

Current Policy

Title 28 EDUCATION

Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act

Chapter 9. General

Subchapter B. Definitions used in these Regulations

§905. Definitions

Adapted Physical Education—specially designed physical education for eligible students with disabilities.

Administrative Law Judge—an employee of the Division of Administrative Law that has the qualifications and authority as listed in R.S. 49:994.

Age of Majority—as defined in Louisiana, means 18 years of age.

Alternate Assessment—see *Bulletin 111—The Louisiana School, District, and State Accountability System*.

Assistive Technology Device—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 functional capabilities of a student with a disability. The term does not include a medical device that is surgically implanted, or the replacement of that device.

Assistive Technology Service—any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

1. the evaluation of the needs of a student with a disability, including a functional evaluation of the student in the student's customary environment;
2. purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by students with disabilities;
3. selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
4. coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing educational and rehabilitation plans and programs;
5. training or technical assistance for a student with a disability, or, if appropriate, that student's family; and
6. 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 student.

At No Cost—see *Special Education*.

Audiology—see *Related Services*.

Autism—see *Student with a Disability*.

Business Day—see *Day*.

Certificate of Achievement—

1. An exit document issued to a student with a disability after he or she has achieved certain competencies and has met specified conditions as listed below. The receipt of a certificate of achievement shall not limit a student's continuous eligibility for services under these regulations unless the student has reached the age of 22.

- a. The student has a disability under the mandated criteria.
- b. The student has participated in LEAP Alternate Assessment (LAA).
- c. The student has completed at least 12 years of school or has reached the age of 22 (not to include students younger than 16).
- d. The student has met attendance requirements.
- e. The student has addressed the general education curriculum as reflected on the student's IEP.
- f. Transition planning for the student has been completed and documented.

Change of Placement—see §116 and §536 of these regulations.

Charter School—the term in section 5210(1) of the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. 6301 *et seq.*

Child Find—see §111 of these regulations.

Child with a Disability—see *Student with a Disability*.

Consent—that:

1. the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language or other mode of communication;
2. the parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought; the consent describes that activity and lists the records (if any) that will be released and to whom; and

3.a. the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

b. If a parent revokes consent, that revocation is not retroactive (i.e., does not negate an action that has occurred after the consent had been given and before the consent was revoked).

c. if the parent revokes consent in writing for his/her child's receipt of special education and related services, the public agency is not required to amend the student's education records to remove any references to the student's receipt of special education and related services because of the revocation.

Controlled Substance—refer to §530.I.1 of these regulations.

Core Academic Subjects—English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

Counseling Services—see *Related Services*.

Day; Business Day; School Day—

1. *Day*—calendar day unless otherwise indicated as business day or school day.

2. *Business day*—Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day, as in §148D1b.

3.a. *School Day*—any day, including a partial day that students are in attendance at school for instructional purposes.

b. School day has the same meaning for all students in school, including students with and without disabilities.

Deaf-Blindness—see *Student with a Disability*.

Deafness—see *Student with a Disability*.

Developmental Delay—see *Student with a Disability*.

Disability—see *Student with a Disability*.

Division of Administrative Law—the independent state agency that conducts administrative hearings and renders decisions regarding state and federal law.

Due Process—see Chapter 5 of these regulations.

Early Identification and Assessment of Disabilities in Students—see *Related Services*.

Early Intervening Services—see §226.

Early Resolution Process (ERP)—a systematic informal process for dispute resolution available prior to or in connection with State Administrative Complaints in accordance with §§151-153.

Educational Service Agency—

1. A regional public multiservice agency:

a. authorized by State law to develop, manage, and provide services or programs to LEAs;

b. recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the state.

2. This definition includes any other public institution or agency having administrative control and direction over a public elementary schools or secondary school; and

3. includes entities that meet the definition of an intermediate educational unit in section 602(23) of the IDEA as in effect prior to June 4, 1997.

Elementary School—a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

Emotional Disturbance—see *Student with a Disability*.

Equipment—

1. machinery, utilities, built-in equipment, and any necessary enclosures or structures to house the machinery, utilities, or equipment; and

2. all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

Evaluation—procedures used in accordance with §§305 through 308 to determine whether a student has a disability and the nature and extent of the special education and related services that the student needs.

Extended School Year (ESY) Services—see §106 of these regulations.

Excess Costs—those costs that are in excess of the average annual per student expenditure in a LEA during the preceding school year for an elementary or secondary school student, as may be appropriate, and that shall be computed after deducting:

1. amounts received:

a. under part B of the IDEA;

b. under part A of Title I of the ESEA; and

c. under parts A and B of Title III of the ESEA; and

2. any state or local funds expended for programs that would qualify for assistance under any of the parts described in Paragraph 1. This definition, but excluding any amounts for capital outlay or debt service. (See Appendix A to the IDEA for an example of how excess costs shall be calculated.)

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

1. are provided at public expense, under public supervision and direction, and without charge;
2. meet the standards of the LDE; including the requirements of these regulations;
3. include an appropriate preschool, elementary school, or secondary school education in the state; and
4. are provided in conformity with an Individualized Education Program (IEP) that meets the requirement of §§320 through 324.

Foster Parent—see *Parent*.

Highly Qualified Special Education Teachers—

1. Requirements for Special Education Teachers Teaching Core Academic Subjects. For any public elementary or secondary school special education teacher teaching core academic subjects, the term *highly qualified* has the meaning given the term in section 9101 of the ESEA and 34 CFR 200.56, except that the requirements for highly qualified also:

- a. include the requirements described in Paragraph 2 of this definition; and
- b. include the option for teachers to meet the requirements of section 9101 of the ESEA by meeting the requirements of Paragraphs 3 and 4 of this definition.

2. Requirements for Special Education Teachers in General

a. When used with respect to any public elementary school or secondary school special education teacher teaching in the state, highly qualified requires that:

i. the teacher has obtained full state certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the state special education teacher licensing examination, and holds a license to teach in the state as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, highly qualified means that the teacher meets the certification or licensing requirements, if any, set forth in the state's public charter school law;

ii. the teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

iii. the teacher holds at least a bachelor's degree.

b. A teacher will be considered to meet the standard in Clause 2.a.i. of this definition if that teacher is participating in an alternative route to special education certification program under which:

i. the teacher:

(a). receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teaching;

(b). participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program;

(c). assumes functions as a teacher only for a specified period of time not to exceed three years; and

(d). demonstrates satisfactory progress toward full certification as prescribed by the state; and

ii. the state ensures, through its certification and licensure process, that the provisions in Clause 2.b.i of this definition are met.

c. Any public elementary school or secondary school special education teacher teaching in a State, who is not teaching a core academic subject, is highly qualified if the teacher meets the requirements in Subparagraph 2.a or the requirements in Clause 2.a.iii and Subparagraph 2.b of this definition.

3. Requirements for Special Education Teachers Teaching to Alternate Achievement Standards. When used with respect to a special education teacher who teaches core academic subjects exclusively to students who are assessed against alternate achievement standards established under 34 CFR 200.1(d), highly qualified means the teacher, whether new or not new to the profession, may either:

a. meet the applicable requirements of section 9101 of the ESEA and 34 CFR 200.56 for any elementary, middle, or secondary school teacher who is new or not new to the profession; or

b. meet the requirements of paragraph (B) or (C) of section 9101(23) of the ESEA as applied to an elementary school teacher, or, in the case of instruction above the elementary level, meet the requirements of paragraph (B) or (C) of section 9101(23) of the ESEA as applied to an elementary school teacher and have subject matter knowledge appropriate to the level of instruction being provided and needed to effectively teach to those standards, as determined by the state.

4. Requirements for Special Education Teachers Teaching Multiple Subjects. Subject to Paragraph 5 of this Subsection, when used with respect to a special education teacher who teaches two or more core academic subjects exclusively to students with disabilities, highly qualified means that the teacher may either:

a. meet the applicable requirements of section 9101 of the ESEA and 34 CFR 200.56(b) or (c);

b. in the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher who is not new to the profession under 34 CFR 200.56(c) which may include a single, high objective uniform State standard of evaluation (HOUSSE) covering multiple subjects; or

c. in the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate, not later than two years after the date of employment, competence

in the other core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher under 34 CFR 200.56(c), which may include a single HOUSSE covering multiple subjects.

5. Separate HOUSSE standards for special education teachers. The State has developed a HOUSSE, which is found in *Bulletin 111—The Louisiana School, District, and State Accountability System*, which does not establish a lower standard for the content knowledge requirements for special education teachers and meets all the requirements for a HOUSSE for regular education teachers:

- a. the state may develop a separate HOUSSE for special education teachers; and
- b. the standards described in Paragraph E.1 of this definition may include single HOUSSE evaluations that cover multiple subjects.

6. Rule of Construction. Notwithstanding any other individual right of action that a parent or student may maintain under these regulations, nothing in these regulations shall be construed to create a right of action on behalf of an individual student or class of students for the failure of a particular state or LEA employee to be highly qualified, or to prevent a parent from filing a complaint under §§151-153 about staff qualifications with the state as provided for under these regulations.

7. Applicability of Definition to ESEA; and Clarification of New Special Education Teacher

- a. A teacher who is highly qualified under this section is considered highly qualified for purposes of the ESEA.
- b. For purposes of Paragraph D.3 of this definition, a fully certified regular education teacher who subsequently becomes fully certified or licensed as a special education teacher is a new special education teacher when first hired as a special education teacher.

8. Private School Teachers Not Covered. The requirements in this section do not apply to teachers hired by private elementary schools and secondary schools including private school teachers hired or contracted by LEAs to provide equitable services to parentally-placed private school students with disabilities under §138.

Homeless Students—has the meaning given the term homeless students and youths in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 et seq.

Illegal Drug—see §530.I of these regulations.

Include—that the items named are not all of the possible items that are covered, whether like or unlike the one named.

Indian and Indian Tribe—

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

Independent Educational Evaluation (IEE)—see §503 of these regulations.

Individual Education Plan Facilitation—an alternative dispute resolution method developed by the LDE. This option is available to parents and school districts when both agree that it would be valuable to have a neutral person (IEP Facilitator) present at an IEP meeting to assist them in discussing issues regarding an IEP. The role of the IEP Facilitator is to assist in creating an atmosphere for fair communication and the successful drafting of an IEP for the student. Either parent or district can request IEP Facilitation; however, since the process is voluntary, both sides shall agree to participate in the IEP facilitation process. Like mediation, the IEP facilitation is initiated by request to the LDE, and is at no cost to the parents or districts.

Individualized Education Program or IEP—a written statement for a student with a disability that is developed, reviewed, and revised in accordance with §§320 through 324.

Individualized education program team or IEP Team—a group of individuals described in §321 of these regulations that is responsible for developing, reviewing, or revising an IEP for a student with a disability.

Individualized Family Service Plan (IFSP)—a written plan for providing early intervention services for infants and toddlers and their families who are eligible under part C of IDEA.

Infant or Toddler with a Disability—

1. an individual under three years of age who needs early intervention services because the individual:
 - a. is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or
 - b. has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay;and
2. may also include, at the state's discretion:
 - a. at-risk infants and toddlers; and
 - b. students with disabilities who are eligible for services under section 619 and who previously received services under part C of the IDEA until such students enter or are eligible under State law to enter kindergarten or elementary school, as appropriate, provided that any programs under part C of the IDEA serving such students shall include:

- i. an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills; and
- ii. a written notification to parents of their rights and responsibilities in determining whether their child will continue to receive services under part C of the IDEA or participate in preschool programs under section 619.

Institution of Higher Education—has the meaning given the term in section 101 of the Higher Education Act of 1965, as amended, 20 U.S.C. 1021 *et seq.* (HEA).

Intellectual Disability—see *student with a disability*.

Interagency Agreement—an operational statement between two or more parties or agencies that describes a course of action to which the agencies are committed. The statement shall be consistent with the mandatory provision of §154.

Interim Alternative Educational Setting—see §§530 through 534 of these regulations.

Interpreting Services—see *Related Services*.

Least Restrictive Environment—the educational placement of a student with a disability in a manner consistent with the Least Restrictive Environment Requirements in §115 and 116 of these regulations.

Limited English Proficient—the meaning given the term in section 9101(25) of the ESEA.

Local Education Agency or LEA—

1. General. Local Education Agency or LEA—a public board of education or other public authority legally constituted within the state for either administrative control or direction of or to perform a service function for public elementary schools or secondary schools in a city, parish, school district, or other political subdivision of the state or for a combination of school districts or parishes as are recognized in the state as an administrative agency for its public elementary or secondary schools.

2. Educational Service Agencies and Other Public Institutions or Agencies. The term includes:

- a. an educational service agency, as defined this section; and
- b. any other public institution or agency having administrative control and direction of a public elementary or secondary school, including a public nonprofit charter school that is established as an LEA under state law.

3. BIA Funded Schools. The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs, and not subject to the jurisdiction of any SEA other than the Bureau of Indian Affairs, but only to the extent that the inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the IDEA with the smallest student population.

Maintenance of Effort—see §204 of these regulations.

Manifestation Determination Review—see §530.E of these regulations.

Medical Services—see *Related Services*.

Mental Disability—see *Student with a Disability*.

Multiple Disabilities—see *Student with a Disability*.

Native Language—

1. When used with respect to an individual who is limited English proficient, has the following meaning:

- a. the language normally used by that individual, or in the case of a student, the language normally used by parents of the student, except as provided in Paragraph A.2 of this definition.
- b. In all direct contact with the student, (including the evaluation of the student), the language is the one normally used by the student in the home or learning environment.

2. For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication).

Occupational Therapy—see *Related Services*.

Orientation and Mobility Training—see *Related Services*.

Orthopedic Impairment—see *Student with a Disability*.

Other Health Impairment—see *Student with a Disability*.

Paraprofessional—is a person who assists in the delivery of special educational services under the supervision of a special education teacher or other professional who has the responsibility for the delivery of special education services to students with disabilities and who meets all state and federal requirements to serve as a paraprofessional.

Parent—

- 1.a. a biological, or adoptive parent of a child;
- b. a foster parent;
- c. a guardian generally authorized to act as the student's parent, or authorized to make educational decisions for the student, but not the state if the student is a ward of the state;
- d. an individual acting in the place of a biological or adoptive parent (including a grandparent, or stepparent or other relative) with whom the student lives, or an individual who is legally responsible for the student's welfare; or
- e. a surrogate parent who has been appointed in accordance with §519.

2.a. Except as provided in Subparagraph 2.b of this definition, the biological or adoptive parent, when attempting to act as the parent under these regulations and when more than one party is qualified under Paragraphs 1 through 5 of this

definition to act as a parent, shall be presumed to be the parent for purposes of this definition unless the biological or adoptive parent does not have legal authority to make educational decisions for the student.

b. If a judicial decree or order identifies a specific person or persons under Paragraphs A.1 through 4 of this definition to act as the "parent" of a student or to make educational decisions on behalf of a student, then such person or persons shall be determined to be the parent for purposes of this definition, except that an employee of a public agency that provides education or care for a student may not act as the parent pursuant to §519.

Parent Counseling and Training—see *Related Services*.

Parent Training and Information Center or Community Parent Resource Center or Organization—a private nonprofit organization (other than an institution of higher education) that has a board of directors the majority of whom are parents of students with disabilities ages birth through 26, that includes individuals working in the fields of special education, related services, and early intervention; and individuals with disabilities; and the parent and professional members of which are broadly representative of the population to be served, including low-income parents and parents of limited English proficient students; and has as its mission serving families of students with disabilities who are ages birth through 26; and have the full range of disabilities described in section 602(3) of the IDEA.

Personally Identifiable—means information that contains:

1. the name of the student, the student's parent, or other family member;
2. the address of the student;
3. a personal identifier, such as the student's social security number or student number; or
4. a list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

Physical Education—see *Special Education*, Subparagraph 2.b and §108.

Physical Therapy—see *Related Services*.

Prior Notice—see §504 of these regulations.

Psychological Services—see *Related Services*.

Public Agency—includes the state, LEAs, ESAs, nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and any other political subdivisions of the state that are responsible for providing education to students with disabilities.

Recreation—see *Related Services*.

Rehabilitation Counseling—see *Related Services*.

Related Services—

1. General. *Related Services*—transportation and such developmental, corrective, and other supportive services as are required to assist a student 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 students, 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. Exception; Services that Apply to Students with Surgically Implanted Devices, Including Cochlear Implants

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.

b. Nothing in Subparagraph 2.a of this definition:

i. limits the right of a student 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 student 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 student, including breathing, nutrition, or operation of other bodily functions, while the student 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 §113.B.

3. Individual Related Services Terms Defined. The terms used in this definition are defined as follows:

a. *Audiology*—includes:

i. identification of students 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 (lipreading), hearing evaluation, and speech conservation;

iv. creation and administration of programs for prevention of hearing loss;

v. counseling and guidance of students, parents, and teachers regarding hearing loss; and

vi. determination of student's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

b. *Counseling Services*—services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

c. *Early Identification and Assessment of Disabilities in Students*—the implementation of a formal plan for identifying a disability as early as possible in a student’s life.

d. *Interpreting Services*—include:

i. the following, when used with respect to students who are deaf or hard of hearing:

(a). oral transliteration services,

(b). cued language transliteration services,

(c). 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 students who are deaf-blind.

e. *Medical Services*—services provided by a licensed physician to determine a student’s medically related disability that results in the student’s need for special education and related services.

f. *Occupational Therapy*—services provided by a qualified occupational therapist; and

i. 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.

g. *Orientation and Mobility Services*—services provided to blind or visually impaired students by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and

i. includes teaching students 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 students with no available travel vision;

(c). to understand and use remaining vision and distance low vision aids; and

(d). other concepts, techniques, and tools.

h. *Parent Counseling and Training*—

i. 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.

i. *Physical Therapy*—services provided by a qualified physical therapist.

j. *Psychological Services*—include:

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 students as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;

v. planning and managing a program of psychological services, including psychological counseling for students and parents; and

vi. assisting in developing positive behavioral intervention strategies.

k. *Recreation*—includes:

i. assessment of leisure function;

ii. therapeutic recreation services;

iii. recreation programs in schools and community agencies; and

iv. leisure education.

l. *Rehabilitation Counseling Services*—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.

m. *School Health Services and School Nurse Services*—health services that are designed to enable a student with a disability to receive FAPE as described in the student’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.

- n. *Social Work Services in Schools*—include:
 - i. preparing a social or developmental history on a student with a disability;
 - ii. group and individual counseling with the student and family;
 - iii. working in partnership with parents and others on those problems in a student’s living situation (home, school, and community) that affect the student’s adjustment in school;
 - iv. mobilizing school and community resources to enable the student to learn as effectively as possible in his or her educational program; and
 - v. assisting in developing positive behavioral intervention strategies.
- o. Speech-language pathology services include:
 - i. identification of students 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, students, and teachers regarding speech and language impairments.
- p. 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 student with a disability.

Recreation—see *Related Services*.

Response to Intervention—see §308.

School Building Level Committee—see *Bulletin 741—The School Administrator’s Handbook*.

School Day—see *Day*.

School Health Services—see *Related Services*.

Scientifically Based Research—research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and includes research that:

1. employs systematic, empirical methods that draw on observation or experiment;
2. involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;
3. relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;
4. is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;
5. ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and
6. has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

Secondary School—a nonprofit institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under state law, except that it does not include any education beyond grade 12.

Secretary—the U. S. Secretary of Education.

Serious Bodily Injury—see §530.I of these regulations.

Services Plan—a written statement that describes the special education and related services the LEA will provide to a parentally-placed student with a disability enrolled in a private school who has been designated to receive services, including the location of the services and any transportation necessary, consistent with §132, and is developed and implemented in accordance with §§137 through 139.

Social Work Services in Schools—see *Related Services*.

Specially Designed Instruction—see *Special Education*.

Special Education—

1. General
 - a. *Special Education*—specially designed instruction, at no cost to the parent, to meet the unique needs of the student 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.

b. Special education includes each of the following, if the services otherwise meet the requirements of Paragraph 1 of this Subsection:

- 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

2. Individual Special Education Terms Defined. The terms in this definition are defined as follows.

a. *At No Cost*—that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to non-disabled students or their parents as a part of the regular education program.

b. *Physical Education*—

- 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.

c. *Specially Designed Instruction*—adapting, as appropriate to the needs of an eligible student under these regulations, the content, methodology, or delivery of instruction:

- i. to address the unique needs of the student that result from the student's disability; and
- ii. to ensure access of the student to the general curriculum, so that the student can meet the educational standards within the jurisdiction of the public agency that apply to all students.

d. *Travel Training*—providing instruction, as appropriate, to students with significant cognitive disabilities, and any other students 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).

e. Vocational education-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.

Specific Learning Disability—see *Student with a Disability*.

Speech or Language Impairment—see *Student with a Disability*.

Speech or Language Pathology—see *Related Services*.

State—the state of Louisiana.

State Educational Agency or the *SEA*—the Louisiana Department of Education (LDE), governed by the State Board of Elementary and Secondary Education, both of which are responsible for the state supervision of public elementary and secondary schools.

Student with a Disability—

1. General:

a. *student with a disability*—a student evaluated in accordance with §§305 through 312 of these regulations and determined as having an intellectual disability, a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in these regulations as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, hearing disabilities, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services;

b.i. Subject to Clause 1.b.ii of this definition, if it is determined, through an appropriate evaluation under §§305 through 308, that a student has one of the disabilities identified in Subparagraph 1.a of this definition, but only needs a related service and not special education, the student is not a student with a disability under these regulations.

(a). If, consistent with Subparagraph 1.b in the definition of *special education* in this section, the related service required by the student is considered special education rather than a related service under state standards, the student would be determined to be a student with a disability under Subparagraph 1.a of this definition.

2. Students aged three through eight experiencing developmental delays. Student with a disability for students aged three through eight, may, subject to the conditions described in §111.B, include a student:

- a. who is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and
- b. who, by reason thereof, needs special education and related services.

3. Definitions of *Disability Terms*. The terms used in this definition of a student with a disability are defined as follows:

a.i. *Autism*—a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a student’s educational performance. Other

characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

ii. Autism does not apply if a student's educational performance is adversely affected primarily because the student has an emotional disturbance, as defined in Subparagraph 3.d of this definition.

iii. A student who manifests the characteristics of autism after age three could be identified as having autism if the criteria in Clause 3.a.i of this definition are satisfied.

b. *Deaf-Blindness*—concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness.

c. *Deafness*—a hearing loss that is so severe that the student is disabled in processing linguistic information through hearing, with or without amplification that adversely affects a student's educational performance;

d.i. *Emotional Disturbance*—a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a student's educational performance:

- (a). an inability to learn that cannot be explained by intellectual, sensory, or health factors;
- (b). an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- (c). inappropriate types of behavior or feelings under normal circumstances;
- (d). a general pervasive mood of unhappiness or depression; and/or
- (e). a tendency to develop physical symptoms or fears associated with personal or school problems.

ii. Emotional disturbance includes schizophrenia. The term does not apply to students who are socially maladjusted, unless it is determined that they have an emotional disturbance under Clause 3.d.i of this definition.

e. *Hard of Hearing*—a loss of hearing, whether permanent or fluctuating, that adversely affects a student's educational performance but that is not included under the definition of *deafness* in Subparagraph 3.c above;

f. *Intellectual Disability*—significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a student's educational performance.

g. *Multiple Disabilities*—concomitant impairments (such as intellectual disability-blindness or intellectual disability-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. The term *multiple disabilities* does not include deaf-blindness.

h. *Orthopedic Impairment*—a severe orthopedic impairment that adversely affects a student's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

i. *Other Health Impairment*—having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that:

i. is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette Syndrome; and

ii. adversely affects a student's educational performance.

j. *Specific Learning Disability*—

i. General. *Specific Learning Disability*—a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

ii. Disorders not Included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

k. *Speech or Language Impairment*—a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a student's educational performance.

l. *Traumatic Brain Injury*—an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

m. *Visual Impairment Including Blindness*—an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness.

Supplementary Aids and Services—aids, services, and other supports that are provided in regular education classes or other education-related settings and in extracurricular and nonacademic settings to enable students with disabilities to be educated with non-disabled students to the maximum extent appropriate in accordance with §§114 through 116.

Surrogate Parent—see *Parent* and §519 of these regulations.

Transition Services—

1. a coordinated set of activities for a student with a disability that:

a. is designed to be within a results oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities, including post secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

b. is based upon the individual student's needs, taking into account the student's strengths, preferences and interests and includes:

- i. instruction;
- ii. related services;
- iii. community experiences;
- iv. the development of employment and other post-school adult living objectives; and
- v. if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

2. 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.

Transportation—see *Related Services*.

Traumatic Brain Injury—see *Student with a Disability*.

Travel Training—see *Special Education*.

Universal Design—the meaning given the term in section 3 of the Assistive Technology Act of 1998, as amended, 29 U.S.C. 3002.

Visual Impairment Including Blindness—see *Student with a Disability*.

Vocational Education—see *Special Education*.

Ward of the State—

1. General. Subject to Paragraph 1 of this Subsection, *Ward of the State* means a student who is:

- a. a foster child;
- b. a ward of the state; or
- c. in the custody of a public child welfare agency.

2. Exception. *Ward of the state* does not include a foster child who has a foster parent who meets the definition of *parent* in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2089 (October 2008), amended LR 36:1505 (July 2010), LR 38:2368 (September 2012), LR 42:235 (February 2016), LR 43:2494 (December 2017).