

REGULATION I: GENERAL PROVISIONS

A. APPLICABILITY

These regulations are applicable to all public agencies within the State of Missouri responsible for providing special education and related services for students with disabilities. This includes state agencies, local educational agencies, charter schools, and state and local juvenile and adult correctional facilities. Any exceptions for specific public agencies are noted in relevant sections.

B. GENERAL SUPERVISION RESPONSIBILITIES

It is the policy of the Missouri Department of Elementary and Secondary Education (DESE) that the requirements of Part B of the Individuals with Disabilities Education Act are implemented by public agencies in this state responsible for the education of children with disabilities.

DESE ensures that each educational program for children with disabilities administered in the State, including each program administered by another State or local agency, is under the general supervision of the Office of Special Education, DESE, and that their programs meet the educational standards of DESE.

MONITORING, TECHNICAL ASSISTANCE, AND ENFORCEMENT (34 CFR 300.600, 300.602, 300.604)

DESE shall, through monitoring and enforcement, assure that each public agency responsible for providing services to students with disabilities has in effect policies, practices and procedures that enable the agency to comply with the implementation of all provisions of Part B of IDEA. The primary focus of the State's monitoring activities shall be on:

- (1) Improving educational results and functional outcomes for all students with disabilities, and
- (2) Ensuring that public agencies meet the program requirements under Part B of IDEA, with a particular emphasis on those requirements that are most closely related to improving educational results for students with disabilities.

As part of its general supervision responsibilities, DESE will use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the following indicators and the indicators established by the U. S. Department of Education for the State Performance Plans:

- (1) Provision of FAPE in the least restrictive environment;
- (2) State exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services; and,

- (3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

In the event a public agency is unwilling or unable to comply with the provisions of IDEA, including progress toward meeting the targets in the State Performance Plan, DESE shall take one or more of the following enforcement actions or any other action deemed necessary within the Department's discretion:

- (1) Advise the agency of available sources that may help the agency address the areas in which assistance is needed, which may include assistance from the Office of Special Education, other offices of DESE, other state agencies, and/or other technical assistance providers approved by DESE and require the agency to work with appropriate entities. Such technical assistance may include:
 - a. The provision of advice by experts to address the areas in which the agency needs assistance, including explicit plans for addressing the area or areas of concern within a specified period of time;
 - b. Assistance in identifying and implementing professional development, instructional strategies and method of instruction that are based on scientifically based research;
 - c. Designating and using distinguished superintendents, principals, special education administrators, special education teachers, and other teachers and administrators to provide advice, technical assistance, and support; and,
 - d. Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, state and national centers of technical assistance, and private providers of scientifically based technical assistance.
- (2) Require the agency to prepare a corrective action plan which incorporates all of the required elements for such plan.
- (3) Require the agency to prepare an improvement plan which incorporates all of the required elements for such plan.
- (4) Direct the use of Federal funds on the area or areas in which the agency needs assistance.
- (5) Identify the agency as a high-risk grantee and impose special conditions on the agency's Part B grant.
- (6) Initiate action to withhold, in whole or in part, Federal funds paid to the agency to support the provision of services to children with disabilities.
- (7) Initiate action to withhold, in whole or in part, any Federal funds paid to the agency.
- (8) Initiate action to recover Federal funds paid to the agency to support the provision of services to children with disabilities.

C. PERFORMANCE GOALS AND INDICATORS (34 CFR 300.157)

The State of Missouri establishes goals for the performance of children with disabilities in Missouri. These goals promote the purposes of IDEA, including the objectives for progress by children with disabilities. These goals address graduation rates and dropout rates, as well as other factors. These goals are consistent, to the maximum extent appropriate, with goals and standards that have been established by the State for all children.

The State establishes performance indicators that the State will use to assess progress toward achieving the goals, including progress by children with disabilities.

Annually, the State will report to the Secretary and the public on the progress of the State and of children with disabilities in the State, toward meeting the State Performance Plan (SPP) goals (indicators) as established by the U. S. Department of Education, Office of Special Education Programs. The SPP goals (indicators) may be found on the Office of Special Education's website.

D. STATE ADMINISTRATION (34 CFR 300.199)

As a condition of receipt of funds under Part B of the Act, Missouri must:

- (1) Ensure that any State rules, regulations, and policies relating to this part conform to the purposes of this part;
- (2) Identify, in writing, to public agencies located in the State and the Secretary any such rule, regulation, or policy as a State imposed requirement that is not required by Part B of the Act and Federal regulations; and,
- (3) Minimize the number of rules, regulations, and policies to which the public agencies located in the State are subject to under Part B of the Act.
- (4) Make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted under Part B of the IDEA.

State rules, regulations, and other policies under Part B of the Act must support and facilitate public agency system improvement designed to enable children with disabilities to meet the challenging State student academic achievement standards.

E. FULL EDUCATIONAL OPPORTUNITIES GOAL

The State of Missouri has established a goal of providing a full educational opportunity for all students with disabilities, ages birth through twenty-one (21) years, within the State.

The State began provision of full educational opportunities for all students with disabilities between the ages of five (5) and twenty-one (21) years on July 1, 1974.

The State began provision of full educational opportunities for all students with disabilities between the ages of three (3) and twenty-one (21) years on July 1, 1991.

The State began provision of full educational opportunities for all infants and toddlers (birth through age two (2)) with disabilities on October 1, 1995. The State goal is to begin provision of full educational opportunities for students through the age of twenty-one (21) in 2027.

Full implementation of the goal will include the provision of a free appropriate public education for all students with disabilities ages three (3) through twenty-one (21) years, and the provision of early intervention services for infants and toddlers with disabilities (birth through age two (2)) and their families.

F. AMENDMENTS

Any proposed changes in these regulations shall be in accordance with the provisions of the Administrative Procedures Act.

G. DEFINITIONS

The terms defined below are found throughout these regulations. All of the following definitions are cited in the Individuals with Disabilities Education Act (IDEA) unless otherwise noted.

Act: Act means the Individuals with Disabilities Education Act, as amended.

Agree or Agreement: The terms “agree” or “agreement” refer to an understanding between the parent and the public agency about a particular question or issue, which may be in writing, depending on the context.

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.

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:

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

Charter School: Charter school has the meaning given the term in section 5210(1) of the Elementary and Secondary School Act of 1965.

Child with a Disability: The Individuals with Disabilities Education Act (IDEA) defines students with disabilities as those children, ages three (3) to twenty-one (21), who have been properly evaluated as having Intellectual Disability, Hearing Impairments and Deafness, Speech or Language Impairments, Visual Impairments including Blindness, Emotional Disturbance, Orthopedic Impairments, Autism, Traumatic Brain Injury, Other Health Impairments, a Specific Learning Disability, Deaf Blindness, or Multiple Disabilities and, who because of that disability, require special education and related services. As allowed under 34 CFR 300.87 implementing IDEA, the State of Missouri also defines a child with a disability to include ages three (3) through five (5) who have been properly identified as a young child with a developmental delay.

Consent: Consent means that the parent:

- (1) 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) Understands and agrees, in writing, to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and,
- (3) The parent understands that the consent is voluntary on the part of the parent and may be revoked at any time and, if the parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

Day; Business Day; School Day: Day means calendar day unless otherwise indicated as business day or school day. Business day means Monday through Friday, except for Federal and State holidays. School day means any day, including a partial day that children are in attendance at school for instructional purposes.

Elementary School: Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education (Kindergarten through eighth grade).

English Learner: English learner means an individual who is aged 3 through 21; who is enrolled or preparing to enroll in an elementary or secondary school; who was not born in the United States or whose native language is a language other than English; who is a Native American or Alaska Native or a native resident of the outlying areas and who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency or who is migratory, whose native language is a language other than English and who comes from an environment where a language other than English is dominant; and, whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual the ability to meet the challenging State academic standards; the ability to successfully achieve in classrooms where the language of instruction is English; or the opportunity to participate fully in society.

Evaluation: Evaluation means that procedures are used to determine whether a student is disabled and provide information for use by the IEP team to determine the nature and extent of the special education and related services that the student needs. The term means procedures used selectively with an individual student and does not include basic tests administered to or procedures used with all students in a school, grade, or class unless, before administration of that test or evaluation, consent is required of parents of all children.

Excess Costs: Excess costs means those costs that are in excess of the average annual per-student expenditure in a local education agency (LEA) during the preceding school year for an elementary school or secondary school student, as may be appropriate, and that must be computed after deducting amounts received (1) under Part B of the Act; (2) under Part A of title I of the ESEA; and, (3) under Parts A and B of title III of the ESEA and, any State or local funds expended for programs that would qualify for assistance under any of the parts described above, but excluding any amounts for capital outlay or debt service.

Free Appropriate Public Education (FAPE): A free appropriate public education (FAPE) is defined to include regular and special education and related services which:

- (1) Are provided at public expense, under public supervision and direction, and without charge to the parent;
- (2) Meet the educational standards of the State Education Agency pertaining to the education of students with disabilities;
- (3) Includes preschool, elementary school, and secondary school education; and,

(4) Are provided in conformity with the individualized education program (IEP).

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

Individualized Education Program (IEP): Individualized education program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 34 CFR 300.320 through 300.324.

Individualized Education Program (IEP) Team: Individualized education program team or IEP team means a group of individuals described in 34 CFR 300.321 that is responsible for developing, reviewing, or revising an IEP for a child with a disability.

Local Educational Agency (LEA): A public board of education or other public authority legally constituted in Missouri for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision, or a combination of school districts or counties recognized by the State as an administrative agency for its public elementary schools or secondary schools.

Native Language: Native language, when used with respect to an individual who is an English Learner, means the following:

- (1) The language normally used by that individual or, in the case of a child, the language normally used by the parents of the child.
- (2) In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.
- (3) 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).

Parent: The term parent means a biological, adoptive, or foster parent of a child or a guardian generally authorized to make educational decisions for the child (but not the State if the child is a ward of the State), a person acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives; an individual who is legally responsible for the child's welfare; or, a surrogate parent who has been appointed.

Parent Training and Information Center: Parent training and information center means a center assisted under sections 671 or 672 of the Act.

Personally Identifiable: Personally identifiable means information that contains:

- (1) The name of the child, the child's parents, or other family member;

- (2) The address of the child;
- (3) A personal identifier, such as the child's social security number or student number; or,
- (4) A list of personal characteristics or other information which would make it possible to identify the child with reasonable certainty.

Private or Parochial School: Any nonpublic not for profit private school, home school, or religious/parochial school.

Public Agency: Public agency includes the state education agency (SEA), other state agencies, LEAs, public charter schools that are not otherwise included as LEAs and are not a school of an LEA, and any other political subdivisions of the State that are responsible for providing education to children with disabilities.

Related Services: 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 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, school nurse services, social work services in schools, and parent counseling and training.

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.

However, nothing limits the right of a child with a surgically implanted device (e.g. cochlear implant) to receive related services (as listed above), that are determined by the IEP team to be necessary for the child to receive FAPE, or 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 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).

Individual related services are defined as follows:

Audiology includes identification of children with hearing loss, determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing; provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation; creation and administration of programs for prevention of hearing loss; counseling and guidance of children, parents, and teachers regarding hearing loss; and, determination of children's needs for group and individual

amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

Counseling Services means services provided by qualified social workers, psychologists, school counselors, or other qualified personnel.

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.

Interpreting Services includes 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 special interpreting services for children who are deaf-blind.

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.

Occupational Therapy means services provided by a qualified occupational therapist; and includes improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation, improving ability to perform tasks for independent functioning if functions are impaired or lost, and preventing, through early intervention, initial or further impairment, or loss of function. In Missouri, this definition includes licensed occupational therapist assistants practicing under the supervision of a licensed occupational therapist.

Orientation and Mobility Services means 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 includes teaching students the following, as appropriate:

- (1) 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) To use 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;
- (3) To understand and use remaining vision and distance low vision aids; and,
- (4) Other concepts, techniques, and tools.

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.

Physical Therapy means services provided by a qualified physical therapist. In Missouri, this definition includes physical therapy assistants practicing under the supervision of a licensed physical therapist.

Psychological Services includes administering psychological and educational tests and other assessment procedures, interpreting assessment results, obtaining, integrating, and interpreting information about child behavior and conditions relating to learning, 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, planning and managing a program of psychological services, including psychological counseling for children and parents, and assisting in developing positive behavioral intervention strategies.

Recreation includes assessment of leisure function, therapeutic recreation services; recreation programs in schools and community agencies; and, leisure education.

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 disabilities by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended.

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.

Social Work Services in schools includes preparing a social or developmental history on a child with a disability, group and individual counseling with the child and family, 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, mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program, and assisting in developing positive behavioral intervention strategies.

Speech-Language Pathology services includes identification of children with speech or language impairments, diagnosis and appraisal of specific speech or language impairments, referral for medical or other professional attention necessary for the habilitation of speech or language impairments, provision of speech and language

services for the habilitation or prevention of communicative impairments, and counseling and guidance of parents, children, and teachers regarding speech and language impairments.

Transportation includes travel to and from school and between schools; travel in and around school buildings; and, specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

Scientifically Based Research: Scientifically based research means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs. It 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 method 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-assigned experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;
- (5) Ensures 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 comparable rigorous, objective, and scientific review.

Secondary School: Secondary school means a nonprofit institutional day or residential school, including a public secondary charter school that provides secondary education between the grades of 9 and 12.

Secretary: Secretary means the Secretary of Education.

Services Plan: Services plan means a written statement that describes the special education and related services the LEA will provide to a parentally-placed child with a disability enrolled in a private school who has been designated to receive services, including the location of the services and any transportation necessary, consistent with 34 CFR 300.132 and is developed and implemented in accordance with 34 CFR 300.137 through 300.139.

Special Education: Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education. The term includes each of the following, if the services otherwise meet the definition of specially designed instruction:

- (1) Speech-language pathology services or any other related service if the service is considered special education rather than a related service under State standards;
- (2) Travel training; and,
- (3) Vocational education.
 - a. 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.
 - b. Physical education means the development of physical and motor fitness, fundamental motor skills and patterns, and skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports), and includes special physical education, adapted physical education, movement education, and motor development.
 - c. Specially designed instruction means adapting, as appropriate, to the needs of an eligible child, the content, methodology, or delivery of instruction to address the unique needs of the child that result from the child's disability, and to ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children.
 - 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 develop an awareness of the environment in which they live, and 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 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 requiring other than a baccalaureate or advanced degree.

State Educational Agency: State educational agency or SEA means the State Board of Education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools.

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.

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

The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's strengths, preferences, and interests, and shall include instruction, related services, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

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

Universal Design: Universal design has the meaning given the term in Section 3 of the Assistive Technology Act of 1998, as amended, 29 U.S.C. 3002.

Ward of the State: Ward of the State means a child who, as determined by the State where the child resides, is a foster child, is a ward of the State, or is in the custody of a public child welfare agency, except that the term does not include a foster child who has a foster parent who meets the definition of a parent.

H. CONDITION OF ASSISTANCE (34 CFR 300.200)

A public agency is eligible for assistance under Part B of the Act for a fiscal year if the agency submits a budget application and provides assurances to DESE that the public agency has a Board approved local compliance plan that meets each of the conditions in 34 CFR 300.201 through 300.213.

I. CONSISTENCY WITH STATE POLICIES (34 CFR 300.201)

The public agency, in providing for the education of students with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures established under 34 CFR 300.101 through 300.163 and 300.165 through 300.177.

The responsible public agency may:

- (1) Adopt the State model local compliance plan, in which case the agency does not have to submit its plan to DESE for approval, OR

- (2) Adopt the State model local compliance plan, with revisions to allow for unique agency characteristics or local requirements, in which case the agency must submit the plan to DESE for approval, OR
- (3) Write a local compliance plan which meets all of the requirements listed above, in which case the agency must submit the plan to DESE for approval.

J. INFORMATION FOR SEA (34 CFR 300.211)

The public agency must provide DESE with information necessary to enable DESE to carry out its duties under Part B of the Act including information relating to the performance of students with disabilities participating in programs carried out under Part B of IDEA.

K. HEARINGS RELATED TO PUBLIC AGENCY ELIGIBILITY (34 CFR 300.221 and 300.155)

It is the policy of DESE to provide a public agency with notice and an opportunity for a hearing prior to determination of ineligibility for Part B funds under the Individuals with Disabilities Education Act.

Appeal by an applicant must be based upon an allegation that these actions by DESE violate state or federal statute or regulation. DESE shall provide a public agency with notice of intent to determine ineligibility. That notice shall contain:

- (1) A statement of the basis upon which DESE proposes to determine ineligibility;
- (2) Possible options for resolving the issue;
- (3) How the applicant can request a hearing not later than thirty (30) days from receipt of the notice of proposed ineligibility; and,
- (4) Information about the proposed procedures to be followed in the hearing.

This notice shall be transmitted to the applicant by certified mail with return receipt requested.

Requests for a hearing pursuant to this section shall be in writing and shall be directed to the Office of the Commissioner of Education.

Within thirty (30) days of the date of receipt of the appeal request, the Commissioner of Education or a designee shall conduct a hearing on the record on the proposed action. No later than ten (10) days after the hearing, the Commissioner or a designee shall issue a written ruling, including findings of fact and a reason for the ruling. If DESE determines that its action was contrary to state or federal statutes or regulations, which govern the applicable program, DESE, shall rescind its action.

The ruling by the Commissioner of Education or a designee shall be final unless appealed pursuant to Federal regulations. The decision of the Commissioner of Education shall contain a description of the applicant's right of appeal and shall be forwarded by certified mail with return receipt requested.

DESE shall make available at reasonable times and places to each applicant all records pertaining to any review or appeal that the applicant is conducting under this section, including the records of other applicants.