I. GENERAL PROVISIONS

1. 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.

2. AMENDMENTS

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

3. 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.

<u>Act</u>
Act means the Individuals with Disabilities Education Act, as amended.

<u>Agree or Agreement</u>
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.

<u>Assistive technology device</u>
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.

<u>Assistive technology service</u>
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 of 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 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 ~~Mental Retardation~~ **Intellectual Disability**, Hearing Impairments and Deafness, Speech or Language Impairments, Visual Impairments including Blindness, Emotional Disturbance, Orthopedic Impairments, Autism, Traumatic Brain Injury, Other Health Impair~~ed~~**ments**, 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:

A. 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;
B. 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,
C. 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).

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

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).

~~Limited English proficient~~ **English Learner**
~~Limited English proficient~~ **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** ~~State's proficient level of achievement on State assessments and~~ 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:

A. are provided at public expense, under public supervision and direction, and without charge to the parent;
B. meet the educational standards of the State Education Agency pertaining to the education of students with disabilities;
C. includes preschool, elementary school, and secondary school education; and,
D. are provided in conformity with the individualized education program (IEP).

~~Highly qualified special education teachers~~
~~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. Highly qualified requires that the teacher:~~

~~A. 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; and,~~
~~B. has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and,~~
~~C. holds at least a bachelor's degree; and,~~
~~D. demonstrates competence in all of the core academic subjects in which the special education teacher (who is not new to the teaching profession) is the teacher of record in the same manner as is required for a teacher who is not new to the teaching profession, which may include a single, high objective uniform state standard of evaluation (HOUSSE) covering multiple subjects; or,~~
~~E. in the case of a new special education teacher who teaches multiple subjects and is highly qualified in mathematics, language arts, or science, demonstrates, 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.~~

~~If a teacher is participating in an alternative route to special education certification, the teacher is considered to be highly qualified if that 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.~~

~~The state, through its certification and licensure process, must ensure these provisions are met.~~

~~A special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards is considered highly qualified if the teacher:~~

~~A. meets the requirements for any elementary, middle, or secondary school teacher who is new or not new to the teaching profession or,~~
~~B. meets requirements of an elementary school teacher, or in the case of instruction above the elementary level, meets the requirements as applied to the elementary teacher in ESEA 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.~~

~~A fully certificated 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.~~

~~These requirements 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 children.~~

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.

~~Limited English proficient~~ (Renamed "English Learner"— see above)
~~Limited English proficient 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 State's proficient level of achievement on State assessments and to successfully achieve in classrooms where the language of instruction is English.~~

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** ~~limited English proficient~~, means the following:

> The language normally used by that individual or, in the case of a child, the language normally used by the parents of the child.
>
> 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.
>
> 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:

A. the name of the child, the child's parents, or other family member;
B. the address of the child;

C. a personal identifier, such as the child's social security number or student number; or,
D. 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:

A. 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.

B. Counseling services means services provided by qualified social workers, psychologists, ~~guidance~~ **school** counselors, or other qualified personnel.

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.

D. 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.

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.

F. 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.

G. 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.

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.

I. 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.

J. 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.

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

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

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.

N. 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.

O. 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.

P. 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:

A. employs systematic, empirical methods that draw on observation or experiment;

B. involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

C. 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;
D. 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;
E. 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,
F. 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:

A. speech-language pathology services or any other related service if the service is considered special education rather than a related service under State standards;
B. travel training; and,
C. vocational education.

"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.

"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.

"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.

"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).

"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.