive environment and determines placement in an approved public or private residential program is necessary to meet the special education and related services needs of a child with a disability, the program, including nonmedical care and room and board, will be provided at no cost to the parent of the eligible individual.

- **Assistive technology; 300.105; ARSD 24:05:27:18 ARSD 24:05:27:19**

When necessary and determined appropriate by the IEP team, the district will provide assistive technology services for functional evaluation, selection and adapting, training or technical assistance, and coordination with other therapies, interventions, or services at no cost to the parent. The assistive technology tools or devices will be used to increase, maintain, or improve functional capabilities and functional communication skills of children with disabilities. Assistive technology does not include a medical device that is surgically implanted or the replacement of the device. This may include assistive technology to be used for educational purposes at home if determined essential for FAPE by the IEP team on a case-by-case basis.

- **Extended school year services; 300.106; ARSD 24:05:25:26**

If an IEP team determines the benefits gained during the regular school year will be significantly jeopardized if the student does not receive extended school year (ESY) services, and the student meets eligibility criteria for ESY, the district will provide the special education or special education and related services at no cost to the parent as outlined in the student's current IEP.

- **Nonacademic services; 300.107; ARSD 24:05:28:06**

To the maximum extent appropriate, the district will ensure that students with disabilities have an equal opportunity to participate with nondisabled peers in nonacademic settings such as extracurricular activities, clubs, athletics, meals, and recess. Supplementary aids and services will be provided by the district if necessary and appropriate as determined by the child's IEP team. Annually, the IEP team will consider and document the program options, nonacademic, and extracurricular services to ensure that children in need of special education or special education and related services have such services and supports available to them in the manner necessary to afford children in need of special education or special education and related services an equal opportunity for participation in those activities.

- **Physical education; 300.108; ARSD 24:05:28:08**

The district will ensure students with disabilities participate in physical education, specially designed, if necessary, consistent with their same age peers. To the maximum extent appropriate, the district will ensure the opportunity for students with disabilities to participate in physical education classes available to children without disabilities, unless the student needs specially designed physical education which cannot be provided in the regular physical education program.

Through the review of evaluation and progress monitoring data, the IEP team will document the need for physical education services to ensure each student is afforded the opportunity in the grades in which physical education is provided to nondisabled peers. Based on this information, the IEP team will determine whether the student may benefit from participation in a regular physical education course, with or without accommodations, or whether they need specially designed physical education services.

- **Program options; 300.110; ARSD 24:05:28:04**

To the maximum extent appropriate and based the individual needs of the eligible student, the district will ensure that students with disabilities have access to the same program options as students without disabilities including (but not limited to) art, music, career technical education, and family and consumer science.

Annually, the IEP team will consider and document program options, nonacademic, and extracurricular services to ensure that children in need of special education or special education and related services have such services and supports available to them.

SECTION II: Full educational opportunity goal (FEOG) 34 C.F.R. § 300.109; ARSD 24:05:22:04, ARSD 24:05:22:04.01

The Dakota Valley School District, consistent with the timetable established by the State of South Dakota and Part B of the Individuals with Disabilities Education Act (IDEA), has a goal to provide full educational opportunity to all children with disabilities, ages birth through twenty-one. The district reviews data annually to guide decisions with regard to adjustments in programs to ensure appropriate services to all students with disabilities. The District maintains documentation supporting the implementation of the child identification process/system, including annual child count data.

SECTION III: Child Find 34 C.F.R. § 300.111; Child Identification ARSD 24:05:22

The Dakota Valley School District has in effect policies and procedures to ensure that all children with disabilities who reside within the boundaries of the district and may be in need of special education and related services are located, identified, and evaluated according to current regulations. This includes those students who may be homeless or wards of the state, as well as children with disabilities who may attend private schools, regardless of the severity of their disabilities, within the jurisdiction of the district. Child find includes our ongoing efforts to identify pre-school and school age students with disabilities through our referral and evaluation procedures, as well as our periodic screening of preschoolers who may be experiencing developmental delays. These procedures include determining which children with disabilities are currently receiving needed special education and related services.

Annual notice of child find is included in the regional newspaper and posted on the District website. No non-public schools are located within the Dakota Valley district, however the district works closely with a non-public school in Iowa that serves some of the students within the district. Children birth through kindergarten age are screened year-round at no cost at the Dakota Valley Elementary School. Parents are invited to set up screening appointments when developmental concerns are suspected. Flyers are distributed throughout the community in healthcare clinics and public agencies, and presentations to community and civic organizations about early intervention screening opportunities are provided upon request.

There are several pathways for students suspected of a disability to be referred for a comprehensive evaluation. Referral for evaluation could include any written request which brings a student to the attention of the District as a student who may be in need of special education. A referral

made by a parent may be submitted verbally, but it must be documented by a district administrator. Referrals may also occur through screening, by classroom teacher or other district personnel, public or private agencies, or non-public schools.

School personnel referring children for evaluation shall engage in a solution-focused problem-solving process prior to making a referral. At no time should the pre-referral intervention and problem-solving process unnecessarily delay a referral for a special education evaluation should a disability be suspected. When a referral is received from the parent or guardian, the Dakota Valley School District will conduct an informal review of records regarding the student's academic, social, emotional, and/or behavioral needs as well as to convene a conference that may include the child's caregivers and relevant school staff members, based on the referral concerns. If after this review the District determines that no evaluation is necessary, the District shall inform the parents or guardians of this decision and the reasons for the decision. Parent/guardians will also be informed of their due process rights, should the District determine an evaluation is not necessary. The following documentation will be completed by the District:

- Invite the parent/guardian to participate in a conference
- Inform the parent/s of the decision not to evaluate and the reasons for the decision
- Inform the parent/s of their due process rights; and
- Document results of the parent conference on a Parental Prior Written Notice (PPWN)

If after a review of the parent request to evaluate the District determines that further evaluation is necessary, the District shall conduct a full and individual evaluation with the written consent of the parents or guardians.

Parents or guardians and students who initiate referrals may submit the information verbally and will be assisted by the Special Services Director to submit their request in writing.

Referrals from public and private agencies such as physicians, South Dakota Department of Social Services, South Dakota Advocacy Services, South Dakota Parent Connection navigator, South Dakota Department of Corrections, private non-profit special education agencies, etc. should include a written request with documentation of the basis for and suspected areas of concern. The Special Services Director will work collaboratively with the agency to gather this written documentation as well as to secure parental consent to release and share information between the agency and the District.

Upon receiving a referral, the Director will promptly conduct an informal review. An informal review includes a conference, if appropriate and necessary, either in person, by phone, or through videoconferencing with the person making the referral and a review of the student's school records. The Director may consult with staff knowledgeable about the student for specific information about the student as well as with the parents.

The district collects, maintains, and reports all referrals, initial evaluations, and the subsequent outcome(s) within a web-based IEP management system. If a referral and evaluation result in a determination of eligibility, this will be reflected in the unduplicated child count.

- **Use of the term developmental delay; ARSD 24:05:24.01:09**

A student three through nine years of age may be identified as a student with a disability in the category of developmental delay if the student has one of the major disabilities or if the student experiences a severe delay in development and, through a comprehensive evaluation, is determined to need special education and related services. A student with a severe delay in development functions at a developmental level two or more standard deviations below the mean in any one of the specified developmental areas or 1.5 standard deviations below the mean in two or more areas. Areas of potential eligibility include cognitive development, physical development, communication development, social or emotional development, and adaptive development.

- **Children who may be suspected of having a disability, and in need of special education, even though they are advancing from grade to grade, 300.111(c)(1); ARSD 24:05:22:01**

The District ensures that children who may be suspected as having a disability and need special education, even though they are advancing from grade to grade, are subject to child find requirements.

- **Children who are highly mobile, including migrant children, 300.111(c)(2).**

The district ensures that children who reside within the school district boundaries and are highly mobile, including migrant children, are subject to child find requirements. The Dakota Valley School District has a system in place for reviewing individual student records of children new to the district or between schools within the district. Pre-referral interventions and student progress monitoring systems embedded within a multi-tiered system of support are in place to determine strengths and needs of children and to provide intensive intervention aligned with identified areas of student need.

SECTION IV: Individualized Education Program (IEP) 34 C.F.R. 300.112; ARSD 24:05:27

The Dakota Valley School District ensures that each identified student with a disability has a current IEP in place that meets the requirements of Section 636(d) of the IDEA, and that has been developed in accordance with the requirements at 34 CFR sections 300.320 through 324. All

identified students with disabilities in our district will have a current IEP in place at the beginning of the school year, and for eligible preschool students, by their third birthday. Each eligible student's IEP will be reviewed periodically, but not less than annually, to review progress and determine whether annual goals are being met.

- **Content of the IEP; 300.320(a)(1-7); ARSD 24:05:27:01.03**

The District will ensure that each student's individualized education program includes:

- (1) A statement of the student's present levels of academic achievement and functional performance, including
 - (a) How the student's disability affects the student's involvement and progress in the general education curriculum (i.e., the same curriculum as nondisabled students); or
 - (b) For preschool students, as appropriate, how the disability affects the student's participation in appropriate activities;
- (2) A statement of measurable annual goals, including academic and functional goals, designed to
 - (a) Meet the student's needs that result from their disability to enable the student to be involved in and progress in the general education curriculum; and
 - (b) Meet each of the student's other educational needs that result from the student's disability and as identified in the present levels of academic achievement and functional performance;

For students with disabilities who take alternate assessments aligned to alternate achievement standards, each student's IEP will provide a description of benchmarks or short-term objectives;

- (3) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student:
 - (a) To advance appropriately toward attaining the annual goals;
 - (b) To be involved and make progress in the general education curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and
 - (c) To be educated and participate with other students with disabilities and nondisabled students in the activities described in this section;
- (4) An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in activities described in this section;
- (5) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and district-wide assessments consistent with § 24:05:14:14. If the IEP team determines that the student will take an alternate assessment instead of a particular regular state or district-wide assessment of student achievement, a statement of why:
 - (a) The student cannot participate in the regular assessment; and
 - (b) The particular alternate assessment selected is appropriate for the student;
- (6) The projected date for the beginning of the services and modifications described in this section and the anticipated frequency, location, and duration of those services and modifications;
- (7) A description of how the student's progress toward the annual goals described in this section will be measured and when periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;
- (8) Beginning not later than the first IEP to be in effect when the student turns sixteen, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP will include:
 - (a) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, if appropriate, independent living skills; and
 - (b) The transition services (including courses of study) needed to assist the student in reaching those goals; and
- (9) Beginning not later than one year before a student reaches the age of majority under state law, the student's individualized education program will include a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act, if any, that will transfer to the student on reaching the age of majority consistent with § 24:05:30:16.01.

- **Transition services; 300.320(b); ARSD 24:05:27:13.02**

On or before a student with a disability turns 16 years of age, the District will ensure that each student's individualized education program (IEP) includes:

Transition services, including a coordinated set of activities for individual students with a disability, designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student to facilitate the student's transition from high school to post-school activities such as postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities will be based on

the individual student's needs, taking into account the student's strengths, preferences and interests, and will include instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and provision of functional vocational evaluation.

Transition services for students with disabilities may be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

- **Transfer of rights at the age of majority; 300.320(c); ARSD 24:05:27:01.03**

Beginning not later than one year before a student reaches the age of majority under South Dakota law, the District ensures that each student's IEP will include a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act (IDEA), if any, that will transfer to them upon reaching the age of majority consistent with the rule cited above.

- **The IEP team; 300.321; ARSD 24:05:27:01.01**

The District ensures that the IEP team for each student with disabilities includes the following members:

- (1) The parents of the student;
- (2) Not less than one regular education teacher of the student if the student is, or may be, participating in the regular education environment;
- (3) Not less than one special education teacher of the student or, if appropriate, at least one special education provider of the student;
- (4) A representative of the school district who:
 - (a) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
 - (b) Is knowledgeable about the general education curriculum; and
 - (c) Is knowledgeable about the availability of resources of the school district;
- (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in subdivisions 2 to 6, inclusive, of this section;
- (6) At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student including related services personnel as appropriate;
- (7) If appropriate, the student; and
- (8) Transition services participants as described in §§ 24:05:25:16.01 and 24:05:25:16.02.

The determination of the knowledge or special education expertise of any individual described in this section will be made by the party (parents or District) who invited the individual to be a member of the IEP team. A district may designate another district member of the IEP team to also serve as the district representative if the criteria in this section are satisfied.

- **Parent participation in the IEP; 300.322; ARSD 24:05:25:16**

The district ensures that one or both parents of the child are present at each IEP team meeting or are afforded the opportunity to participate. The district will notify parents of the meeting early enough to ensure that they will have an opportunity to attend, scheduling the meeting at a mutually agreed-upon time and place. The notice to the parents will state the purpose, time, and location of the IEP team meeting, who will be in attendance, and inform the parents of the provisions relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child, including information related to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the IDEA.

If a purpose of the IEP team meeting is the consideration of postsecondary goals and transition services for a student, the notice will also address the provisions of § 24:05:25:16.01.

If parents cannot attend, the district will use other methods to ensure participation, including individual or conference telephone calls or Zoom meetings consistent with § 24:05:27:08.04.

- **When the IEP must be in effect; 300.323; ARSD 24:05:25:22**

The District ensures if the child is determined to be in need of special education or special education and related services, the IEP team will develop an appropriate individual education program for the child. At the beginning of each school year thereafter, the district will have in effect an IEP for each child with disabilities within its jurisdiction. For children beginning at age three, an IEP will be in effect by that date. If a child's third birthday occurs during the summer, the IEP team will determine the date when services under the IEP will begin.

Written notice which meets the requirements of § 24:05:30:05 will be given to the parents five days before the district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child. The five-day notice requirement may be waived by the parents.

- **Development of the IEP; 300.324; ARSD 24:05:27:01.02**

The district ensures in developing, reviewing, and revising each student's individualized education program (IEP), the team will consider the strengths of the student and the concerns of the parents for enhancing the education of their child, the results of the initial or most recent evaluation of the student, the academic, developmental, and functional needs of the student. The IEP team also will:

- (1) In the case of a student whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports and other strategies to address that behavior;
- (2) In the case of a student with limited English proficiency, consider the language needs of the student as these needs relate to the student's individualized education program;
- (3) In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the student;
- (4) Consider the communication needs of the student and, in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and
- (5) Consider whether the student requires assistive technology devices and services.

The regular education teacher of a student with a disability, as a member of the individualized education program team, will, to the extent appropriate, participate in the development, review, and revision of the student's individualized education program. This includes the identification and development of positive behavioral interventions and supports and other strategies for the student as well as the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student consistent with subdivision 24:05:27:01.03(3).

Nothing in this section requires the team to include information under one component of a student's individualized education program that is already contained under another component of the student's individualized education program. No additional information may be required to be included in a student's IEP beyond what is explicitly required in this section.

The IEP team will ensure that all appropriate special education issues are addressed and documented in the IEP. The District's Comprehensive Plan along with technical assistance and procedural resources from the DAKOTA VALLEY SCHOOL DISTRICT Special Services Office will be used as references in the development, review, and revision of each IEP. The case manager will ensure that the parent receives a copy of the completed IEP. The district will ensure the general educators and other service providers are made aware of the sections of the IEP they are responsible for implementing in the child's program.

- **Routine checking of hearing aids and external components of surgically implanted medical devices, 300.113; ARSD 24:05:27:05**

For children with hearing impairments, including deafness, in need of special education who wear hearing aids in school, the district ensures the IEP team will include, as a related service, a monitoring schedule in the individual educational program to ensure the proper functioning of these corrective devices.

SECTION V: Least Restrictive Environment (LRE), 34 C.F.R. §§ 300.114 – 300.120; ARSD 24:05:28

The Dakota Valley School District ensures the availability of a continuum of alternative placements to provide each student with a disability the opportunity to be placed in the Least Restrictive Environment as identified by their IEP team. The District will ensure that, to the maximum extent appropriate, children with disabilities, including those in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature and severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

- **Continuum of alternative placements; 300-115; ARSD 24:05:28:02**

A continuum of alternative placements will be available and include the following:

1. Regular educational programs with modification;
2. Resource rooms;
3. Self-contained programs;
4. Separate day school programs;
5. Residential school programs;
6. Home and hospital programs;

7. Other settings.

For each of the programs listed in this section, the IEP team will determine the extent to which related services are required in order for the child to benefit from the program. The length of the school day will be equal in duration to that of a regular public school day unless an adjusted school day is required in order to meet the individual needs of the child. The IEP team will provide for supplementary services, such as resource room or itinerant instruction to be provided in conjunction with regular class placement as applicable.

In those cases where placement is made in a separate day school program or residential school program, the district will abide by the school term and length of school day of the facility in which the child is placed, based on the individual needs of the child.

- **Placements; 300.116; ARSD 24:05:28:03**

The IEP team will ensure the following:

- Each child's educational placement must be individually determined at least annually and will be based on the child's individual education program;
- Provisions are made for appropriate classroom or alternative settings necessary to implement a child's Individual education program;
- Unless a child's individual education plan requires some other arrangement, the child will be educated in the school which that child would normally attend if not disabled. Other placement will be as close as possible to the child's home;
- Placement in the least restrictive environment will not produce a harmful effect on the child or reduce the quality of services which that child needs; and
- A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

No less than on an annual basis, the IEP team will review the student's educational strengths, needs, and progress to ensure the student is benefitting from their IEP. This review includes the determination of placement in the student's least restrictive environment.

- **Non-academic settings, 300.117; ARSD 24:05:28:06**

To the maximum extent appropriate, the district will ensure that students with disabilities have an equal opportunity to participate with nondisabled peers in nonacademic settings such as extracurricular activities, clubs, athletics, meals, and recess. Supplementary aids and services will be provided by the district if necessary and appropriate as determined by the child's IEP team. Annually, the IEP team will consider and document the program options, nonacademic, and extracurricular services to ensure that children in need of special education or special education and related services have such services and supports available to them in the manner necessary to afford children in need of special education or special education and related services an equal opportunity for participation in those activities.

- **Children in public or private institutions; 300.118; ARSD 24:05:28:07**

The District, through the student's IEP team and IEP procedures, will ensure that children placed in public or private institutions or other care facilities are educated with children who are not disabled to the maximum extent appropriate. Additionally, the IEP team will review the student's placement no less than on an annual basis, and, in accordance with available progress reporting and review of strengths and needs, will determine whether the student is benefitting from their IEP. The IEP team will also monitor progress to determine when the student may need to be considered for a less restrictive placement.

- **Teachers and administrators are provided with technical assistance and training; 300.119; ARSD 24:05:28:11**

The District will provide ongoing training and coaching to staff and paraprofessionals to facilitate the provision of services to students with disabilities. Ongoing training, coaching, and technical assistance is provided to all special education staff groups across the district. In addition, written technical assistance tools are available to support staff with the implementation of IDEA.

- **Monitors placements, 300.120; ARSD 24:05:28:12**

The district will submit data to the State for the purpose of monitoring educational placements for students with disabilities on an annual basis through the unduplicated December 1 Count process. Analysis of placement rates within the continuum is reviewed and considered through the District Determination, state accountability, and Results Driven Accountability process with emphasis on the provision of FAPE in the least restrictive environment.

SECTION VI: Procedural Safeguards, 34 C.F.R. § 300.121; ARSD 24:05:30

The Dakota Valley School District ensures that all children with disabilities and their parents are afforded the required procedural safeguards of 34 CFR 300.500 through 300.356 as outlined in the *South Dakota Parental Rights and Procedural Safeguards* document and consistent with South Dakota Administrative Rule.

The district will provide a copy of the procedural safeguards document to the parents of an eligible child with a disability at least one time each year, in addition to the following:

- Upon initial referral or parent request for an evaluation;
- Upon request by the parent;
- In accordance with discipline procedures outline in the procedural safeguards document;
- Upon receipt of the first state complaint or first due process complaint in a given school year.

The District and the South Dakota Department of Education posts a copy of the procedural safeguards document on its website in both English and Spanish to afford access to the public.

- **Opportunity to examine records; parent participation in meetings; 300.501(a)(b)(c); ARSD 24:05:30:02**

The District ensures the parents of a child in need of special education or special education and related services are afforded an opportunity to inspect and review all education records concerning the identification, evaluation, and educational placement of the child and the provisions of a free appropriate public education to their child. Additionally, the District ensures parent(s) have the opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of their child and the provision of a free appropriate public education to their child. A placement decision may be made by a group without parental involvement if the District is unable to obtain the parent's participation in the decision and they have a record of attempts made to ensure parental involvement.

- **Independent educational evaluations; 300.502; ARSD 24:05:30:03**

The District ensures a parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the District subject to the conditions in this section.

The district will provide to parents, upon written request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the district criteria applicable for independent educational evaluations specified in this section.

If a parent requests an independent educational evaluation, the district may ask for the parent's reason he or she objects to the public evaluation. However, the explanation by the parent may not be required and the District will not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the District evaluation.

The District will provide to the parents, upon written request for an independent educational evaluation, educational evaluations, evaluator qualifications, geographical boundaries to obtain the independent educational evaluations and cost. The district will allow parents to demonstrate unique circumstances to justify deviating from individual educational evaluation criteria.

If the parent requests an independent educational evaluation at public expense, the district will, without unnecessary delay, either file a due process complaint to request a hearing under this chapter to show that its evaluation is appropriate, or ensure that an independent educational evaluation is provided at public expense unless the District demonstrates in a hearing that the evaluation obtained by the parent did not meet District criteria. If the District files a due process complaint to request a hearing under this chapter and the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense. A parent is entitled to only one independent educational evaluation at public expense each time the District conducts an evaluation with which the parent disagrees.

Upon request of an independent educational evaluation (IEE), the district will provide information about where an independent educational evaluation may be obtained, the criteria applicable for the IEE specified in the rule and reasonable cost information to the parent which is updated annually. If the parent/guardian is seeking the evaluation at public expense, the criteria under which the evaluation is obtained, including qualifications, must be the same as the criteria that the public agency uses when it initiates an evaluation to the extent those criteria are consistent with the parent's right to an IEE. Except for the criteria mentioned earlier, the district will not impose conditions or timelines related to obtaining an IEE at public expense. If the child's needs can be appropriately evaluated by the person's/agencies identified on the District's list and the list exhausts the availability of qualified persons within the geographic area specified, then the district can restrict parents to selecting from among those persons on the list. The district criteria for the minimum qualifications of the persons who conduct an evaluation are the State's requirement for child evaluators. Parents will be told by the district that they have an opportunity to demonstrate any unique circumstances to justify an IEE that does not fall within the district's criteria. If justified, the IEE will be at public expense.

If the parent obtains an independent educational evaluation at public expense or shares with the district an evaluation obtained at private expense, the results of the evaluation will be considered by the district, if it meets district criteria, in any decision made with respect to the provision of a free appropriate public education to the child and may be presented by any party as evidence at a hearing under this chapter regarding that child.

If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation will be at public expense. If an independent evaluation is made at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the district uses when it initiates an evaluation to the extent those criteria are consistent with the parent's right to an independent educational evaluation. The district will provide to parents, on request, information about where an independent educational evaluation may be obtained.

For the purposes of this section, the term, independent education evaluation, means an evaluation conducted by a qualified examiner who is not employed by the district responsible for the education of the child in question. For purposes of this section, the term, public expense, means that the district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent consistent with §§ 24:05:14:01 to 24:05:14:01.05, inclusive.

If the parent obtains an IEE at public expense, the results of the evaluation will be considered by the district's IEP team, if it meets the district criteria, in any decision made with respect to the provision of a FAPE to the child and may be presented as evidence at a hearing under this section regarding the child. If the parent disagrees with the results of an IEE paid for by the district, the parent does not have a right to another IEE at public expense. A parent must submit the reimbursement request for the IEE within six months of the IEE being completed.

- **Prior written notice; content of notice; 300.503; ARSD 24:05:30:04**

The District ensures prior written notice will be given to the parents five days before the district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child. The five-day notice requirement may be waived by the parents.

The notice will include:

- i. A description of the action proposed or refused by the district, an explanation of why the district proposes or refuses to take the action, and a description of any other options the IEP team considered and the reasons why those options were rejected;
- ii. A description of each evaluation procedure, assessment, record, or report that the district uses as a basis for the proposal or refusal;
- iii. A description of any other factors which are relevant to the district's proposal or refusal;
- iv. A statement that the parents of a child with a disability have protection under the procedural safeguards of this article and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
- v. Sources for parents to contact to obtain assistance in understanding the provisions for 24:05.

- **Procedural safeguards notice; 300.504; ARSD 24:05:30:06.01; ARSD 24:05:30:06.02**

The Dakota Valley School District ensures that all children with disabilities and their parents are afforded the required procedural safeguards of 34 CFR 300.500 through 300.356 as outlined in the *South Dakota Parental Rights and Procedural Safeguards* document and consistent with South Dakota Administrative Rule.

The District will provide a copy of the procedural safeguards document to the parents of an eligible child with a disability at least one time each year, in addition to the following:

- Upon initial referral or parent request for an evaluation;
- Upon request by the parent;
- In accordance with discipline procedures outline in the procedural safeguards document;
- Upon receipt of the first state complaint or first due process complaint in a given school year.

The district posts a copy of the procedural safeguards document on its website in both English and Spanish to afford access to the public.

The District ensures the procedural safeguards notice includes a full explanation of all of the procedural safeguards available under this article and the state complaint procedures relating to:

- Independent educational evaluation;
- Prior written notice;
- Parental consent;
- Access to educational records;
- Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:

- The time period in which to file a complaint;
- The opportunity for the district to resolve the complaint; and
- The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;
- The child's placement during pendency of any due process complaint;
- Procedures for students who are subject to placement in an interim alternative educational setting;
- Requirements for unilateral placement by parents of children in private schools at public expense;
- The availability of mediation;
- Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
- Civil actions, including the time period in which to file those actions; and
- Attorneys' fees

The form of the notice will be consistent with § 24:05:30:06, including written evidence that the requirements in this section have been met.

- **Use of electronic mail; 300.505; ARSD 24:05:30:06.03**

The District ensures a parent of a child with a disability may elect to receive notices and other information required by this chapter by electronic mail (email) communication. Parents have an opportunity on an annual basis to check "yes" they give consent to receive information, notices, and communication related to their child's IEP electronically, or "no" they do not give consent, on the signature page of the IEP document in the web-based IEP system.

- **Availability of mediation; 300.506; ARSD 24:05:30:09**

The District will ensure parties are allowed to mediate disputes involving any matter under this article, including matters arising before the filing of a due process complaint, to resolve disputes through a mediation process. The state will bear the cost of the mediation process, including the costs of meetings. Procedures for mediation are as follows (as outlined in the *South Dakota Special Education State Mediation Guide*):

- The District will ensure that mediation is viewed as voluntary and freely agreed to by both parties and is in no way used to deny or delay an aggrieved party's right to a hearing on a parent's due process complaint, or to deny any other rights afforded under this article; and
- The mediation conference is an intervening, informal process conducted in a non-adversarial atmosphere that is scheduled in a timely manner and held in a location that is convenient to the parties in the dispute.

Filing of due process complaints; 300.507; 300.508; 300.509; ARSD 24:05:30:07.01

A parent or the District may file a due process complaint on any matter relating to the identification, evaluation, or educational placement of a child with a disability, or the provision of FAPE to the child.

Resolution process; 300.510; ARSD 24:05:30:08.09.12

Within 15 days of receiving notice of the parent's due process complaint, and before the initiation of a due process hearing under this chapter, the district will convene a meeting (resolution session) with the parent and the relevant member or members of the IEP team who have specific knowledge of the facts identified in the due process complaint. The meeting:

1. Will include a representative of the district who has decision-making authority on behalf of the district
2. May not include an attorney of the district unless the parent is accompanied by an attorney; and
3. The parent and district will determine the relevant members of the IEP team to attend the meeting

The purpose of the resolution session is for the parent of the child and the District to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the District has the opportunity to resolve the dispute that is the basis for the due process complaint. When a parent files a request for an expedited due process hearing, the District must hold a resolution session within 7 days of receiving notice and attempt to reach a resolution within 15 days of the receipt of the hearing request.

The resolution session need not be held if:

1. The parent and the district agree in writing to waive the meeting; or
2. The parent and the district agree to use the mediation process described in this chapter in lieu of the resolution session

If, after a resolution session or mediation, the District has not resolved the parent's due process complaint within 30 days of receipt of the complaint, the due process hearing may occur. The 45-day due process hearing timeline begins at the end of the 30-day resolution period, or the day after one of the following events:

- a) Both parties agree jointly in writing to waive the resolution session
- b) After either the mediation or the resolution session starts, but before the end of the 30-day resolution period, the groups agree jointly in writing that no agreement is possible

Except as provided in § 24:05:30:08.14, the timeline for issuing a final decision in a due process hearing begins at the expiration of the 30-day period.

Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding the above paragraphs, the failure of the parent filing a due process complaint to participate in the resolution meeting delays the timelines for the resolution process and due process hearing until the meeting is held. If the issues in the due process complaint are resolved at the resolution session, then the District and parent(s) shall develop a legally binding written agreement that is signed by both the parent and a representative from the District. Either party may void the resolution agreement within three business days of the agreement's execution.

- **Impartial due process hearing; 300.511; ARSD 24:05:30:09.04**

If a due process complaint is received under this chapter, the parents or the district involved in the dispute will have an opportunity for an impartial due process hearing, consistent with the procedures in this article.

- **Hearing rights; 300.512; ARSD 24:05:30:12**

Any party to a hearing, under this chapter or chapters 24:05:26 and 24:05:26.01, has the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training concerning the problems of children with disabilities, except that neither party has the right to be represented by a non-attorney at a hearing;
2. Present evidence and confront, cross-examine, and compel the attendance of witnesses;
3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;
4. Obtain a written or, at the option of the parents, electronic verbatim record of the hearing; and
5. Obtain written or, at the option of the parents, electronic findings of fact and decisions. The district will transmit those findings and decisions, after deleting any personally identifiable information, to the state advisory council and shall make those findings and decisions available to the public.

Parents involved in hearings will be given the right to have the child who is the subject of the hearing present and open the hearing to the public. The record of the hearing and the findings of fact and decisions must be provided at no cost to the parents.

- **Hearing decisions; 300.513; 300.514; 300.515; 300.516; 300.517; ARSD 24:05:30:11**

A parent or the district, if aggrieved by the decision of the hearing officer under this chapter or chapters 24:05:26 and 24:05:26.01, may bring a civil action with respect to a due process complaint notice requesting a due process hearing under the Individuals with Disabilities Education Act, 20 U.S.C. § 1415(i)(2). A civil action may be filed in either state or federal court without regard to the amount in controversy. The party bringing the action has 30 days from the date of a hearing officer's decision to file a civil action. In any action brought under this section, the court:

1. Shall review the records of the administrative proceedings;
2. Shall hear additional evidence at the request of a party; and
3. Basing its decision on the preponderance of the evidence, shall grant the relief that the court determines to be appropriate

Nothing in Part B of the Individuals with Disabilities Education Act restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990 as amended to July 1, 2013, Title V of the Rehabilitation Act of 1973 as amended to July 1, 2013, or other federal laws protecting the rights of children with disabilities. However, before the filing of a civil action under these laws, seeking relief that is also available under section 615 of IDEA, the procedures under this chapter for filing a due process complaint must be exhausted to the same extent as would be required had the action been brought under section 615 of IDEA.

- **Status of child during due process proceedings; 300.518; ARSD 24:05:30:14**

Except as provided in chapters 24:05:26 and 24:05:26.01, during the pendency of any administrative hearing or judicial proceeding regarding a due process complaint notice requesting a due process hearing pursuant to this chapter, the child involved will remain in the present educational placement unless the state or District and the parents agree otherwise. If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, will be placed in the public school program until the completion of all the proceedings.

If the complaint involves an application for initial services under this article from a child who is transitioning from Part C of the IDEA to Part B and is no longer eligible for Part C services because the child has turned three, the district is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of

special education and related services, then the district will provide those special education and related services that are not in dispute between the parent and the district.

If the decision of a hearing officer in a due process hearing agrees with the child's parents that a change of placement is appropriate, that placement will be treated as an agreement between the state and the parents for purposes of pendency.

- **Surrogate parents; children who are wards of the state; homeless youth; 300.519; ARSD 24:05:30:15**

The district will assign a surrogate parent to ensure that the rights of a child are protected if no parent, as defined in § 24:05:13:04, can be identified and the district, after reasonable effort, cannot locate a parent or if the child is a ward of the state or the child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act, as amended to January 1, 2009. The Dakota Valley School District's method for determining whether a child needs a surrogate parent will include the following:

1. The identification of staff members at the district or building level responsible for referring students in need of a surrogate parent;
2. The provision of professional learning on the criteria in this section for determining whether a child needs a surrogate parent; and
3. The establishment of a referral system within the district for the appointment of a surrogate parent

If a child is a ward of the state, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, if the surrogate meets the requirements of this section. The Director of Special Services or their designee will appoint surrogate parents.

The district will ensure that a person selected as a surrogate has no personal or professional interest that conflicts with the interest of the child the surrogate represents and has knowledge and skills that ensure adequate representation of the child. The district is responsible for the training and certification of surrogate parents and shall maintain a list of persons who may serve as surrogate parents.

A person assigned as a surrogate may not be an employee of the department, district, or any other agency that is involved in the education or care of the child.

If a child is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents, without regard to the nonemployee provision above, until a surrogate parent can be appointed who meets all of the requirements of this section.

A person who otherwise qualifies to be a surrogate under the provisions of this section is not an employee of the agency solely because the person is paid by the agency to serve as a surrogate parent.

The surrogate parent may represent the student in all matters relating to the identification, evaluation, educational placement, and provision of FAPE to the students.

- **Transfer of rights at age of majority; 300.520; ARSD 24:05:30:16.01**

Consistent with state law, when a child with a disability reaches the age of majority that applies to all children, except for an eligible child who has been determined to be incompetent, the following will occur:

1. The school district will provide any notice required by this article to both the individual and the parents;
2. All other rights accorded to parents under this article transfer to the child; and
3. All rights accorded to parents under this article transfer to children who are incarcerated in an adult or juvenile, state, or local correctional institution

If a state transfers rights under this section, the district will notify the individual and the parents of the transfer of rights. If, consistent with state law, an eligible child is determined not to have the ability to provide informed consent with respect to the educational program of the child, the district will appoint the parent or, if the parent is not available, another appropriate individual to represent the educational interests of the child throughout the child's eligibility under this article.

- **Discipline procedures and manifestation determination; 300.530; ARSD 24:05:26:09.03**

Within ten school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, the District, the parent, and relevant members of the student's IEP team, as determined by the parent and the district, will review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- (1) Whether the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
- (2) Whether the conduct in question was the direct result of the district's failure to implement the IEP.

The conduct must be determined to be a manifestation of the student's disability if the District, the parent, and relevant members of the student's IEP team determine that a condition in either subdivision (1) or (2) of this section was met.

If the District, the parent, and relevant members of the student's IEP team determine that the condition described in subdivision (2) of this section was met, the District will take immediate steps to remedy those deficiencies.

- **Determination of setting; 300.531; ARSD 24:05:26:09.2**

The student's IEP team will determine the interim alternative educational setting in which a student is placed under §§24:05:26:08.01, 24:05:26:02.01, and 24:05:26:09.05.

- **Right of appeal of the determination of setting; 300.532; ARSD 24:05:26:09.06**

The parent of a child with a disability who disagrees with any decision regarding:

1. placement under these procedures, or
2. the manifestation determination may request a hearing by filing a due process complaint consistent with this document.

If the District that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others may request a hearing by filing a due process complaint consistent with this document.

- **Placement during appeals; 300.533; ARSD 24:05:26:09.07**

If an appeal under this chapter has been made by either the parent or the school district, the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in §§ 24:05:26:08.01 or 24:05:26:09:05, whichever occurs first, unless the parent and the state education agency or District agree otherwise.

- **Protections for children not determined eligible for special education and related services; 300.534; ARSD 24:05:26:14**

A student who has not been determined to be eligible for special education and related services under this article and who has engaged in behavior that violated any rule or code of conduct of the school district, including any behavior described in this chapter, may assert any of the protections provided for in this article if the school district had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. A school district is deemed to have knowledge that a student is a student with a disability if:

1. The parent of the student has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the student, that the student is in need of special education and related services;
2. The parent of the student has requested an evaluation of the student pursuant to this article; or
3. The teacher of the student, or other personnel of the district or other public agency has expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education of the district or to other supervisory personnel of the district.

The District is not deemed to have knowledge that the student is a student with a disability under this section, if the parent of the student has not allowed an evaluation of the student pursuant to this article, or has refused services under this article, or the District conducted an evaluation consistent with this article and determined that the student was not a student with a disability.

If the District does not have knowledge that a student is a student with a disability before taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as measures applied to students without disabilities who engaged in comparable behaviors consistent with this chapter.

If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures under this chapter, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, the student will remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. If the student is determined to be a student with a disability taking into consideration information from the evaluation conducted by the district and information provided by the parents, the District will provide special education and related services in accordance with the provisions of this article including the discipline procedures and free appropriate public education requirements.

- **Referral to action by law enforcement and judicial authorities; 300.535; ARSD 24:05:26:15**

Nothing in Part B of the Individuals with Disabilities Education Act prohibits a school district from reporting a crime committed by a student with a disability to appropriate authorities or to prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student with a disability.

The district reporting a crime committed by a student with a disability will ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom it reports the crime. A school district reporting a crime under this chapter may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act, as amended to January 8, 2009.

The District works in collaboration with law enforcement to maintain a safe learning environment. According to the District policy, School Resource Officers (SRO) are involved in a variety of school activities including crime prevention and education, crime reports and investigations, campus security, traffic enforcement, and coordination of safety efforts between schools and law enforcement. Students may seek out the School Resource Officer and the conversations will be shared by the SRO to the building administrator. There may be emergency cases that require the SRO to take immediate action; in these cases, the SRO will notify the building administration as soon as possible.

Change of placement due to disciplinary removals; 300.536; ARSD 24:05:26:02.01

For purposes of removal of a student with a disability from the student's current educational placement under this chapter, a change of placement occurs if:

1. The removal is for more than ten consecutive school days, or
2. The student is subjected to a series of removals that constitute a pattern because
 - a) They cumulate to more than ten school days in a school year,
 - b) Of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another; and
 - c) The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals.

The District determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

SECTION VII: Evaluation 34 C.F.R. §300.122; ARSD 24:05:25

The Dakota Valley School District ensures that all children with disabilities are evaluated in accordance with 34 C.F.R. §§300.300 through 300.311.

- **Parental consent (for initial evaluation, services, and re-evaluations; 300.300; ARSD 24:05:25:02.01, ARSD 24:05:25:06.01 ARSD.**

Consent for Initial evaluation. The District proposing to conduct an initial evaluation to determine whether a child qualifies as a child with a disability will, after providing notice consistent with chapter 24:05:30, obtain informed consent from the parent of the child before conducting the evaluation.

Parental consent for initial evaluation may not be construed as consent for initial provision of special education and related services.

The District will make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.

To meet the reasonable efforts required in this section, the District will document its attempts to obtain parental consent using the procedures in § 24:05:25:17.

Consent for reevaluation. Before conducting a reevaluation of an eligible child, parental consent is required, unless:

- (1) The District demonstrates that it has taken reasonable measures to obtain consent, and the child's parent has failed to respond; and
- (2) The District documents its efforts to obtain consent by using the procedures consistent with § 24:05:25:17.

If the parent refuses to consent to the reevaluation, the District may, but is not required to, pursue the reevaluation by using the consent override procedures described in chapter 24:05:30 including mediation and due process hearing procedures.

- **Initial Evaluations; (Preplacement evaluations, ARSD 24:05:25.03)**

Preplacement evaluation. Before any action is taken concerning the initial placement of a child with disabilities in a special education program, a full and individual initial evaluation of the child's educational needs will be conducted in accordance with the requirements of this chapter. Initial evaluations will be completed within twenty-five school days after receipt by the District of signed parent consent to evaluate unless other timelines are agreed to by the District and the parents.

Written evaluation reports, determination of eligibility, and conducting an IEP team meeting will be completed within 30 days from the end of the 25-school day evaluation timeline. If another timeline for completing the evaluation process is agreed to by the parent and the District, the written evaluation reports, determination of eligibility, and conducting an IEP team meeting will be completed within 30 days from the end of agreed upon evaluation timeline.

Consistent with the consent requirements in this section, either a parent of a child or the District may initiate a request for an initial evaluation to determine whether the child is a child with a disability.

- **Screening for instructional purposes; 300.302; ARSD 24:05:25:03.03**

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation is not considered to be an evaluation for eligibility for special education and related services.

- **Re-evaluations; 300.303; ARSD 24:05:25:06**

The District ensures that a reevaluation of each child with a disability is conducted in accordance with this chapter if the district determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation or if the child's parents or teacher requests a reevaluation.

A reevaluation conducted under this section may occur not more than once a year, unless the parent and district agree otherwise, and will occur at least once every three years, unless the parent and the district agree that a reevaluation is unnecessary.

Reevaluations must be completed within twenty-five school days after receipt by the District of signed consent to reevaluate unless other time limits are agreed to by the school administration and the parents consistent with § 24:05:25:03.

The District will follow the procedures under § 24:05:25:04.02 when reevaluating a student for the additional purposes of:

- (1) Determining whether the child continues to have a disability and determining the educational needs of the child;
- (2) Determining the present levels of academic achievement and related developmental needs of the child;
- (3) Determining whether the child continues to need special education and related services; and

(4) Determining whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP and to participate, as appropriate, in the general education curriculum.

If no additional data are needed to determine continuing eligibility and the child's educational needs, the district will notify the parents of that determination and reasons for it and of the right of the parent to request an assessment, for purposes of determining the child's educational needs under this article, and to determine continuing eligibility. The District is not required to conduct an assessment unless requested to do so by the child's parents. However, the District will follow the procedures in this chapter before determining that the child is no longer a child with a disability. The evaluation procedures described in this chapter are not required before the termination of a child's eligibility under this article due to graduation from secondary school with a regular high school diploma, or exceeding the age eligibility for FAPE.

- **Evaluation procedures; 300.304; 300.305; ARSD 24:05:25:04**

The District ensures, at a minimum, that evaluation procedures include the following:

(1) Assessments and other evaluation materials are provided and administered in the child's native language or by another mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer. In addition, assessments and other evaluation materials:

- (a) Are used for the purposes for which the assessments or measures are valid and reliable; and
- (b) Are administered by trained and knowledgeable personnel in conformance with the instructions provided by their producer;

(2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient;

(3) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment accurately reflects the child's aptitude or achievement level or whatever other factors the assessment

purports to measure, rather than the child's impaired sensory, manual, or speaking skills except where those skills are the factors which the assessment purports to measure;

(4) No single measure or assessment is used as the sole criterion for determining eligibility or an appropriate educational program for a child;

(5) A variety of assessment tools and strategies will be used to gather relevant functional, developmental, and academic information about the child, including information provided by the parents, which may assist in determining:

- (a) Whether the child is a child with a disability; and
- (b) The content of the child's IEP, including information related to enabling the child:
 - (i) To be involved in and progress in the general education curriculum; or
 - (ii) For a preschool child, to participate in appropriate activities;

(6) Technically sound instruments, assessment tools, and strategies are used that:

- (a) May assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors; and
- (b) Provide relevant information that directly assists persons in determining the educational needs of the child;

(7) The child will be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities; and

(8) The evaluation will be sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

Assessments of children with disabilities who transfer from one school district to another school district in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with § 24:05:25:03.01, to ensure prompt completion of full evaluations.

- **Determining eligibility; 300.306; ARSD 24:05:25:04.03 , 24:05:25:05;**

Upon completing the administration of assessments and other evaluation measures as required by this chapter, the individual education program team and other qualified individuals will determine whether the student is a student with a disability, and will determine the educational needs of the child, as defined in this article. The District will provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. A student may not be determined to be a student with a disability if the determinant factor for that decision is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in ESEA, or lack of appropriate instruction in math or limited English proficiency and if the student does not otherwise meet the eligibility criteria under chapter § 24:05:24.01.

In interpreting evaluation data for the purpose of determining eligibility and determining the educational needs of the child in making placement decisions, including decisions regarding preschool children, the district will do the following:

- (1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
- (2) Ensure that information obtained from all of these sources is documented and carefully considered;
- (3) Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options;
- (4) Ensure that the placement decision is made in conformity with the least restrictive environment rules in district policy; and
- (5) Ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

If a determination is made that a child is disabled and needs special education and related services, an individual education program will be developed for the child in accordance with least restrictive environment requirements.

- **Specific learning disabilities; 300.307 through 300.311; ARSD 24:05:25:07, ARSD 24:05:25:08, ARSD 24:05:25:11, ARSD 24:05:25:12**

1. Documentation of eligibility for specific learning disabilities. For a child suspected of having a specific learning disability, the documentation of the determination of eligibility will contain a statement of:

- (1) Whether the child has a specific learning disability;
- (2) The basis for making the determination, including an assurance that the determination has been made in accordance with this section;

(3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;

(4) The educationally relevant medical findings, if any;

(5) Whether:

(a) The child does not achieve adequately for the child's age or does not meet state-approved grade-level standards; and

(b) The child does not make sufficient progress to meet age or state approved grade-level standards; or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade level standards or intellectual development.

(6) The determination of the group concerning the effects of a visual, hearing, or motor disability; cognitive disability; emotional disability; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level;

(7) If the child has participated in a process that assesses the child's response to scientific, research-based intervention:

(a) The instructional strategies used and the student-centered data collected; and

(b) The documentation that the child's parents were notified about:

(i) The state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;

(ii) Strategies for increasing the child's rate of learning; and

(iii) The parent's right to request an evaluation;

(8) If using the discrepancy model, the group finds that the child has a severe discrepancy of 1.5 standard deviations between achievement and intellectual ability in one or more of the eligibility areas, the group shall consider regression to the mean in determining the discrepancy; and

(9) If using the response to intervention model for eligibility determination, the group shall demonstrate that the child's performance is below the mean compared to age or state approved grade level standards.

2. Group members to certify report in writing. Each group member will certify in writing whether the report reflects his/her conclusion. If it does not reflect a group member's conclusion, the group member will submit a separate statement presenting his/her conclusions.

3. Response to intervention model. The Dakota Valley School District currently is not using the RTI model for determining eligibility determination.

The Consent for Evaluation will utilize referral documentation gathered through the Problem-Solving Team process and informal review information to determine suspected areas of disability. Based upon the skill area(s) affected, the eligibility guide will be used to determine suspected disability conditions to be assessed. Parents will be contacted to gain their input into the evaluation process and the areas being assessed. A completed Referral and Parent Prior Written Notice will be completed and sent to the parents.

Upon receipt and parent signature, the district will secure an evaluation team to conduct a comprehensive evaluation in all areas of suspected disability that matches with the types of evaluation necessary to comply with State criteria. In addition to completing evaluations that will help the team determine eligibility, they will also gather skill-based and functional assessment data and developmental information regarding the child's performance and progress in the general curriculum. Within twenty-five school days of receipt of the signed Consent for Evaluation form, the evaluation will be completed unless other timelines are agreed to by the District and parent/s.

Upon completion of all evaluation, the data will be analyzed and compiled into a written integrated report. The report will be disseminated to team members prior to or during a scheduled meeting, which will be held within thirty calendar days from the end of the allowable evaluation period. Reports will be provided to the parent(s) prior to the meeting upon request. The district and parents will decide upon a mutually agreeable meeting date. The district will send a Meeting Notice to the parent regarding the date, time, place, persons invited to attend the meeting, and purpose of the meeting.

At the meeting, the team will review the evaluation report, discuss, and determine eligibility for special education and related services, and, if appropriate, develop an IEP and determine placement in the least restrictive environment for the individual. The parent's consent, which is required for initial placement, will be obtained by the district prior to implementation of an IEP.

SECTION VIII: Confidentiality 34 C.F.R. 300.123; ARSD 24:05:29, ARSD 24:05:21:05

The Dakota Valley School District ensures compliance with all regulations regarding the confidentiality of records and information, as noted in 34 C.F.R. §§300.610 through 300.626.

- **Notice requirements to parents; 300.612; ARSD 24:05:29:18**

The State shall give notice that fully informs parents about the requirements under this chapter, including the following:

- (1) A description of the extent to which the notice is given in the native languages of the various population groups in the state;
- (2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the state intends to use in gathering the information, including sources from whom information is gathered, and the uses to be made of the information;
- (3) A summary of the policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
- (4) A description of all the rights of parents and children regarding this information, including the rights under 34 C.F.R. Part 99, Family Educational Rights and Privacy Act, as amended to July 1, 2013.

Before any major identification, location, or evaluation activity, the notice shall be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the state of the activity.

- **Access rights; 300.613; ARSD 24:05:29:04**

The District permits parents to inspect and review any education records relating to their student which are collected, maintained, or used by the agency under this section. The district will comply with a request without unnecessary delay and before any meeting regarding an individual education program or hearing relating to the identification, evaluation, or placement of the student, or discipline hearing or resolution session and in no case more than forty-five calendar days after the request has been made.

The right to inspect and review education records under this section includes the following:

- a. The right to response from the district to reasonable requests for explanations and interpretations of the records;
- b. The right to request that the district provide copies of the records containing the information if failure to provide these copies would effectively prevent the parent from exercising the right to inspect and review the records; and
- c. The right to have a representative of the parent inspect and review the records.

The district presumes that the parent has authority to inspect and review records relating to their child unless the agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, divorce, or custody.

- **Record of Access; 300.614; ARSD 24:05:29:05**

The district will keep a record of parties obtaining access to education records collected, maintained, or used under this section, except access by parents and authorized employees of the district, including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

A parent or eligible student may inspect this record on request.

- **Records on more than one child; 300.615; ARSD 24:05:29:06**

If any education record includes information on more than one child, the parents of those children may inspect and review only the information relating to their child or to be informed of that specific information.

- **List of types and locations of information; 300.616; ARSD 24:05:29:07**

The District will provide parents on request a list of the types and locations of education records collected, maintained, or used by the district.

- **Fees for copies of records; 300.617; ARSD 24:05:29:08**

The District may charge a fee for copies of records which are made for parents under this section if the fee does not effectively prevent the parents from exercising their right to inspect and review those records. The district may not charge a fee to search for or retrieve information under this section.

- **Amendment of records at parents' request; 300.618; ARSD 24:05:29:09**

A parent who believes that information in education records collected, maintained, or used under these rules is inaccurate or misleading or violates the privacy or other rights of the student may request the district to amend the information.

The district will decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the district decides to refuse to amend the information in accordance with the request, it

will inform the parent of the refusal and advise the parent of the right to a hearing.

- **Opportunity for a hearing; 300.619; ARSD 24:05:29:10**

The district will, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.

- **Result of hearing and hearing procedures; 300.620-621; ARSD 24:05:29:12**

If, as a result of the hearing, the district decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and inform the parents in writing.

If, as a result of the hearing, the district decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parents of the right to place in the records it maintains on the student a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the district.

Any explanation placed in the records of the student under this section must be maintained by the district as part of the records of the student as long as the record or contested portion is maintained by the district. If the records of the student or the contested portion is disclosed by the district to any party, the explanation must also be disclosed to the party.

- **Parental Consent for release of records; 300.622; ARSD 24:05:29:13**

Parental consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies collecting or using the information under article 24:05 or used for any purpose other than meeting a requirement under this chapter, unless the information is contained in education records and the disclosure is authorized without parental consent under the Family Educational Rights Privacy Act (FERPA). The district will not release information from education records to participating agencies without parental consent except as follows:

(1) An educational agency or institution may disclose personally identifiable information from the education records of a student without the written consent of the parent of the student or the eligible student if the disclosure is to other school officials, including teachers, within the educational institution or local educational agency who have been determined by the agency or institution to have legitimate educational interests or to officials of another school or school system in which the student seeks or intends to enroll, subject to the requirements set forth in subdivision of this section; and

(2) An educational agency or institution that discloses the education records of a student pursuant to subdivision (1) of this section will make a reasonable attempt to notify the parent of the student or the eligible student at the last known address of the parent or eligible student unless the disclosure is initiated by the parent or eligible student.

If the agency or institution includes in its annual notice of parent's rights that it is the policy of the public agency to forward education records on request to a school in which a student seeks or intends to enroll, then the public agency does not have to provide any further notice of the transfer of records.

Notwithstanding the FERPA exceptions for releasing information from education records without parental consent, including the annual notice provision, if a student is enrolled, or intends to enroll in a private school that is not located in the district of the parent's residence, parental consent must be obtained before any personally identifiable information about the student is released between officials in the school district where the private school is located and officials in the school district of the parent's residence.

An educational agency receiving personally identifiable information from another educational agency or institution may make further disclosures of the information on behalf of the educational agency without the prior written consent of the parent or eligible student if the conditions of subdivisions (1) and (2) of this section are met and if the educational agency informs the party to whom disclosure is made of these requirements.

- **Safeguarding of records; 300.623; ARSD 24:05:29:14**

The district will protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. One official in the district will assume responsibility for ensuring the confidentiality of any personally identifiable information. All persons collecting or using personally identifiable information will receive training or instruction regarding the provisions of this section concerning personally identifiable information.

The district will maintain for public inspection a current listing of the names and positions of those employees within the district who may have access to personally identifiable information on student in need of special education or special education and related services.

- **Destruction of information; 300.624; ARSD 24:05:29:15**

The district will inform parents when personally identifiable information collected, maintained, or used under this section is no longer needed to provide educational services to the student. The information no longer needed must be destroyed at the request of the parents. However, a permanent record of the student's name, address, and phone number, the student's grades, attendance record, classes attended, and grade level completed may be maintained without time limit.

- **Children's rights; transfer at the age of majority; 300.625; ARSD 24:05:29:16**

All of the parental rights in this section are extended to the child upon reaching the age of 18 unless the child has been declared incompetent by the courts, consistent with the transfer of student rights at age of majority, including taking into consideration the type or severity of a child's disability.

- **Enforcement; Policy and Procedure; 300.626; ARSD 24:05:29:17**

The department of education, special education programs, is the entity responsible for ensuring the district complies with the requirements on confidentiality of information through on-site monitoring, approval of comprehensive plans, and complaint resolution. Sanctions for noncompliance include the disapproval of local special education programs and the withholding of state and federal funds.

- **Transfer of records for migratory children with disabilities; 300.213; ARSD 24:05:21:05**

The district will cooperate in the U.S. Secretary of Education's efforts under section 1308 of the ESEA to ensure the linkage of records pertaining to migratory children with disabilities for the purpose of electronically exchanging, among the states, health and educational information regarding those children.

The district implements policies and procedures to ensure protection of the confidentiality of any personally identifiable information collected, used or maintained under Part B of the IDEA and FERPA. The district annually notifies parents (and students if they attend their IEP meeting) of their rights pertaining to student records and confidentiality of information through the "Parent Rights for Special Education" booklet distributed.

All special education records are maintained in a secure setting with specific procedures to assure confidentiality.

SECTION IX: Transition from Part C to Part B, 34 C.F.R. § 300.124; ARSD 24:05:27:21

The District will ensure that children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under Part B, experience a smooth and effective transition to those preschool programs. By the third birthday of such a child, an individualized education program (IEP) or, if consistent with 34 C.F.R. § 300.323(b), an individualized family service plan (IFSP), has been developed and is being implemented for the child. The local education agency (LEA) will participate in transition planning conferences arranged by the State Part C agency.

The District participates in transition planning conferences as coordinated by the local Part C agency. Prior to the third birthday, the district will initiate evaluation procedures to determine potential eligibility for Part B and will hold an eligibility meeting at least 90 days, but not more than nine months prior to the child turning three. This evaluation planning includes contact and input from the child's family.

The following steps will occur:

- The State Part C agency notifies the District of children who are potentially eligible for Part B services prior to the child's third birthday. At least 90 days prior to the child's third birthday, but not more than nine months prior to the child turning three, the State Part C agency will convene a transition planning conference between the IFSP team and the District to identify the steps that will support the child and family through the process. The State Part C agency is responsible for scheduling the transition meeting and including the District.
- The District will initiate the evaluation process under Part B of the Individuals with Disabilities Education Act. The evaluation planning includes discussion and input from the child's family regarding possible program and service options with the District.
- The District will provide the family with information regarding evaluation and eligibility requirements under Part B, including the parental rights regarding procedural safeguards.
- If the child is determined eligible under Part B, the IEP team must develop and implement an individualized education program (IEP) by the child's third birthday. When the child turns three, the District will begin monitoring progress through quarterly progress notes.
- All requirements under IDEA will be implemented in the process of eligibility determination and, if applicable, the development and implementation of an IEP for any eligible child transitioning from the Part C to the Part B program.

SECTION X: Private School Placements; 34 C.F.R. §§ 300.129 – 300.148; 24:05:31, ARSD 24:05:32

The Dakota Valley School District ensures compliance with 34 CFR 300.129 through 300.148, governing private/non-public schools located within the boundaries of the District through annual consultation with private school representatives. The district ensures that it will locate, identify and evaluate all children with disabilities who are enrolled by their parents in a private school. For all eligible students with disabilities enrolled in private schools by their parents, a service plan will be developed in accordance with 300.132, and records maintained documenting the number of students evaluated and served in these settings. It is noted that currently no private schools are located within the boundaries of the District. The District works collaboratively with the private schools located in the region to determine how eligible students will be served within the District if the parent agrees to services provided.

- **Definition of parentally placed private school children; 300.130; ARSD 24:05:32:01**

The District understands that parentally placed private school children with disabilities are defined as children with disabilities whose parents have enrolled them in private schools (including religious schools) that meet the state definition of elementary or secondary schools. This does not apply to children with disabilities who have access to a free appropriate public education (through the District) and the parents choose to place the child in a private school or facility without the consent or referral by the District. In this case, the District is not required to pay for the child's education, including special education and related services, at the private school or facility.

- **Child find for parentally placed private school children with disabilities; 300.131; ARSD 24:05:32:01.01**

The District understands that it is responsible for conducting child find activities to locate, identify, and evaluate children suspected of or having a disability in private schools that are within the boundaries of the district. The process shall be designed to ensure:

1. The equitable participation of parentally placed private school children; and
2. An accurate count of those children

The child find process will be completed in a time period comparable to that for students attending public schools. The District will work collaboratively with the district in which private, including religious, elementary schools and secondary schools are located in order to meet the child find requirement. The District will maintain in their records and provide to the State information regarding the number of parentally placed school children evaluated, determined to be children with disabilities, and the number of children served.

The district will locate, identify, and evaluate all private school children with disabilities, including religious-school children, and children receiving alternative instruction under SDCL 13-37-1.1 residing in the jurisdiction of the district. The activities undertaken to carry out the responsibility for private school children with disabilities must be comparable to activities undertaken for children with disabilities in public schools.

- **Provision of services for parentally placed private school children with disabilities; 300.132; ARSD 24:05:32:03.01**

The District will initiate and conduct meetings to develop, review and revise a services plan for the child who is parentally placed in a private or religious school and will receive special education or related services from the District, and ensure that a representative of the religious or other private school attends each meeting. In the event a representative of the private or religious school cannot attend, the district shall use other methods to ensure participation by the private school, including individuals or conference telephone calls/Zoom meetings.

The district will ensure that a service plan is developed and implemented for each private school child with a disability who has been designated to receive special education and related services in accordance with § 24:05:32:03.02.

- **Expenditures for parentally placed private school children with disabilities; 300.133; ARSD 24:05:32:01:02**

The Dakota Valley School District will spend an amount, proportional to federal subgrants received, for the special education of children with disabilities in parentally-placed private schools within the district. If there are any excess funds, they may be carried over to a maximum of one year. Currently, there are no private schools located within the District boundaries.

- **Consultation process with private schools attended by children with disabilities; 300.134; ARSD 24:05:32:01:05**

To ensure timely and meaningful consultation, the district will consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

1. The child find process, including
 - (a) How parentally placed private school children suspected of having a disability can participate equitably; and
 - (b) How parents, teachers, and private school officials will be informed of the process;

(2) The determination of the proportionate share of federal funds available to serve parentally placed private school children with disabilities, including the determination of how the proportionate share of those funds was calculated;

(3) The consultation process among the district, private school officials, and representatives of parents of parentally placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally placed children with disabilities identified through the child find process can meaningfully participate in special education and related services;

(4) How, where, and by whom special education and related services will be provided for parentally placed private school children with disabilities, including a discussion of:

- (a) The types of services, including direct services and alternate service delivery mechanisms;
- (b) How special education and related services will be apportioned if funds are insufficient to serve all parentally placed private school children; and
- (c) How and when those decisions will be made; and

(5) How, if the district disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the district will provide to the private school officials a written explanation of the reasons why the district chose not to provide services directly or through a contract.

The district will consult with representatives of private school children with disabilities at least annually regarding Child Find activities and responsibilities, how to conduct the annual count of the number of students with disabilities in the private school, and funding. The annual child count will be used to determine the amount of funds that the district must spend on providing special education and related services to private school children with disabilities in the next subsequent fiscal year. Included in the consultation discussion regarding proportionate share, the needs of private school children with disabilities and their location decide a. Which children will receive services, b. What services will be provided, c. How and where the services will be provided, transportation; and d. How the services will be evaluated.

- **Written affirmation by private school officials of meaningful consultation; 300.135; ARSD 24:05:32:01.06**

Following the timely and meaningful consultation, the district will acquire written affirmation signed by the private school officials. If the private school does not provide written affirmation, the district will forward documentation of the consultation process to the department.

An official of each private school will be provided a document to sign which describes the consultation topics discussed and allows a place for them to sign in agreement of the consultation session.

- **Compliance; rights of private school officials to submit a state complaint; 300.136; ARSD 24:05:32:01.07**

The district understands that private school officials have the right to submit a complaint to the state that the district did not engage in consultation that was meaningful and timely or did not give due consideration to the views of the private school official. If this occurs, the district will forward its relevant documentation to the department.

- **Determination of equitable services for parentally placed private school students with disabilities; 300.137; ARSD 24:05:32:03.02**

The district understands that private school children with disabilities may receive a different amount of service than children with disabilities in public schools. No private school child with a disability is entitled to any service or to any amount of a service the child would receive if enrolled in a public school. Each private school child with a disability who has been designated to receive services, will have a services plan that describes the specific special education and related services that the district will provide to the child in light of the services that the district has determined, through the Services Plan process, it will make available to private school children with disabilities. The services plan must to the extent appropriate:

1. Meet the IEP content requirements with respect to the services provided; and
2. Be developed, reviewed, and revised consistent with the IEP provisions in this article.

Private school children with disabilities may receive a different amount of service than children with disabilities in the public schools. There is no entitlement to any service or amount of service the child would receive if enrolled in a public school.

- **Provision of equitable services for parentally placed private school students with disabilities; 300.138; ARSD 24:05:32:03.02**

The services provided to parentally placed private school children with disabilities by the district will be provided by personnel meeting the same standards as personnel providing services in the public schools. The following exclusion applies: Elementary and secondary teachers who are providing equitable services to parentally placed private school children with disabilities are not required to meet the highly qualified special education teacher requirements.

The provision of services will be provided by employees of a school district. Special education and related services provided to parentally placed private school children with disabilities, including materials and equipment, will be secular, neutral, and nonideological.

- **Location of services and transportation; 300.139; ARSD 24:05:32:03.03**

Services provided to eligible parentally placed private school children may be provided on the premises of a child's private school, including a religious school, to the extent consistent with state law. If necessary for the child to benefit from or participate in the services provided under this chapter, a private school child with a disability must be provided transportation:

- (1) From the child's school or the child's home to a site other than the private school; and
- (2) From the service site to the private school, or to the child's home, depending on the timing of the services.

Districts are not required to provide transportation from the child's home to the private school. The cost of transportation described in this section may be included in calculating whether the district has met the requirement of proportionate share.

- **Due process complaints and state level complaints; 300.140; ARSD 24:05:32:03.04**

The district understands that mediation and due process hearings apply to complaints regarding the child find requirements but the procedures in § 24:05:30 do not apply to complaints that the District has failed to meet the requirements of this chapter, including the provision of services indicated on the child's service plan. Any complaints shall be filed with the District in which the private school is located, and a copy shall be forwarded to the Department. Complaints that the District failed to meet the requirements of this section may be filed under the procedures in chapter 24:05:15 consistent with the procedures in § 24:05:32:01.07.

- **Use of personnel for the provision of services to parentally placed private school students with disabilities; 300.142; ARSD 24:05:32:13**

The district understands that it may use funds to make personnel available for the provision of special education and related services in private schools if those services are not normally provided by the private school.

- **Prohibition on separate classes; 300.143; ARSD 24:05:32:11**

The district will not use IDEA Section 619 Preschool or Part B funds for classes that are organized separately on the basis of school enrollment or religion of the students if the classes are at the same site and the classes include students enrolled in public schools and students enrolled in private schools.

- **Property, equipment, and supplies used to provide special education and related services to parentally placed private school students with disabilities; 300.144; ARSD 24:05:32:15, ARSD 24:05:32:16**

The district will remove equipment and supplies from a private school if the equipment and supplies are no longer needed for the purposes of the program authorized under Part B of the IDEA or if removal is necessary to avoid unauthorized use of the equipment or supplies for other than Part B program purposes.

- **Children with disabilities in private schools placed or referred by public agencies; 300.145 – 300.147; ARSD 24:05:34:02**

The district understands that it is still responsible for the identification, evaluation and placement of children placed in private schools by public agencies, but the state is responsible for the costs of special education and related services.

- **Placement of children with disabilities by their parents in private schools when FAPE is an issue; 300.148; ARSD 24:05:31:01-07**

The district understands that if a student with a disability is placed in a private school by the district because FAPE is at issue, the district may be responsible for the costs of the education. The eligible child in this situation has all of the rights of a child with a disability served by the district in conformance with an individual education program which meets the standards that apply to state and local school districts, with the exception of requiring qualified special education teachers as outlined in § 24:05:31:02. For the child who has FAPE available through the district and parents choose to place the child in a private/religious school or facility, the district is not required to pay for the child's education, including special education and related services, at the private school/facility.

If the parents of an eligible child, who previously received special education and related services under the authority of the district, enroll the child in a private preschool, elementary or secondary school without the consent of or referral by the school district, a court or a hearing officer may require the school district to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the school district had not made a FAPE available to the child in a timely manner before that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the state standards that apply to education provided by the district. The cost of this reimbursement may be reduced or denied if:

1. At the most recent IEP team meeting that the parents attended prior to removal of the child from the public school:

- a. The parents did not inform the IEP team that they were rejecting the placement proposed by the school district to provide a FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or
 - b. At least ten business days, including any holidays that occur on a business day, before to the removal of the child from the public school, the parents did not give written notice to the district of the information described in (a) above;
2. Prior to the parents' removal of the child from the public school, the district informed the parents, through the notice requirements described in the district's policies and procedures for procedural safeguards, of its intent to evaluate the child, including a statement of the purpose of the evaluation that was appropriate and reasonable, but the parents did not make the child available for evaluation; or
 3. Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

Notwithstanding the notice requirements in above, the cost of reimbursement may not be reduced or denied for failure to provide notice if:

- (1) Compliance with the above would likely result in physical harm to the child;
- (2) The school prevented the parent from providing the notice; or
- (3) The parents had not received notice, pursuant to district policies and procedures for procedural safeguards

In addition, the cost of reimbursement, may, in the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if the parents are not literate or cannot write in English or if compliance with this section would likely result in serious emotional harm to the child.

Before the IEP team places a child with a disability in, or refers a child to, a private school or facility, the district will initiate and conduct an IEP meeting to review the least restrictive environment for the child in accordance with rules pertaining to the development, review and revision of an IEP, and the content requirements of the IEP. With the consent of the parent, the IEP team shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency shall use other methods to ensure participation by the private school or facility, including individual or conference phone calls, written information provided by the private school or facility, etc. After a child with a disability enters a private school or facility, any meetings to review or revise the child's IEP may be initiated by the private school or facility at the discretion of the district and will include the district and parents. If the private school or facility initiates and conducts the meeting, the district will ensure that the parents and an agency representative are involved in any decision about the child's IEP, and that consensus is reached regarding any proposed changes that are implemented. Even if a private school or facility implements a child's IEP, responsibility for compliance with all Special Education Rules and Regulations remains with the school district and the SEA.

SECTION XI: Compliance with SEA General Supervision Requirements and Implementation of Procedural Safeguards; 34 C.F.R. §§ 300.149 – 300.150; ARSD 24:05:30:01, ARSD 24:05:20:18; State Complaint Procedures; 34 C.F.R. §§ 300.151 – 300.153; ARSD 24:05:15

The Dakota Valley School District will ensure compliance with all SEA procedures under general supervision and that programs meet the standards of the SEA.

The Dakota Valley School District will comply with any and all requests for information from the South Dakota Department of Education, Special Programs Office related to its obligation to provide general supervision over LEAs in the state. This includes any and all requests for information or data related to monitoring and compliance with regulations as established by the SEA.

- **Responsibility for general supervision and procedural safeguards; 300.149-150; ARSD 24:05:30:01**

The District has established, maintains, and implements procedural safeguards which meet the requirements of the chapter ARSD 24:05:30.

- **State complaint procedures; 300.151-153; ARSD 24:05:15**

A complaint is a written signed statement by an individual or organization, including an individual or organization from another state, containing a statement that the department of education or the District has violated a requirement of federal or state statutes, rules, or regulations that apply to a program and a statement of the facts on which the complaint is based. The complaint must allege a violation that occurred not more than one year before the date the complaint is received by the department. The written signed statement shall also include:

- (1) The signature and contact information for the complainant; and
- (2) If alleging violations with respect to a specific child:
 - (a) The name and address of the residence of the child;
 - (b) The name of the school the child is attending;
 - (c) In the case of a homeless child or youth, available contact information for the child and the name of the school the child is attending;
 - (d) A description of the nature of the problem of the child, including facts related to the problem; and

(e) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

An organization or individual may file a written, signed complaint with the state director of special education. The party filing the complaint shall forward a copy of the complaint to the school district serving the child at the same time the party files the complaint with the department. If the complaint is against the District, the following steps shall be taken:

- (1) The state director of special education shall appoint a complaint investigation coordinator from the department's special education programs. The coordinator and any consultants may conduct an independent on-site investigation if it determines that one is necessary;
- (2) The complainant may submit additional information, either orally or in writing, about the allegations in the complaint;
- (3) The District may respond to the complaint, including, at a minimum:
 - (a) At the discretion of the school district, a proposal to resolve the complaint; and
 - (b) An opportunity for a parent who has filed a complaint and the school district to voluntarily engage in mediation consistent with this article;
- (4) The complaint coordinator and any consultants shall make a recommendation to the state director of special education;
- (5) After reviewing all relevant information, the state director of special education shall make an independent determination as to whether the complaint is valid, what corrective action is necessary to resolve the complaint, and the time limit during which corrective action is to be completed. The state director of special education shall submit a written report of the final decision to all parties involved;
- (6) The written report shall address each allegation in the complaint, contain findings of fact and conclusions, and include reasons for the final decision;
- (7) If the complaint is valid, the state director of special education shall find the school district out of compliance with federal and state statutes and rules;
- (8) If corrective action is not completed within the time limit set, including technical assistance and negotiations, the department shall withhold all federal funds applicable to the program until compliance with applicable federal and state statutes and rules is demonstrated by the District;
- (9) When the District demonstrates completion of required correction action, the department's Office of Finance and Management shall be notified by the state director of special education, and all moneys withheld shall be paid to the school district; and
- (10) Documentation supporting the corrective actions taken by the District shall be maintained by the department's special education programs and incorporated into the state's monitoring process.

All complaints must be resolved within 60 days after receipt of the complaint by the state director of special education except as stated in this section. The time limit of 60 days may be extended only under exceptional circumstances as determined by the state director of special education, such as the need for additional time to provide necessary information. Under these circumstances, an extension of time may not exceed 30 days in any one instance.

In addition, the 60-day time limit may be extended, if the parent, individual, or organization and the District agree to engage in mediation in order to attempt to resolve the issues specified in the complaint.

The South Dakota Department of Education, Special Education Programs, shall inform parents and other interested individuals, including parent training centers, protection and advocacy agencies, independent living centers, and other appropriate entities about the state's complaint procedures by taking the following actions:

- (1) Conducting parent surveys through the state's monitoring process;
- (2) Providing copies of the state's procedures to parent and advocacy groups across the state;
- (3) Notifying local school districts through statewide memoranda;
- (4) Presenting state procedures at statewide conferences; and
- (5) Disseminating copies to parent training and information centers, independent living centers, protection, and advocacy agencies, and other appropriate entities.

If a written complaint is received that is also the subject of a due process hearing under this article or contains multiple issues, of which one or more are part of that hearing, the department shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described in this chapter.

If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties the hearing decision is binding on that issue and the department shall inform the complainant to that effect. A complaint alleging a school district's failure to implement a due process decision must be resolved by the department.

SECTION XII: FAPE Methods of Ensuring Services 34 C.F.R. § 300.154; ARSD 24:05:14:01.03, ARSD 24:05:14:01.06

The District ensures that public and/or private benefits available to a student with a disability will be used appropriately to support the provision of FAPE at no cost or harm to the parents.

- **Restrictions and requirements on accessing public benefits (Medicaid); 300.154(d); ARSD 24:05:14:01.03**

A district may use the Medicaid or other public benefits or insurance programs in which a student participates to provide or pay for services required under this article as permitted under the public benefits or insurance program, except as provided in this section. With regard to services required to provide FAPE to an eligible student under this article the public agency:

- (1) Will not require parents to sign up for or enroll in public benefits or insurance programs in order for their student to receive FAPE under Part B of the IDEA;
- (2) Will not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to this article, but pursuant to § 24:05:14:01.06, may pay the cost that the parent otherwise would be required to pay;
- (3) Will not use a student's benefits under a public benefits or insurance program if that use would:
 - (a) Decrease available lifetime coverage or any other insured benefit;
 - (b) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the student outside of the time the student is in school;
 - (c) Increase premiums or lead to the discontinuation of benefits or insurance; or
 - (d) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures;
- (4) Will provide written notification to the student's parents pursuant to § 24:05:14:01.04; and
- (5) Will obtain written parental consent consistent with § 24:05:29:13 before accessing a student's or parent's public benefits or insurance for the first time specifying:
 - (a) Personally identifiable information, as defined in § 24:05:29:02(12), that may be disclosed (e.g., records or information about the services that may be provided to a particular student);
 - (b) The purpose of the disclosure (e.g., billing for services under this article);
 - (c) That disclosure will be made to the state Medicaid agency; and
 - (d) That the parent understands and agrees that the public agency may access the parent's or student's public benefits or insurance to pay for services under this article.

Before accessing a student's or parent's public benefits or insurance for the first time, and annually thereafter, the district will provide written notification consistent with § 24:05:30:06 to the student's parents that includes a statement:

- (1) Of the parental consent and no cost requirements in § 24:05:14:01.03;
- (2) That parents have the right under FERPA, as defined in § 24:05:29:02(1), and Part B of the IDEA to withdraw their consent to disclosure of their student's personally identifiable information to the state Medicaid agency at any time; and
- (3) That the withdrawal of consent or refusal to provide consent under FERPA and Part B of the IDEA to disclose personally identifiable information to the state Medicaid agency does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to the parents.

- **Restrictions and requirements on accessing private benefits; 300.154(e); ARSD 24:05:14:01.03**

With regard to services required to provide FAPE to an eligible student under this article, the District may access a parent's private insurance proceeds only if the parent provides informed consent consistent with this article. Each time the district proposes to access the parent's private insurance proceeds, it will:

- (1) Obtain parent consent in accordance with this article; and
- (2) Inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

- **Use of Part B funds for services when parent consent is unable to be obtained; 300.154(f); ARSD 24:05:14:01.06**

If the District is unable to obtain parental consent to use the parent's private insurance, or public benefits or insurance if the parent would incur a cost for a specified service required under this article, to ensure FAPE, the district may use funds obtained through Part B of IDEA for the service.

To avoid financial cost to parents who otherwise would consent to use private insurance, or public benefits or insurance if the parent would incur a cost, the district may use funds obtained through Part B of IDEA to pay the cost the parents otherwise would have to pay to use the parent's benefits or insurance (e.g., the deductible or co-pay amounts).

Proceeds from public benefits or insurance or private insurance may not be treated as program income for purposes of 34 C.F.R. § 80.25. If the District spends reimbursements from federal funds (e.g., Medicaid) for services under this article, those funds are not considered "state or local" funds for purposes of the maintenance of effort provisions in this article.

SECTION XIII: Hearings Related to LEA Eligibility 34C.F.R. § 300.155; ARSD 24:05:2023:01

The Dakota Valley School District understands it has a right to a hearing before the SEA makes any final determination regarding eligibility for funding under Part B.

SECTION XIV: Personnel Qualifications 34 C.F.R. § 300.156; ARSD 24:05:16:16 & ARSD 24:05:16:01

The district will ensure that personnel necessary to carry out the provision of special education and related services are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities, including related service personnel and paraprofessionals. Each district/cooperative will take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services to children with disabilities (24:05:16:05, ARSD).

The Dakota Valley School District ensures that only appropriately certified and/or licensed professionals will be employed to provide services to students with disabilities. In addition, the district will provide ongoing training to all staff and paraprofessionals to assist all in the provision of services to students with disabilities. Further, the district ensures that each special education teacher at the elementary, middle, and high school level is highly qualified per the standards of the ESEA. The district will take steps to recruit, hire, train and retain highly qualified personnel as specified under SD administrative rule.

- **Personnel qualifications; ARSD 24:05:16:16**

To ensure that all personnel necessary to carry out the purposes of Part B and Part C of the Individuals with Disabilities Education Act are appropriately and adequately prepared and trained, including ensuring that those personnel have the content knowledge and skills to serve children with disabilities, the State shall determine that all personnel providing special education or related services, including related services, paraprofessionals and assistants, early intervention, and early childhood personnel, perform these functions under state-approved or state-recognized certification or licensure or other comparable requirements that apply to the area in which the person is providing special education or related services. The department shall ensure that related services personnel who deliver services in their discipline or profession meet the requirements of this section and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.

- **Paraprofessionals and assistants; ARSD 24:05:16:16:01**

Paraprofessionals who are appropriately trained and supervised in accordance with this section will be used to assist in the provision of special education and related services to children with disabilities under Part B of the Individuals with Disabilities Education Act. At a minimum, the following standards will be met:

- (1) Paraprofessionals must have a high school diploma or GED;
- (2) Paraprofessionals must work within defined roles and responsibilities as identified by the school district;
- (3) Paraprofessionals must work under the supervision of, and be evaluated by, certified staff; and
- (4) Each school district must describe the training to be provided paraprofessionals in the staff development component of the district's comprehensive plan under § 24:05:16:05.

The Dakota Valley School District develops annual professional development plans for all special education staff (including paraprofessionals) based on results of continuous improvement data monitoring, internal review, Results Driven Accountability, and staff perceptual surveys. Special educators new to the District will be assigned a mentor. Special education staff who are not certified in special education will receive intensive support for all procedural/IEP related activities from a veteran certified staff member in accordance with the South Dakota Department of Education Office of Educator Certification requirements. Related service providers and other special education staff will also receive a mentor in their respective field to ensure students receive the highest quality services and interventions. New educational paraprofessionals will participate in professional learning, as well as on-the-job training throughout the school year.

SECTION XV: Performance Goals and Indicators 34 C.F.R. § 300.157; ARSD 24:05:14:13

The district will ensure the implementation of state established performance goals and indicators for students with disabilities within their jurisdiction that:

- a. Promote the purposes of Part B of the IDEA
- b. Are the same as the state's objectives for progress by the state of South Dakota's definition of adequate yearly progress (for students with disabilities)
- c. Addresses graduation rates and dropout rates as well as other factors determined by the state of South Dakota
- d. Are consistent, to the extent appropriate with any other goals and academic standards for children established by the state

The District utilizes established performance indicators to assess progress toward achieving the goals mentioned earlier in this section, including measurable annual objectives for progress by children with disabilities under the ESEA.

- **Student information management system (SIMS)**

The District will comply with all requests by the South Dakota Department of Education for data submission that is instrumental to monitoring the performance of the student population with respect to state established goals and indicators and will submit such data on a timely basis. District personnel responsible for data submission may include but is not limited to district administrators, special educators, other special education staff, and clerical staff, depending on the data requested. The District records valid and reliable information both within the online, web-based, secure IEP system as well as within Infinite Campus. Data activation and internal review for accuracy is completed at the district special services office within the web-based IEP system. Data is uploaded nightly between Infinite Campus and the web-based IEP system, so reliable and valid data is readily accessible by staff who have approved access to the system(s). The Dakota Valley School District engages in a continuous improvement process centered around state established performance goals and indicators as required by the State Performance Plan and Results Driven Accountability for students with disabilities.

SECTION XVI: Participation in Assessments 34 C.F.R. § 300.160; ARSD 24:05:14:14, ARSD 24:05:14:14.01

The district ensures all children with disabilities are included in all general state and district wide assessment programs, including those assessments described under the Elementary and Secondary Education Act (ESEA), with appropriate accommodations and alternate assessments where necessary, and as indicated in their respective individual education programs (IEP).

The Dakota Valley School District ensures that all students with disabilities will be included in state and district assessments, with appropriate accommodations and alternate assessments when necessary. Parents will be informed of their child's participation during the course of the IEP meeting, including any necessary accommodations or any assessment that will be based on alternate or modified achievement standards.

The district will provide all necessary data to the SEA on the participation of students with disabilities in state and district wide testing programs and will, to the extent possible, utilize universal design principles in the development and administration of any assessments.

The district ensures that all children with disabilities are included in all general state and district-wide assessment programs, including assessments described in the ESSA, with appropriate accommodations and alternate assessments if necessary and as indicated in their respective IEPs. As appropriate the district shall have guidelines for the provision of appropriate accommodations which shall:

- 1) Identify only those accommodations for each assessment that do not invalidate the score; and
- 2) Instruct IEP teams to select, for each assessment, only those accommodations that do not invalidate the score.

As appropriate, the state or district shall develop and implement alternate assessments and guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments even with accommodations as indicated in their respective individualized education programs. The alternate assessments and guidelines shall provide for alternate assessments that:

- (1) Are aligned with the state's challenging academic content standards and challenging student academic achievement standards;
- (2) If the state has adopted modified academic achievement standards permitted under the regulations promulgated to carry out the ESSA, measure the achievement of children with disabilities against those standards; and
- (3) If the state has adopted alternate academic achievement standards permitted under the regulations promulgated to carry out the ESSA, measure the achievement of children with the most significant cognitive disabilities against those standards.

As appropriate, the state and district shall provide IEP teams with a clear explanation of the differences between assessments based on grade-level academic achievement standards and those based on modified or alternate academic achievement standards, including any effects of state or local policies on the student's education resulting from taking an alternate assessment based on alternate or modified academic achievement standards, such as whether only satisfactory performance on a regular assessment would qualify a student for a regular high school diploma.

As appropriate, the district shall ensure that parents of students selected to be assessed based on alternate or modified academic achievement standards are informed that their child's achievement will be measured based on alternate or modified academic achievement standards.

SECTION XVII: Supplementation of State, local, and other Federal Funds 34 C.F.R. §§ 300.162-163; ARSD 24:05:19:0

The district will ensure the appropriate use of funds under Part B, consistent with 34 C.F.R. § 300.202(a)(1)(2)(3), to pay for the excess costs of providing special education and related services to children with disabilities within their jurisdiction and that such funds will be used to supplement state, local, and Federal funds, not supplant those funds.

- **Maintenance of effort; 300.163; ARSD 24:05:19:08.03**

The Dakota Valley School District ensures appropriate use of funds under Part B to pay for the excess costs of providing special education and related services to children with disabilities. Available funding will be used to supplement state, local, and federal funds, and not supplant those funds.

SECTION XVIII: Public Information 34 C.F.R. § 300.165; ARSD 24:05:20:02

The Dakota Valley School District will make all documents relating to the eligibility of the district, including the request for funds and any evaluations, periodic program plans, or reports required by the state for the IDEA, Part B project available to parents of children with disabilities and to the general public during normal business hours.

The District makes the following documents available to the public:

- Comprehensive Plan for Special Education
- Applications for federal funds
- Public facing State and Federal monitoring reports that do not contain any personally identifiable information regarding students or staff

The documents are available at the Administrative Offices at 1150 Northshore Drive, North Sioux City, during normal office hours. The Director of Special Services is responsible for assuring access to the documents.

SECTION XIX: State Advisory Panel 34 C.F.R. § 300.167-169; ARSD 24:05:14:18-19

The District supports the work of the State Advisory Panel to provide policy guidance to the SEA with respect to special education and related services for children with disabilities.

The Dakota Valley School District supports the work of the State Special Education Advisory Panel and will refer interested parents to the appropriate state contact if they are interested in serving on the panel.

SECTION XX: Other Required Provisions 34 C.F.R. § 300.170 through 300.174.

The Dakota Valley School District ensures that the specific provisions of 300.170 through 300.173 and 24:05:21:04, ARSD, have been implemented at the District level, consistent with state policy.

- **Suspension and expulsion rates; 300.170; ARSD 24:05:14:16**

The State of South Dakota shall examine data, including data disaggregated by race and ethnicity, from the District and other state agencies, as appropriate, to determine whether significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities among local educational agencies in the state or compared to the rates for nondisabled children within the agencies. If discrepancies are occurring, the state shall review and, if appropriate, revise or require the affected local education agency or state agency to revise its policies, procedures, and practices relating to:

- (1) The development and implementation of individualized education programs;
- (2) The use of positive behavioral interventions and supports; and
- (3) Procedural safeguards to ensure that these policies, procedures, and practices comply with the Individuals with Disabilities Education Act, Part B.

The Dakota Valley School District submits data on the suspension and/or expulsion of students with disabilities on an annual basis. If significant discrepancies or patterns are identified, the District may be required to revise policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that such policies, procedures, and practices comply with Federal and state statute, rules and regulations.

- **Annual description of Part B funds; 300.171; ARSD 24:05:21:03**

The information required in the District's comprehensive plan coupled with statements of expenditures, descriptions of the annual use of IDEA, Part B funds, and certification of federal assurances establish a local education agency's eligibility for funds under the Individuals with Disabilities Education Act, Part B.

- **Access to instructional materials (NIMAC); 300.172; ARSD 24:05:14:17**

The State has adopted the National Instructional Materials Accessibility Standard (NIMAS), for the purposes of providing instructional materials to blind persons or other persons with print disabilities. Blind persons or other persons with print disabilities means children served under this article who qualify to receive books and other publications produced in specialized formats in accordance with the federal Act to Provide Books for Adults who are Blind, in accordance with 2 U.S.C. 135a, as amended to January 1, 2007.

In implementing NIMAS, the department shall coordinate with the National Instructional Materials Accessibility Center (NIMAC), and the department:

(1) As part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, shall enter into a written contract with the publisher of the print instructional materials to:

- (a) Require the publisher to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instructional materials using the NIMAS; or
- (b) Purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats;

(2) Shall provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

In carrying out this section, the District, to the maximum extent possible, shall work collaboratively with the state agency responsible for assistive technology programs.

- **Over-identification and disproportionality; 300.173; ARSD 24:05:17:10**

The State department shall provide for the collection and examination of data to determine whether any inappropriate overidentification or significant disproportionality based on race and ethnicity is occurring in the Dakota Valley School District with respect to:

- (1) The identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in chapter 24:05:24.01;
- (2) The placement in particular educational settings of these children; and
- (3) The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

In the case of a determination of inappropriate over identification or significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular settings of these children, the District shall provide for the review of and, if appropriate, revision of the policies, procedures, and practices used in the identification or placement to ensure compliance with the requirements of Part B of the Individuals with Disabilities Education Act; require any district identified under this section to reserve the maximum amount of funds allowable to provide comprehensive coordinated early intervening services to serve children in the district, particularly, but not exclusively, children in those groups that were significantly over identified under this section; and require the district to publicly report on the revision of policies, practices, and procedures described under this section.