

**FREE APPROPRIATE PUBLIC EDUCATION
(FAPE)**

FEDERAL REGULATIONS

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

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

- (a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child’s customary environment;
- (b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- (c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- (d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (e) Training or technical assistance for a child with a disability or, if appropriate, that child’s family; and
- (f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

§300.10 **Core academic subjects.** Core academic subjects means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

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

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

§300.34 Related services.

- (a) *General. Related services* means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech- language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.
- (b) *Exception; services that apply to children with surgically implanted devices, including cochlear implants.*
 - (1) Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.
 - (2) Nothing in paragraph (b)(1) of this section—
 - (i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be necessary for the child to receive FAPE.
 - (ii) Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or
 - (iii) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in §300.113(b).
- (c) *Individual related services terms defined.* The terms used in this definition are defined as follows:
 - (1) *Audiology* includes—
 - (i) Identification of children with hearing loss;
 - (ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
 - (iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;
 - (iv) Creation and administration of programs for prevention of hearing loss;
 - (v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and

- (vi) Determination of children’s needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.
- (2) *Counseling services* means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.
- (3) *Early identification and assessment of disabilities in children* means the implementation of a formal plan for identifying a disability as early as possible in a child’s life.
- (4) *Interpreting services* includes—
 - (i) The following, when used with respect to children who are deaf or hard of hearing: Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and
 - (ii) Special interpreting services for children who are deaf-blind.
- (5) *Medical services* means services provided by a licensed physician to determine a child’s medically related disability that results in the child’s need for special education and related services.
- (6) *Occupational therapy*—
 - (i) Means services provided by a qualified occupational therapist; and
 - (ii) Includes—
 - (A) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;
 - (B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and
 - (C) Preventing, through early intervention, initial or further impairment or loss of function.
- (7) *Orientation and mobility services*—
 - (i) Means services provided to blind or visually impaired children by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and
 - (ii) Includes teaching children the following, as appropriate:
 - (A) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);

- (B) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;
 - (C) To understand and use remaining vision and distance low vision aids; and
 - (D) Other concepts, techniques, and tools.
- (8) (i) *Parent counseling and training* means assisting parents in understanding the special needs of their child;
- (ii) Providing parents with information about child development; and
- (iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.
- (9) *Physical therapy* means services provided by a qualified physical therapist.
- (10) *Psychological services* includes—
- (i) Administering psychological and educational tests, and other assessment procedures;
 - (ii) Interpreting assessment results;
 - (iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
 - (iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
 - (v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and
 - (vi) Assisting in developing positive behavioral intervention strategies.
- (11) *Recreation* includes—
- (i) Assessment of leisure function;
 - (ii) Therapeutic recreation services;
 - (iii) Recreation programs in schools and community agencies; and
 - (iv) Leisure education.
- (12) *Rehabilitation counseling services* means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services

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

- (13) *School health services and school nurse services* means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.
- (14) *Social work services in schools* includes—
- (i) Preparing a social or developmental history on a child with a disability;
 - (ii) Group and individual counseling with the child and family;
 - (iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
 - (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
 - (v) Assisting in developing positive behavioral intervention strategies.
- (15) *Speech-language pathology services* includes—
- (i) Identification of children with speech or language impairments;
 - (ii) Diagnosis and appraisal of specific speech or language impairments;
 - (iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
 - (iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and
 - (v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.
- (16) *Transportation* includes—
- (i) Travel to and from school and between schools;
 - (ii) Travel in and around school buildings; and
 - (iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

§300.39 Special education.

(a) *General.*

- (1) *Special education* means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—
 - (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
 - (ii) Instruction in physical education.
- (2) *Special education* includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section—
 - (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;
 - (ii) Travel training; and
 - (iii) Vocational education.

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

- (1) *At no cost* means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.
- (2) *Physical education* means—
 - (i) The development of—
 - (A) Physical and motor fitness;
 - (B) Fundamental motor skills and patterns; and
 - (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and
 - (ii) Includes special physical education, adapted physical education, movement education, and motor development.
- (3) *Specially designed instruction* means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—
 - (i) To address the unique needs of the child that result from the child's disability; and
 - (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.

- (4) *Travel training* means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to—
 - (i) Develop an awareness of the environment in which they live; and
 - (ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).
- (5) *Vocational education* means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

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

§300.101 **Free appropriate public education (FAPE).**

- (a) *General.* A free appropriate public education must be available to all children residing in the State 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).
- (b) *FAPE for children beginning at age 3.*
 - (1) Each State must ensure that—
 - (i) The obligation to make FAPE available to each eligible child residing in the State begins no later than the child's third birthday; and
 - (ii) An IEP or an IFSP is in effect for the child by that date, in accordance with §300.323(b).
 - (2) If a child's third birthday occurs during the summer, the child's IEP Team shall determine the date when services under the IEP or IFSP will begin.
- (c) *Children advancing from grade to grade.*
 - (1) Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.
 - (2) The determination that a child described in paragraph (a) of this section is eligible under this part, must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.

§300.102 Limitation—exception to FAPE for certain ages.

- (a) *General.* The obligation to make FAPE available to all children with disabilities does not apply with respect to the following:
- (1) Children aged 3, 4, 5, 18, 19, 20, or 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children of those ages.
 - (2) (i) Children aged 18 through 21 to the extent that State law does not require that special education and related services under Part B of the Act be provided to students with disabilities who, in the last educational placement prior to their incarceration in an adult correctional facility—
 - (A) Were not actually identified as being a child with a disability under §300.8; and
 - (B) Did not have an IEP under Part B of the Act.
 - (ii) The exception in paragraph (a)(2)(i) of this section does not apply to children with disabilities, aged 18 through 21, who—
 - (A) Had been identified as a child with a disability under §300.8 and had received services in accordance with an IEP, but who left school prior to their incarceration; or
 - (B) Did not have an IEP in their last educational setting, but who had actually been identified as a child with a disability under §300.8.
 - (3) (i) Children with disabilities who have graduated from high school with a regular high school diploma.
 - (ii) The exception in paragraph (a)(3)(i) of this section does not apply to children who have graduated from high school but have not been awarded a regular high school diploma.
 - (ii) Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with §300.503.
 - (iv) As used in paragraphs (a)(3)(i) through (a)(3)(iii) of this section, the term *regular high school diploma* does not include an alternative degree that is not fully aligned with the State’s academic standards, such as a certificate or a general educational development credential (GED).
 - (4) Children with disabilities who are eligible under subpart H of this part, but who receive early intervention services under Part C of the Act.
- (b) *Documents relating to exceptions.* The State must assure that the information it has provided to the Secretary regarding the exceptions in paragraph (a) of this section, as required by §300.700 (for purposes of making grants to States under this part), is current and accurate.

§300.105 Assistive technology.

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

§300.106 Extended school year services.

- (a) *General.*
 - (1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.
 - (2) Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with §§300.320 through 300.324, that the services are necessary for the provision of FAPE to the child.
 - (3) In implementing the requirements of this section, a public agency may not—
 - (i) Limit extended school year services to particular categories of disability; or
 - (ii) Unilaterally limit the type, amount, or duration of those services.
- (b) *Definition.* As used in this section, the term extended school year services means special education and related services that—
 - (1) Are provided to a child with a disability—
 - (i) Beyond the normal school year of the public agency;
 - (ii) In accordance with the child's IEP; and
 - (iii) At no cost to the parents of the child; and
 - (2) Meet the standards of the SEA.

§300.107 Nonacademic services. The State must ensure the following:

- (a) Each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.
- (b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.

§300.108 Physical education. The State must ensure that public agencies in the State comply with the following:

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

§300.113 Routine checking of hearing aids and external components of surgically implanted medical devices.

- (a) *Hearing aids.* Each public agency must ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.
- (b) *External components of surgically implanted medical devices.*
 - (1) Subject to paragraph (b)(2) of this section, each public agency must ensure that the external components of surgically implanted medical devices are functioning properly.
 - (2) For a child with a surgically implanted medical device who is receiving special education and related services under this part, a public agency is not responsible for the post-surgical maintenance, programming, or replacement of the medical device that has been

surgically implanted (or of an external component of the surgically implanted medical device).

Children With Disabilities Enrolled by Their Parents in Private Schools When FAPE Is at Issue

§300.148 Placement of children by parents when FAPE is at issue.

- (a) *General.* This part does not require an LEA to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made FAPE available to the child and the parents elected to place the child in a private school or facility. However, the public agency must include that child in the population whose needs are addressed consistent with §§300.131 through 300.144.
- (b) *Disagreements about FAPE.* Disagreements between the parents and a public agency regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to the due process procedures in §§300.504 through 300.520.
- (c) *Reimbursement for private school placement.* If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private preschool, elementary school, or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made FAPE available to the child in a timely manner prior to 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 SEA and LEAs.
- (d) *Limitation on reimbursement.* The cost of reimbursement described in paragraph (c) of this section may be reduced or denied—
 - (1) If—
 - (i) At the most recent IEP Team meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or
 - (ii) At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in paragraph (d)(1)(i) of this section;
 - (2) If, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in §300.503(a)(1), 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 the evaluation; or
 - (3) Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

- (e) *Exception.* Notwithstanding the notice requirement in paragraph (d)(1) of this section, the cost of reimbursement—
- (1) Must not be reduced or denied for failure to provide the notice if—
 - (i) The school prevented the parents from providing the notice;
 - (ii) The parents had not received notice, pursuant to §300.504, of the notice requirement in paragraph (d)(1) of this section; or
 - (iii) Compliance with paragraph (d)(1) of this section would likely result in physical harm to the child; and
 - (2) May, in the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if—
 - (i) The parents are not literate or cannot write in English; or
 - (ii) Compliance with paragraph (d)(1) of this section would likely result in serious emotional harm to the child.

§300.174 Prohibition on mandatory medication.

- (a) *General.* The SEA must prohibit State and LEA personnel from requiring parents to obtain a prescription for substances identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) for a child as a condition of attending school, receiving an evaluation under §§300.300 through 300.311, or receiving services under this part.
- (b) *Rule of construction.* Nothing in paragraph (a) of this section shall be construed to create a Federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student’s academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under §300.111 (related to child find).

COLORADO RULES FOR THE ADMINISTRATION OF THE EXCEPTIONAL CHILDREN’S EDUCATIONAL ACT (ECEA)

2.03 Assistive Technology Device.

Assistive Technology Device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.

2.04 Assistive Technology Service

- 2.04 (1) *Assistive Technology Service* means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes—

- 2.04 (1) (a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
- 2.04 (1) (b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- 2.04 (1) (c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- 2.04 (1) (d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- 2.04 (1) (e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and
- 2.04 (1) (f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

2.19 Free Appropriate Public Education

Free Appropriate Public Education or FAPE means special education and related services that:

- 2.19 (1) Are provided at public expense, under public supervision and direction, and without charge;
- 2.19 (2) Meet the standards of the Department, including the requirements of these Rules;
- 2.19 (3) Include an appropriate preschool, elementary school, or secondary school education in the State; and
- 2.19 (4) Are provided in conformity with an individualized education program (IEP) that meets the IEP content, development, review and revision requirements of Section 4.03 of these Rules and 34 CFR §§300.320 through 300.324.

2.37 Related Services

- 2.37 (1) General.

Related Services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes audiology services; interpreting services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; early identification and evaluation of disabilities in children; counseling services, including rehabilitation counseling; orientation and mobility services; and medical services for diagnostic or evaluation purposes. Related services also include school health

services and school nurse services; social work services in schools; and parent counseling and training.

2.37 (2) Exception.

Services that apply to children with surgically implanted devices, including cochlear implants.

2.37 (2) (a) Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.

2.37 (2) (b) Nothing in Section 2.37(2)(a)—

2.37 (2) (b) (i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this Section) that are determined by the IEP Team to be necessary for the child to receive FAPE.

2.37 (2) (b) (ii) Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or

2.37 (2) (b) (iii) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in 34 CFR §300.113(b).

2.37 (3) Individual related services terms defined.

The terms used in this definition are defined as follows:

2.37 (3) (a) Audiology includes—

2.37 (3) (a) (i) Identification of children with hearing loss;

2.37 (3) (a) (ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

2.37 (3) (a) (iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;

2.37 (3) (a) (iv) Creation and administration of programs for prevention of hearing loss;

2.37 (3) (a) (v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and

- 2.37 (3) (a) (vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.
- 2.37 (3) (b) Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.
- 2.37 (3) (c) Early identification and assessment of disabilities in children means the implementation of a formal plan for identifying a disability as early as possible in a child's life.
- 2.37 (3) (d) Interpreting services that includes—
 - 2.37 (3) (d) (i) The following, when used with respect to children who are deaf or hard of hearing: oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), c-print, and typewell; and
 - 2.37 (3) (d) (ii) Special interpreting services for children who are deaf-blind.
- 2.37 (3) (e) Medical services means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.
- 2.37 (3) (f) Occupational therapy—
 - 2.37 (3) (f) (i) Means services provided by a qualified occupational therapist; and
 - 2.37 (3) (f) (ii) Includes—
 - 2.37 (3) (f) (ii) (A) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;
 - 2.37 (3) (f) (ii) (B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and
 - 2.37 (3) (f) (ii) (C) Preventing, through early intervention, initial or further impairment or loss of function.
- 2.37 (3) (g) Orientation and mobility services—
 - 2.37 (3) (g) (i) Means services provided to blind or visually impaired children by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and
 - 2.37 (3) (g) (ii) Includes teaching children the following, as appropriate:

- 2.37 (3) (g) (ii) (A) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);
- 2.37 (3) (g) (ii) (B) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;
- 2.37 (3) (g) (ii) (C) To understand and use remaining vision and distance low vision aids; and
- 2.37 (3) (g) (ii) (D) Other concepts, techniques, and tools.
- 2.37 (3) (h) Parent counseling and training means assisting parents in understanding the special needs of their child; providing parents with information about child development; and helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.
- 2.37 (3) (i) Physical therapy means services provided by a qualified physical therapist.
- 2.37 (3) (j) Psychological services includes—
 - 2.37 (3) (j) (i) Administering psychological and educational tests, and other assessment procedures;
 - 2.37 (3) (j) (ii) Interpreting assessment results;
 - 2.37 (3) (j) (iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
 - 2.37 (3) (j) (iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
 - 2.37 (3) (j) (v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and
 - 2.37 (3) (j) (vi) Assisting in developing positive behavioral intervention strategies.
- 2.37 (3) (k) Recreation includes—
 - 2.37 (3) (k) (i) Assessment of leisure function;
 - 2.37 (3) (k) (ii) Therapeutic recreation services;
 - 2.37 (3) (k) (iii) Recreation programs in schools and community agencies; and
 - 2.37 (3) (k) (iv) Leisure education.

- 2.37 (3) (l) Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq.
- 2.37 (3) (m) School health services and school nurse services means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.
- 2.37 (3) (n) Social work services in schools includes—
 - 2.37 (3) (n) (i) Preparing a social or developmental history on a child with a disability;
 - 2.37 (3) (n) (ii) Group and individual counseling with the child and family;
 - 2.37 (3) (n) (iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
 - 2.37 (3) (n) (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
 - 2.37 (3) (n) (v) Assisting in developing positive behavioral intervention strategies.
- 2.37 (3) (o) Transportation includes—
 - 2.37 (3) (o) (i) Travel to and from school and between schools;
 - 2.37 (3) (o) (ii) Travel in and around school buildings; and
 - 2.37 (3) (o) (iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

2.43 Special Education

- 2.43 (1) General.
 - 2.43 (1) (a) *Special Education* means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—
 - 2.43 (1) (a) (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
 - 2.43 (1) (a) (ii) Instruction in physical education.

- 2.43 (1) (b) Special education includes each of the following, if the services otherwise meet the requirements of paragraph (1)(a) of this Section—
 - 2.43 (1) (b) (i) Speech-language pathology services that includes—
 - 2.43 (1) (b) (i) (A) Identification of children with speech or language impairments;
 - 2.43 (1) (b) (i) (B) Diagnosis and appraisal of specific speech or language impairments;
 - 2.43 (1) (b) (i) (C) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
 - 2.43 (1) (b) (i) (D) Provision of speech and language services for the habilitation or prevention of communicative impairments; and
 - 2.43 (1) (b) (i) (E) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.
 - 2.43 (1) (b) (i) (F) Rule of construction: A child with a disability, as defined in Section 2.08 of these Rules, shall be entitled to receive speech language pathology services as specially designed instruction if the child's IEP Team determines that the child needs speech language pathology services in order to receive a free appropriate public education.
 - 2.43 (1) (b) (ii) Travel training; and
 - 2.43 (1) (b) (iii) Vocational education.
- 2.43 (2) Individual special education terms defined.
The terms in this definition are defined as follows:
 - 2.43 (2) (a) *At no cost* means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the general education program.
 - 2.43 (2) (b) *Physical education* means—
 - 2.43 (2) (b) (i) The development of—
 - 2.43 (2) (b) (i) (A) Physical and motor fitness;
 - 2.43 (2) (b) (i) (B) Fundamental motor skills and patterns; and
 - 2.43 (2) (b) (i) (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and
 - 2.43 (2) (b) (ii) Includes special physical education, adapted physical education, movement education, and motor development.

- 2.43 (2) (c) *Specially designed instruction* means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—
 - 2.43 (2) (c) (i) To address the unique needs of the child that result from the child's disability; and
 - 2.43 (2) (c) (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards of the responsible administrative unit or state-operated program as established in Section 8.00 of these Rules.
- 2.43 (2) (d) *Travel training* means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to—
 - 2.43 (2) (d) (i) Develop an awareness of the environment in which they live; and
 - 2.43 (2) (d) (ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).
- 2.43 (2) (e) *Vocational education* means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

3.06 Program Evaluation

Each administrative unit or eligible facility shall maintain records of results of all qualitative and quantitative evaluations of special education services rendered. Evaluations of special education services shall occur annually and within a period of five years systematically cover aspects of services to children with disabilities. Such evaluations shall review:

- 3.06 (1) Extent to which quality special education policies and practices are in place and where improvements can occur.
- 3.06 (2) Degree to which children with disabilities are achieving their individual goals as well as school, district, and state standards and student outcomes.

8.02 Specific Responsibilities for Special Education Functions and Services

- 8.02 (1) Except as is otherwise provided for in these Rules, the administrative unit of attendance is responsible for child identification, as defined by Section 4.02 of these Rules, IEP planning, delivery of special education services, and the provision of a free appropriate public education to each child with a disability attending public school within the administrative unit, including convening and conducting required meetings related to such special education functions.
 - 8.02 (1) (a) A child with a disability attending public school is entitled to all special education services specified by the child's IEP and to a free appropriate public education.

- 8.02 (1) (b) Consistent with 34 CFR §§300.129 through 300.144, each administrative unit is responsible for conducting child identification and serving designated parentally placed private school students with disabilities in elementary and secondary private schools located within the boundaries of the administrative unit, including developing a services plan for such designated students.
- 8.02 (1) (c) The administrative unit of attendance is not responsible for the delivery of special education services or the provision of a free appropriate public education to a child with a disability placed in an eligible facility approved by the State Board of Education. It is, however, responsible for certain other special education functions identified in this Rule 8.00. 8.02 (2) If a child with a disability is not enrolled in school, the administrative unit of residence is responsible for the provision of child find identification services.