

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

Editor's Note: The following Notice of Exempt Rulemaking is exempt from the Governor's Regulatory Review Plan memorandum, January 22, 2009 and its continuations on April 30, June 29, and October 16 2009 per A.R.S. § 41-1005. (See a copy of the memoranda on pages 1861 through 1863.)

[R09-99]

PREAMBLE

- 1. Sections Affected**

R7-2-401	<u>Rulemaking Action</u>
R7-2-610	Amend
R7-2-615	Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 15-203(A)(1)
Implementing statute: Not applicable
- 3. The effective date of the rules:**

August 29, 2006
- 4. A list of all previous notices appearing in the Register addressing the exempt rules:**

Not applicable
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

The proposed rule aligns requirements to practice speech therapy with the statutorily required Department of Health Services license to practice speech therapy.

It also allows the acceptance of the national praxis examination for speech pathology in lieu of the Arizona Teacher Proficiency Assessment in Speech and Language Impairment.

Finally, it distinguishes between the undergraduate and graduate degrees by creating a certificate for the undergraduate level "Speech Technician" and one for the graduate level "Speech Pathologist."

Pursuant to A.R.S. § 41-1005(F) the State Board of Education is exempt from standard rulemaking procedures.

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7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
Not applicable
8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
9. **The summary of the economic, small business and consumer impact:**
The rules are not expected to have any economic impact on small businesses nor have any impact upon school districts and charter schools.
10. **A description of the changes between the proposed rules, including supplemental notices and final rules (if applicable):**
Not applicable
11. **A summary of the comments made regarding the rule and the agency response to them:**
A public hearing was held regarding these proposed rules on June 1, 2006. The hearing was attended by nine certified speech and language pathologists. All the individuals who spoke at the hearing were supportive of the proposed changes to the rules. Participants expressed appreciation for ADE's work and stated that the rule changes will assist with the state's ability to certify qualified speech and language pathologists.

Several minor changes were suggested that were incorporated in the final proposed rules.
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable
13. **Incorporations by reference and their location in the rules:**
Not applicable
14. **Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**
Not applicable
15. **The full text of the rule follows:**

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE 4. SPECIAL EDUCATION

Section
R7-2-401. Special Education Standards for Public Agencies Providing Educational Services

ARTICLE 6. CERTIFICATION

Section
R7-2-610. Special Education Teaching Certificates
R7-2-615. Other Professional Certificates

ARTICLE 4. SPECIAL EDUCATION

R7-2-401. Special Education Standards for Public Agencies Providing Educational Services

- A. For the purposes of this Article, the Individuals with Disabilities Education Act Amendments of ~~1997~~ 2004 (IDEA), 20 USC U.S.C. 1400 et seq. as reauthorized on June 4, 1997, and the IDEA 1997 regulations, 34 CFR 300.4 through ~~300.756~~ 300.818 effective March 1999, are incorporated herein by reference. Copies of the incorporated material can be obtained from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 37195-7954, Pittsburgh, PA 15250 or the Arizona Department of Education, Exceptional Student Services, 1535 West Jefferson, Phoenix, Arizona 85007. This Article does not include any later amendments or additions to IDEA or IDEA regulations.
- B. Definitions. All terms defined in the regulations for the Individuals with Disabilities Education Act (IDEA) ~~1997~~ Amendments (34 CFR 300.4 through ~~300.30~~ 300.44, and 300.504) and A.R.S. § 15-761 are applicable, with the following additions:
 1. "Accommodations" means the provisions made to allow a student to access and demonstrate learning. Accommodations do not substantially change the instructional level, the content or the performance criteria, but are made in order to provide a student equal access to learning and equal opportunity to demonstrate what is known. Accommodations

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- shall not alter the content of the curriculum or a test, or provide inappropriate assistance to the student within the context of the test.
2. "Adaptations" means changes made to the environment, curriculum, and instruction or assessment practices in order for a student to be a successful learner. Adaptations include accommodations and modifications. Adaptations are based on an individual student's strengths and needs.
 3. "Administrator" means the chief administrative official or designee (responsible for special education services) of a public education agency.
 4. "Audiologist" means a person who specializes in the identification and prevention of hearing problems and in the non-medical rehabilitation of those who have hearing impairments and who is licensed to practice audiology according to A.R.S. Title 36, Chapter 17, Article 4.
 5. "Boundaries of responsibility" means for:
 - a. A school district, the geographical area within the legally designated boundaries.
 - b. A public agency other than a school district, the population of students enrolled in a charter school or receiving educational services from a public agency.
 6. "Certified school psychologist" means a person holding a certificate from the Arizona State Board of Education issued pursuant to 7 A.A.C. 2, Article 6, in the area of school psychology.
 7. ~~"Certified speech/language therapist"~~ "Speech-language pathologist" means a person holding a license certificate from the Arizona Department of Health Services as a speech-language pathologist ~~State Board of Education~~ issued pursuant to A.R.S. Title 36, Chapter 17, Article 4. A certificate issued by the Arizona State Board of Education pursuant to 7 A.A.C. 2, Article 6, is required. 7 A.A.C. 2, Article 6, and a license from the Arizona Department of Health Services as a speech/language pathologist in accordance with A.R.S. Title 36, Chapter 17, Article 4.
 8. "Speech-language technician" means a person holding a certificate from the Arizona State Board of Education issued pursuant to 7 A.A.C. 2, Article 6, and a limited license from the Arizona Department of Health Services as a speech-language pathologist in accordance with A.R.S. Title 36, Chapter 17, Article 4.
 - ~~8-9.~~ "Department" means the Arizona Department of Education.
 - ~~9-10.~~ "Doctor of medicine" means a person holding a license to practice medicine pursuant to A.R.S. Title 32, Chapter 13 (medical doctor) or Chapter 17 (doctor of osteopathy) ~~of Title 32, Arizona Revised Statutes.~~
 - ~~10-11.~~ "Exceptional Student Services Division" or "ESS" means the Exceptional Student Services Division of the Arizona Department of Education.
 - ~~11-12.~~ "Evaluator means a qualified person in a field relevant to the child's disability who administers specific and individualized assessment for the purpose of special education evaluation and placement.
 - ~~12-13.~~ "Full and individual evaluation" means procedures used in accordance with the IDEA to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. This evaluation includes:
 - a. A review of existing information about the child; and
 - b. A decision regarding the need for additional information; and
 - c. If necessary, the collection of additional information; and
 - d. A review of all information about the child and a determination of eligibility for special education services and needs of the child.
 - ~~13-14.~~ "Independent educational evaluation" means an evaluation conducted by a qualified evaluator who is not employed by the public education agency responsible for the education of the child in question.
 - ~~14-15.~~ "Interpreter" means a person trained to translate orally or in sign language in matters pertaining to special education identification, evaluation, placement, the provision of FAPE, or assurance of procedural safeguards for parents and students who converse in a language other than spoken English. Each student's IEP team determines the level of interpreter skill necessary for the provision of FAPE.
 - ~~15-16.~~ "Language in which the student is proficient" means all languages including sign language systems.
 - ~~16-17.~~ "Licensed psychologist" means a person holding a license from the state of Arizona Board of Psychologist examiners in accordance with A.R.S. Title 32, Chapter 19.1, Article 2.
 - ~~17-18.~~ "Modifications" means substantial changes in what a student is expected to learn and to demonstrate. Changes may be made in the instructional level, the content or the performance criteria. Such changes are made to provide a student with meaningful and productive learning experiences, environments, and assessments based on individual needs and abilities.
 - ~~18-19.~~ "Paraeducator" means a person employed to assist with the education of students but who is not certified to teach by the Arizona Department of Education. Alternate terms may include paraprofessional, teacher aide, instructional assistant or other similar titles.
 - ~~19-20.~~ "Private school" means any nonpublic educational institution where academic instruction is provided, including nonsectarian and parochial schools, that are not under the jurisdiction of the state or a public education agency.
 - ~~20-21.~~ "Private special education school" means a private school that is established to serve primarily students with disabilities. The school may also serve students without disabilities.

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~~21-22.~~ “Psychiatrist” means a doctor of medicine who specializes in the study, diagnosis, treatment and prevention of mental disorders.

~~22-23.~~ “Public education agency” or “PEA” means a school district, charter school, accommodation school, state supported institution, or other political subdivision of the state that is responsible for providing education to children with disabilities.

~~23-24.~~ “Screening” means an informal or formal process of determining the status of a child with respect to appropriate developmental and academic norms. Screening may include observations, family interviews, review of medical, developmental, or education records, or the administration of specific instruments identified by the test publisher as appropriate for use as screening tools.

~~24-25.~~ “Special education teacher” means a teacher holding a special education certificate from the Arizona Department of Education.

~~25-26.~~ “Suspension” means a disciplinary removal from a child’s current placement that results in a failure to provide services to the extent necessary to enable the child to progress appropriately in the general curriculum and advance toward achieving the goals set out in the child’s IEP. The term does not include disciplinary actions or changes in placement through the IEP process if the child continues to receive the services described above. The term does include actions such as “in-school” and “going home for the rest of the day” removals if the child does not receive the services described above.

C. Public Awareness.

1. Each public education agency shall inform the general public and all parents, within the public education agency’s boundaries of responsibility, of the availability of special education services for students aged ~~three~~ 3 through 21 years and how to access those services. This includes information regarding early intervention services for children aged birth through 2 years.
2. Each public education agency is responsible for public awareness within their enrolled population (including the families of enrolled students).
3. School districts are responsible for public awareness in private schools located within their geographical boundaries.

D. Child Identification and Referral.

1. Each public education agency shall establish, implement, and disseminate to its school-based personnel and all parents, within the public education agency boundaries of responsibility, written procedures for the identification and referral of all children with disabilities, aged birth through 21, including children with disabilities attending private schools and home schools, regardless of the severity of their disability.
2. Each public education agency will require all school-based staff to review the written procedures related to child identification and referral on an annual basis. The public education agency shall maintain documentation of staff review.
3. Procedures for child identification and referral shall meet the requirements of the IDEA and regulations, Title 15, Chapter 7, Article 4 and these rules.
4. The public education agency responsible for child identification activities is the school district in which the parents reside unless:
 - a. The student is enrolled in a charter school or public education agency that is not a school district. In that event, the charter school or public education agency is responsible for child identification activities;
 - b. The student is enrolled in a private school. In that event, the school district within whose boundaries the private school is located is responsible for child identification activities.
5. Identification (screening for possible disabilities) shall be completed within 45 calendar days after:
 - a. Entry of each preschool or kindergarten student and any student enrolling without appropriate records of screening, evaluation, and progress in school; or
 - b. Notification to the public education agency by parents of concerns regarding developmental or educational progress by their child aged 3 years through 21 years.
6. Screening procedures shall include vision and hearing status and consideration of the following areas: cognitive or academic, communication, motor, social or behavioral, and adaptive development. Screening does not include detailed individualized comprehensive evaluation procedures.
7. For a student transferring into a school; the public education agency shall review enrollment data and educational performance in the prior school. If there is a history of special education for a student not currently eligible for special education, or poor progress, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services.
8. If a concern about a student is identified through screening procedures or through review of records, the public education agency shall notify the parents of the student of the concern within 10 school days and inform them of the public education agency procedures to follow-up on the student’s needs.
9. Each public education agency shall maintain documentation of the identification procedures utilized, the dates of entry into school or notification by parents made pursuant to subsection (D)(5), and the dates of screening. The results

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shall be maintained in the student's permanent records in a location designated by the administrator. In the case of a student not enrolled, the results shall be maintained in a location designated by the administrator.

10. If the identification process indicates a possible disability, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services. A parent or a student may request an evaluation of the student. If the parent of an identified student enrolled in a private school does not reside within the school district boundaries, the parent, with the assistance of the school district, shall notify the district in which the parents reside of the needs of the student and the residence school district will assume responsibility for follow-up.
11. If, after consultation with the parent, the responsible public education agency determines that a full and individual evaluation is not warranted, the public education agency shall provide prior written notice and procedural safeguards notice to the parent in a timely manner.

E. Evaluation/re-evaluation.

1. Each public education agency shall establish, implement, disseminate to its school-based personnel, and make available to parents within its boundaries of responsibility, written procedures for the initial full and individual evaluation of students suspected of having a disability, and for the re-evaluation of students previously identified as being eligible for special education.
2. Procedures for the initial full and individual evaluation of children suspected of having a disability and for the re-evaluation of students with disabilities shall meet the requirements of IDEA and regulations, and state statutes and State Board of Education rules.
3. The initial evaluation of a child being considered for special education, or the re-evaluation per a parental request of a student already receiving special education services, shall be completed as soon as possible, but shall not exceed 60 calendar days from receipt of informed written consent. If the public education agency initiates the evaluation, the 60-day period shall commence with the date of receipt of informed written consent and shall conclude with the date of the Multidisciplinary Evaluation Team (MET) determination of eligibility. If the parent requests the evaluation and the MET concurs, the 60-day period shall commence with the date that the written parental request was received by the public education agency and shall conclude with the date of the MET determination of eligibility.
4. The 60-day evaluation period may be extended for an additional 30 days, provided it is in the best interest of the child, and the parents and PEA agree in writing to such an extension. Neither the 60-day evaluation period nor any extension shall cause a re-evaluation to exceed the timelines for a re-evaluation within three years of the previous evaluation.
5. The public education agency may accept current information about the student from another state, public agency, public education agency, or independent evaluator. In such instances, the Multidisciplinary Evaluation Team shall be responsible for reviewing and approving or supplementing an evaluation to meet the requirements identified in subsections (E)(1) through (7).
6. For the following disabilities, the full and individual initial evaluation shall include:
 - a. Emotional disability: verification of a disorder by a psychiatrist, licensed psychologist, or a certified school psychologist.
 - b. Hearing impairment:
 - i. An audiological evaluation by an audiologist; and
 - ii. An evaluation of communication/language proficiency.
 - c. Other health impairment: verification of a health impairment by a doctor of medicine.
 - d. Specific learning disability: a determination of whether the discrepancy between achievement and ability meet the public education agency criteria.
 - e. Orthopedic impairment: verification of the physical disability by a doctor of medicine.
 - f. Speech/language impairment: an evaluation by a certified speech/language therapist.
 - g. For students whose speech impairments appear to be limited to articulation, voice, or fluency problems, the written evaluation may be limited to:
 - i. An audiometric screening within the past calendar year;
 - ii. A review of academic history and classroom functioning;
 - iii. An assessment of the speech problem by a speech therapist; or
 - iv. An assessment of the student's functional communication skills.
 - h. Traumatic brain injury: verification of the injury by a doctor of medicine.
 - i. Visual impairment: verification of a visual impairment by an ophthalmologist or optometrist.
7. The Multidisciplinary Evaluation Team shall determine, in accordance with the IDEA and regulations, whether the requirements of subsections (E)(6)(a) through (i) are required for a student's re-evaluation.

F. Individualized Education Program (IEP).

1. Each public education agency shall establish, implement, and disseminate to its school-based personnel, and make available to parents, written procedures for the development, implementation, review, and revision of IEPs.

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2. Procedures for IEPs shall meet the requirements of the IDEA and regulations, and state statutes and State Board of Education rules.
 3. Procedures shall include the incorporation of Arizona Academic Standards into the development of each IEP. IEP goals aligned with the Arizona Academic Standards shall identify the specific level within the Standard that is being addressed.
 4. Each IEP of a student with a disability shall stipulate the provision of instructional or support services by a special education teacher, certified speech/language therapist, and/or ancillary service provider(s), as appropriate.
 5. Each student with a disability shall participate in the Arizona Student Assessment Program. The level at which a student will be assessed shall be documented on the student's IEP and shall be at least at the student's instructional level. The IEP shall also document instructional and assessment adaptations required by the student.
 6. A meeting shall be conducted to review and revise each student's IEP at least annually, or more frequently if the student's progress substantially deviates from what was anticipated. The public education agency shall provide written notice of the meeting to the parents of the student to ensure that parents have the opportunity to participate in the meeting.
 7. A parent or public education agency may request in writing a review of the IEP. Such review shall take place within 15 school days of the receipt of the request or at a mutually agreed upon time but not to exceed 30 school days.
- G. Least Restrictive Environment.**
1. Each public education agency shall establish, implement, and disseminate to its school-based personnel, and make available to parents, written procedures to ensure the delivery of special education services in the least restrictive environment as identified by IDEA and regulations, and state statutes and State Board of Education rules.
 2. A continuum of services and supports for students with disabilities shall be available through each public education agency.
- H. Procedural Safeguards.**
1. Each public education agency shall establish, implement, and disseminate to its school-based personnel and parents of students with disabilities written procedures to ensure children with disabilities and their parents are afforded the procedural safeguards required by federal statute and regulation and state statute. These procedures shall include dissemination to parents information about the public education agency's and state's dispute resolution options.
 2. In accordance with the prior written notice requirements of IDEA, prior written notice must be issued in a timely manner following a decision by a PEA to propose to initiate or change, or refuse to initiate or change, the identification, evaluation, educational placement or the provision of FAPE to the child.
- I. Confidentiality.**
1. Each public education agency shall establish, implement, and disseminate to its personnel, and make available to parents, written policies and procedures to ensure the confidentiality of records and information in accordance with the IDEA, the Family Education Rights and Privacy Act (FERPA) and regulations, and state statutes.
 2. Parents shall be fully informed about the requirements of IDEA 300.127, including an annual notice of the policies and procedures that the PEA must follow regarding storage, disclosure to a third party, retention, and destruction of personally identifiable information.
 3. Upon receiving a written request, each public education agency shall forward special education records to any other public education agency in which a student is attempting to enroll. Records shall be forwarded within the time-frame specified in A.R.S. § 15-828(F). The public education agency shall also forward records to any other person or agency for which the parents have given signed consent.
- J. Preschool Programs.** Each public education agency responsible for serving preschool children with disabilities shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures for:
1. The operation of the preschool program in accordance with federal statute and regulation, and state statute;
 2. The smooth and effective transition from the Arizona Early Intervention Program (AzEIP) to a public school preschool program in accordance with the agreement between the Department of Economic Security and the Department; and
 3. The provision of a minimum of 360 minutes of instruction in a program that operates at least three days a week.
- K. Children in Private Schools.** Each public education agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures regarding the access to special education services to students enrolled in private schools as identified by the IDEA and regulations, and state statutes and State Board of Education rules.
- L. State Education Agency Responsible for General Supervision and Obligations Related to and Methods of Ensuring Services.**
1. The Department is responsible for the general supervision of services to children with disabilities aged 3 through 21 served through a public education agency.
 2. The Department shall ensure through fund allocation, monitoring, dispute resolution, and technical assistance that all eligible students receive a free appropriate public education in conformance with the IDEA regulations, A.R.S. Title 15, Chapter 7, Article 4, and these rules.
- M. Procedural Requirements Relating to Public Education Agency Eligibility.**

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1. Each public education agency shall establish eligibility for funding with the Arizona Department in accordance with the IDEA and regulations, and state statutes and with schedule and method prescribed by the Department.
 2. In the event the Department determines that a public education agency does not meet eligibility for funding requirements, the public education agency has a right to a hearing before such funding is withheld.
 3. The Department may temporarily interrupt payments during any time period when a public education agency has not corrected deficiencies in eligibility for federal funds as a result of fiscal requirements of monitoring, auditing, complaint and due process findings.
 4. Each public education agency shall, on an annual basis, determine the number of children within each disability category who have been identified, located, evaluated, and/or receiving special education services. This includes children residing within the boundaries of responsibility of the public education agency who have been placed by their parents in private schools or who are home schooled.
- N. Public Participation.**
1. Each public education agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures to ensure that, prior to the adoption of any policies and procedures needed to comply with federal and state statutes and regulations, there are:
 - a. Public hearings,
 - b. Notice of the hearings, and
 - c. An opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.
 2. This requirement does not pertain to day-to-day operating procedures.
- O. Suspension and Expulsion.**
1. Each public education agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures for the suspension and expulsion of students with disabilities.
 2. Each public education agency shall require all school-based staff involved in the disciplinary process to review the policies and procedures related to suspension and expulsion on an annual basis. The public education agency shall maintain documentation of staff review.
 3. Procedures for such suspensions and expulsions shall meet the requirements of the IDEA and regulations, and state statutes.

ARTICLE 6. CERTIFICATION

R7-2-610. Special Education Teaching Certificates

- A.** Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-617.
- B.** Terms used in this Section are defined in A.R.S. § 15-761.
- C. Provisional Cross-Categorical Special Education Certificate – grades K-12.**
1. The certificate is valid for two years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).
 2. The holder is qualified to teach students with mild to moderate mental retardation, emotional disability, specific learning disability, orthopedic impairments and other health impairments.
 3. The requirements are:
 - a. A Bachelor's degree;
 - b. One of the following:
 - i. Completion of a teacher preparation program in special education from an accredited institution, which included courses in mental retardation, emotional disability, specific learning disability, orthopedic impairments and other health impairments; or
 - ii. Forty-five semester hours of education courses which teach the standards described in R7-2-602, including 21 semester hours of special education courses and eight semester hours of practicum with students representing at least three of the five disability areas. Special education courses shall include survey of exceptional students; teaching methodologies and strategies for students with disabilities; foundations course in mild to moderate mental retardation, learning disability, emotional disabilities, and physical/health impairment; and diagnosis and assessment of mild disabilities. Two years of verified teaching experience in special education in grades K-12 may substitute for the eight semester hours of practicum; or
 - iii. A valid cross-categorical special education certificate from another state.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the cross-categorical special education portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid Class 1 or Class 2 fingerprint clearance card.
- D. Standard Cross-Categorical Special Education Certificate – grades K-12.**
1. The certificate is valid for six years.

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2. The holder is qualified to teach students with mild to moderate mental retardation, emotional disability, specific learning disability, orthopedic impairments and other health impairments.
 3. The requirements are:
 - a. Qualification for the provisional cross-categorical Special Education certificate;
 - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.
- E. Provisional Specialized Special Education Certificate – grades K-12.**
1. The certificate is valid for two years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).
 2. The holder is qualified to teach students with mental retardation, emotional disability, specific learning disability, orthopedic impairments or other health impairments, as specified on the certificate.
 3. The requirements are:
 - a. A Bachelor's degree;
 - b. One of the following:
 - i. Completion of a teacher preparation program in the specified area of special education from an accredited institution; or
 - ii. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses and eight semester hours of practicum in the designated area of disability. Special education courses shall include survey of exceptional students; teaching methodologies for students with disabilities; foundations of instruction in the designated area of disability; and diagnosis and assessment of disabilities. Two years of verified teaching experience in the area of disability in grades K-12 may be substituted for the eight semester hours of practicum; or
 - iii. A valid special education certificate in the specified area from another state.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the specified disability special education portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid Class 1 or Class 2 fingerprint clearance card.
- F. Standard Specialized Special Education Certificate – grades K-12.**
1. The certificate is valid for six years.
 2. The holder is qualified to teach students with mental retardation, emotional disability, specific learning disability, orthopedic impairments or other health impairments, as specified on the certificate.
 3. The requirements are:
 - a. Qualification for the provisional Special Education certificate;
 - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.
- G. Provisional Severely and Profoundly Disabled Certificate – grades K-12.**
1. The certificate is valid for two years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).
 2. The requirements are:
 - a. A Bachelor's degree;
 - b. One of the following:
 - i. Completion of a teacher preparation program in severely and profoundly disabled education from an accredited institution; or
 - ii. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses and eight semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with severe and profound disabilities, foundations of instruction of students with severe and profound disabilities, and diagnostic and assessment procedures for students with severe and profound disabilities. Two years of verified teaching experience with students in grades Prekindergarten-12 who are severely and profoundly disabled may be substituted for the eight semester hours of practicum; or
 - iii. A valid Severely and Profoundly Disabled certificate from another state.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the severely and profoundly disabled special education portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid Class 1 or Class 2 fingerprint card.
- H. Standard Severely and Profoundly Disabled Certificate – grades K-12.**
1. The certificate is valid for six years.
 2. The requirements are:
 - a. Qualification for the provisional severely and profoundly disabled certificate;
 - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.

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- I. Provisional Hearing Impaired Certificate – grades K-12.**
 - 1. The certificate is valid for two years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).
 - 2. The requirements are:
 - a. A Bachelor's degree;
 - b. One of the following:
 - i. Completion of a teacher preparation program in hearing impaired education from an accredited institution; or
 - ii. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses for the hearing impaired and eight semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with hearing impairment, foundations of instruction of students with hearing impairment, and diagnostic and assessment procedures for the hearing impaired. Two years of verified teaching experience in the area of hearing impaired in grades Prekindergarten-12 may be substituted for the eight semester hours of practicum; or
 - iii. A valid hearing impaired certificate from another state.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the hearing impaired special education portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid Class 1 or Class 2 fingerprint clearance card.
- J. Standard Hearing Impaired Certificate – grades K-12.**
 - 1. The certificate is valid for six years.
 - 2. The requirements are:
 - a. Qualification for the provisional hearing impaired certificate;
 - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.
- K. Provisional Visually Impaired Certificate – grades K-12.**
 - 1. The certificate is valid for two years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).
 - 2. The requirements are:
 - a. A Bachelor's degree;
 - b. One of the following:
 - i. Completion of a teacher preparation program in visual impairment from an accredited institution; or
 - ii. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses for the visually impaired and eight semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with visual impairment, foundations of instruction of students with visual impairment, and diagnostic and assessment procedures for the visually impaired. Two years of verified teaching experience in the area of visually impaired in grades Prekindergarten-12 may be substituted for the eight semester hours of practicum; or
 - iii. A valid visually impaired special education certificate from another state.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the visually impaired special education portion of the Arizona Teacher Proficiency Assessment; and
 - e. Demonstration of competency in Braille through one of the following:
 - i. A passing score on the original version of the National Library of Congress certification exam; or
 - ii. A valid certificate for a literary Braille transcriber issued by the National Library of Congress; or
 - iii. A passing score on a Braille exam administered by another state; or
 - iv. A passing score on the Braille exam developed and administered by the University of Arizona. Individuals who take this test and are not students at the University of Arizona may be assessed a fee.
 - f. A valid Class 1 or Class 2 fingerprint clearance card.
- L. Standard Visually Impaired Certificate – grades K-12.**
 - 1. The certificate is valid for six years.
 - 2. The requirements are:
 - a. Qualifications for the provisional visually impaired certificate;
 - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.
- M. Provisional Speech and Language Impaired Certificate – grades K-12.**
 - 1. This certificate is valid for two years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).
 - 2. The requirements are:
 - a. A Bachelor's degree;

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- b. ~~One of the following:~~
 - i. ~~Completion of a teacher preparation program in speech and language special education from an accredited institution; or~~
 - ii. ~~Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 30 semester hours of special education courses for the speech impaired. Special education courses shall include survey of exceptional students, teaching methodologies for students with speech impairment, foundations of instruction of students with speech impairment, diagnostic and assessment procedures for the speech impaired, and a minimum of 200 clock hours of supervised clinical practice in providing speech and language impairment services. All clinical practice clock hours shall be supervised by an American Speech and Language Association certified pathologist or by a state-certified speech and language therapist; or~~
 - iii. ~~A valid Speech and Language Impaired special education certificate from another state.~~
- e. ~~A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;~~
- d. ~~A passing score on the speech and language impaired special education portion of the Arizona Teacher Proficiency Assessment; and~~
- e. ~~A valid Class 1 or Class 2 fingerprint clearance card.~~

~~**N.**~~ Standard Speech and Language Impaired Certificate—grades K-12.

- 1. ~~The certificate is valid for six years.~~
- 2. ~~The requirements are:~~
 - a. ~~Qualification for the provisional speech and language impaired certificate;~~
 - b. ~~A passing score on the performance portion of the Arizona Teacher Proficiency Assessment; and~~
 - e. ~~A valid Class 1 or Class 2 fingerprint clearance card.~~

~~**O-M.**~~ Provisional Early Childhood Special Education Certificate – Birth to five years.

- 1. ~~The certificate is valid for two years and is not renewable but may be extended as set forth in R7-2-606(H) or (I).~~
- 2. ~~The requirements are:~~
 - a. ~~A Bachelor's degree;~~
 - b. ~~One of the following:~~
 - i. ~~Completion of a teacher preparation program in early childhood special education from an accredited institution; or~~
 - ii. ~~Forty-five semester hours of education courses which teach the standards described in R7-2-602, including child development and learning, language development, social and emotional development, curriculum development and implementation, and assessment and evaluation, early childhood special education, and eight semester hours of practicum in early childhood special education. Two years of verified teaching experience in the area of early childhood special education may be substituted for the eight semester hours of practicum; or~~
 - iii. ~~A valid early childhood special education certificate from another state.~~
 - c. ~~A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;~~
 - d. ~~A passing score on the early childhood special education portion of the Arizona Teacher Proficiency Assessment; and~~
 - e. ~~A valid Class 1 or Class 2 fingerprint clearance card.~~

~~**P-N.**~~ Standard Early Childhood Special Education Certificate – Birth to five years.

- 1. ~~The certificate is valid for six years.~~
- 2. ~~Requirements are:~~
 - a. ~~Qualify for the provisional early childhood Special Education certificate;~~
 - b. ~~Passing score on the performance portion of the Arizona Teacher Proficiency Assessment; and~~
 - c. ~~A valid Class 1 or Class 2 fingerprint clearance card.~~

R7-2-615. Other Professional Certificates

A. All certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-617.

B. Guidance Counselor Certificate – grades ~~K~~ Prekindergarten-12

- 1. The guidance counselor certificate is valid for six years.
- 2. The requirements are:
 - a. A Master's or more advanced degree;
 - b. Completion of a graduate program in guidance and counseling. A valid guidance counselor certificate from another state may substitute for this requirement;
 - c. A valid ~~Class 1 or Class 2~~ fingerprint clearance card issued by the Arizona Department of Public Safety; and
 - d. One of the following:
 - i. Completion of a supervised counseling practicum in school counseling;
 - ii. Two years of verified, full-time experience as a school guidance counselor; or
 - iii. Three years of verified teaching experience.

C. School Psychologist Certificate – grades Prekindergarten-12

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1. A school psychologist certificate is required for all personnel whose primary responsibility is in the role of a school psychologist providing services that include but are not limited to the duties of student psychoeducational assessment, therapeutic consultation and intervention, and involvement in the process of determination of student disabilities or disorders.
- ~~1-2.~~ The school psychologist certificate is valid for six years.
- ~~2-3.~~ The requirements are:
 - a. A Master's or more advanced degree;
 - b. Completion of a graduate program in school psychology consisting of at least 60 graduate semester hours, or completion of a doctoral program in psychology and completion of a re-training program in school psychology from an accredited institution or Board approved program with a letter of institutional endorsement from the head of the school psychology program;
 - c. A ~~practicum~~ supervised internship of at least ~~1,000~~ 1200-clock hours with a minimum of 600 of those hours in a school setting. Three years experience as a certified school psychologist within the last 10 years may be substituted for the internship requirement; and
 - d. A valid Class 1 or Class 2 fingerprint clearance card issued by the Arizona Department of Public Safety.
- ~~3-4.~~ A valid school psychologist certificate from another state Any of the following may be substituted for the completion of a program requirement described in subsection (C)(2)(b) (C)(3)(b):
 - a. Five years experience within the last 10 years working full time in the capacity of a school psychologist in a school setting serving any portion of grades kindergarten through 12; or
 - b. A Nationally Certified School Psychologist Credential; or
 - c. A diploma in school psychology from the American Board of School Psychology.
- D.** Arizona School Psychologist Interim Certificate – grades Prekindergarten-12
 1. The certificate is valid for two years and is not renewable.
 2. The interim certificate entitles the holder to perform school psychologist duties in whatever capacity or grade levels assigned by personnel in subsection (4) of this Section.
 3. The requirements are:
 - a. A Master's or more advanced degree in psychology;
 - b. Verification of current enrollment in an accredited school psychology program or a Board approved school psychology program signed by the dean of a college of education or the administrator of a Board-approved school psychology preparation program; and
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 4. The holder of the interim certificate shall be under the direct supervision of college and certified school personnel, including a school or school district-based certified school psychologist who holds a valid Arizona School Psychologist Certificate.
- E.** Speech-Language Pathologist Certificate – grades Prekindergarten-12
 1. The speech-language pathologist certificate is required for school-based speech-language pathologists.
 2. The certificate is valid for six years and may be renewed with the completion of a minimum of 60 clock hours of relevant professional development in the field of speech pathology, or professional development in the areas of articulation, voice, fluency, language, low incidence disabilities, curriculum and instruction, professional issues and ethics, or service delivery models.
 3. The requirements are:
 - a. A Master's or more advanced degree, from an accredited institution, in speech pathology or communication disorders;
 - b. A minimum of 250 clinical clock hours supervised by a university or a speech-language pathologist with a certificate of clinical competence;
 - c. A certificate of clinical competence, or a passing score on the national exam, or a passing score on the speech and language impaired special education portion of the Arizona Teacher Proficiency Assessment; and
 - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- F.** Speech-Language Technician – grades Prekindergarten-12
 1. The speech-language technician certificate is required for school-based speech-language professionals.
 2. The certificate is valid for six years and may be renewed with the completion of a minimum of 180 clock hours of graduate level coursework in the field of speech pathology, or professional development in the areas of articulation, voice, fluency, language disorders, low incidence disabilities, professional issues and ethics, or service delivery models.
 3. The requirements are:
 - a. A Bachelor's degree from an accredited program in Speech-Language Pathology, Speech-Hearing Sciences, or Communication Disorders;
 - b. A minimum of 50 hours of university supervised observation;
 - c. A minimum of 150 university clinical clock hours, or 150 clock hours supervised by a Master's level licensed speech-language pathologist, or two years experience as a school speech-language therapist or technician;

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- d. A passing score on the speech and language impaired special education portion of the Arizona Teacher Proficiency Assessment; and
- e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

NOTICE OF EXEMPT RULEMAKING

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

Editor's Note: The following Notice of Exempt Rulemaking is exempt from the Governor's Regulatory Review Plan memorandum, January 22, 2009 and its continuations on April 30, June 29, and October 16, 2009 per A.R.S. § 41-1005. (See a copy of the memoranda on pages 1861 through 1863.)

[R09-100]

PREAMBLE

1. Sections Affected

R7-2-401
R7-2-402
R7-2-405

Rulemaking Action

Amend
Amend
Amend

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §§ 15-203(A)(1) and 15-701.02
Implementing statute: A.R.S. § 15-701.02

3. The effective date of the rules:

May 19, 2008

4. A list of all previous notices appearing in the Register addressing the exempt rules:

Not applicable

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Vince Yanez, Executive Director
State Board of Education

Address: 1535 W. Jefferson St.
Phoenix, AZ 85007

Telephone: (602) 542-5057

Fax: (602) 542-3046

E-mail: vince.yanez@azed.gov

6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:

Pursuant to A.R.S. § 41-1005(F) the State Board of Education is exempt from standard rulemaking procedures.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business and consumer impact:

The rules are not expected to have any economic impact on small businesses nor have any impact upon school districts and charter schools.

10. A description of the changes between the proposed rules, including supplemental notices and final rules (if applicable):

Not applicable

Notices of Exempt Rulemaking

11. A summary of the comments made regarding the rule and the agency response to them:

A public hearing was held regarding these proposed rules on April 24, 2008. No comment was received.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

Not applicable

14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:

Not applicable

15. The full text of the rule follows:

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE 4. SPECIAL EDUCATION

Section

- R7-2-401. Special Education Standards for Public Agencies Providing Educational Services
R7-2-402. Standards for Approval of Special Education Programs in Private Schools
R7-2-405. Due Process Standards Relating to Special Education

ARTICLE 4. SPECIAL EDUCATION

R7-2-401. Special Education Standards for Public Agencies Providing Educational Services

- A.** For the purposes of this Article, the Individuals with Disabilities Education Improvement Act Amendments of 2004 (IDEA), 20 U.S.C. 1400 et seq. and the IDEA its implementing regulations, 34 CFR 300.4 through 300.818 300.1 et seq., are incorporated herein by reference. Copies of the incorporated material can be obtained from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 37195-7954, Pittsburgh, PA 15250 or the Arizona Department of Education, Exceptional Student Services, 1535 West Jefferson, Phoenix, Arizona 85007. This Article does not include any later amendments or additions to IDEA or IDEA regulations.
- B.** Definitions. All terms defined in the regulations for the Individuals with Disabilities Education Improvement Act (IDEA) Amendments (~~34 CFR 300.4 through 300.44, and 300.504~~) and A.R.S. § 15-761 are applicable, with the following additions:
1. "Accommodations" means the provisions made to allow a student to access and demonstrate learning. Accommodations do not substantially change the instructional level, the content or the performance criteria, but are made in order to provide a student equal access to learning and equal opportunity to demonstrate what is known. Accommodations shall not alter the content of the curriculum or a test, or provide inappropriate assistance to the student within the context of the test.
 2. "Adaptations" means changes made to the environment, curriculum, and instruction or assessment practices in order for a student to be a successful learner. Adaptations include accommodations and modifications. Adaptations are based on an individual student's strengths and needs.
 3. "Administrator" means the chief administrative official or designee (responsible for special education services) of a public education agency.
 4. "Audiologist" means a person who specializes in the identification and prevention of hearing problems and in the non-medical rehabilitation of those who have hearing impairments and who is licensed to practice audiology according to A.R.S. Title 36, Chapter 17, Article 4.
 5. "Boundaries of responsibility" means for:
 - a. A school district, the geographical area within the legally designated boundaries.
 - b. A public agency other than a school district, the population of students enrolled in a charter school or receiving educational services from a public agency.
 6. "Certified school psychologist" means a person holding a certificate from the Arizona State Board of Education issued pursuant to 7 A.A.C. 2, Article 6, in the area of school psychology.
 7. ~~"Speech language pathologist"~~ "Certified speech-language therapist" means a person holding a license certificate from the Arizona Department of Health Services Arizona State Board of Education as a speech language pathologist issued pursuant to A.R.S. Title 36, Chapter 17, Article 4. ~~A certificate issued by the Arizona State Board of Education pursuant to 7 A.A.C. 2, Article 6, is required, and a license from the Arizona Department of Health Services as a speech-language pathologist in accordance with A.R.S. Title 36, Chapter 17, Article 4.~~

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8. "Speech-language technician" means a person holding a certificate from the Arizona State Board of Education issued pursuant to 7 A.A.C. 2, Article 6, and a limited license from the Arizona Department of Health Services as a speech/language pathologist in accordance with A.R.S. Title 36, Chapter 17, Article 4.
9. "Department" means the Arizona Department of Education.
10. "Doctor of medicine" means a person holding a license to practice medicine pursuant to A.R.S. Title 32, Chapter 13 (medical doctor) or Chapter 17 (doctor of osteopathy).
11. "Exceptional Student Services Division" or "ESS" means the Exceptional Student Services Division of the Arizona Department of Education.
12. "Evaluator" means a qualified person in a field relevant to the child's disability who administers specific and individualized assessment for the purpose of special education evaluation and placement.
13. "Full and individual evaluation" means procedures used in accordance with the IDEA to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. This evaluation includes:
 - a. A review of existing information about the child; and
 - b. A decision regarding the need for additional information; and
 - c. If necessary, the collection of additional information; and
 - d. A review of all information about the child and a determination of eligibility for special education services and needs of the child.
14. "Independent educational evaluation" means an evaluation conducted by a qualified evaluator who is not employed by the public education agency responsible for the education of the child in question.
15. "Interpreter" means a person trained to translate orally or in sign language in matters pertaining to special education identification, evaluation, placement, the provision of FAPE, or assurance of procedural safeguards for parents and students who converse in a language other than spoken English. Each student's IEP team determines the level of interpreter skill necessary for the provision of FAPE.
16. "Language in which the student is proficient" means all languages including sign language systems.
17. "Licensed psychologist" means a person holding a license from the state of Arizona Board of Psychologist examiners in accordance with A.R.S. Title 32, Chapter 19.1, Article 2.
18. "Modifications" means substantial changes in what a student is expected to learn and to demonstrate. Changes may be made in the instructional level, the content or the performance criteria. Such changes are made to provide a student with meaningful and productive learning experiences, environments, and assessments based on individual needs and abilities.
19. "Paraeducator" means a person employed to assist with the education of students but who is not certified to teach by the Arizona Department of Education. Alternate terms may include paraprofessional, teacher aide, instructional assistant or other similar titles.
20. "Private school" means any nonpublic educational institution where academic instruction is provided, including non-sectarian and parochial schools, that are not under the jurisdiction of the state or a public education agency.
21. "Private special education school" means a private school that is established to serve primarily students with disabilities. The school may also serve students without disabilities.
22. "Psychiatrist" means a doctor of medicine who specializes in the study, diagnosis, treatment and prevention of mental disorders.
23. "Public education agency" or "PEA" means a school district, charter school, accommodation school, state supported institution, or other political subdivision of the state that is responsible for providing education to children with disabilities.
24. "Screening" means an informal or formal process of determining the status of a child with respect to appropriate developmental and academic norms. Screening may include observations, family interviews, review of medical, developmental, or education records, or the administration of specific instruments identified by the test publisher as appropriate for use as screening tools.
25. "Special education teacher" means a teacher holding a special education certificate from the Arizona Department of Education.
26. "Suspension" means a disciplinary removal from a child's current placement that results in a failure to provide services to the extent necessary to enable the child to progress appropriately in the general curriculum and advance toward achieving the goals set out in the child's IEP. The term does not include disciplinary actions or changes in placement through the IEP process if the child continues to receive the services described above. The term does include actions such as "in-school" and "going home for the rest of the day" removals if the child does not receive the services described above.

C. Public Awareness.

Notices of Exempt Rulemaking

1. Each public education agency shall inform the general public and all parents, within the public education agency's boundaries of responsibility, of the availability of special education services for students aged 3 through 21 years and how to access those services. This includes information regarding early intervention services for children aged birth through 2 years.
 2. Each public education agency is responsible for public awareness within their enrolled population (including the families of enrolled students).
 3. School districts are responsible for public awareness in private schools located within their geographical boundaries.
- D. Child Identification and Referral.**
1. Each public education agency shall establish, implement, and disseminate to its school-based personnel and all parents, within the public education agency boundaries of responsibility, written procedures for the identification and referral of all children with disabilities, aged birth through 21, including children with disabilities attending private schools and home schools, regardless of the severity of their disability.
 2. Each public education agency will require all school-based staff to review the written procedures related to child identification and referral on an annual basis. The public education agency shall maintain documentation of staff review.
 3. Procedures for child identification and referral shall meet the requirements of the IDEA and regulations, Title 15, Chapter 7, Article 4 and these rules.
 4. The public education agency responsible for child identification activities is the school district in which the parents reside unless:
 - a. The student is enrolled in a charter school or public education agency that is not a school district. In that event, the charter school or public education agency is responsible for child identification activities;
 - b. The student is enrolled in a non-profit private school. In that event, the school district within whose boundaries the private school is located is responsible for child identification activities.
 5. Identification (screening for possible disabilities) shall be completed within 45 calendar days after:
 - a. Entry of each preschool or kindergarten student and any student enrolling without appropriate records of screening, evaluation, and progress in school; or
 - b. Notification to the public education agency by parents of concerns regarding developmental or educational progress by their child aged 3 years through 21 years.
 6. Screening procedures shall include vision and hearing status and consideration of the following areas: cognitive or academic, communication, motor, social or behavioral, and adaptive development. Screening does not include detailed individualized comprehensive evaluation procedures.
 7. For a student transferring into a school; the public education agency shall review enrollment data and educational performance in the prior school. If there is a history of special education for a student not currently eligible for special education, or poor progress, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services.
 8. If a concern about a student is identified through screening procedures or through review of records, the public education agency shall notify the parents of the student of the concern within 10 school days and inform them of the public education agency procedures to follow-up on the student's needs.
 9. Each public education agency shall maintain documentation of the identification procedures utilized, the dates of entry into school or notification by parents made pursuant to subsection (D)(5), and the dates of screening. The results shall be maintained in the student's permanent records in a location designated by the administrator. In the case of a student not enrolled, the results shall be maintained in a location designated by the administrator.
 10. If the identification process indicates a possible disability, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services. A parent or a student may request an evaluation of the student. ~~If the parent of an identified student enrolled in a private school does not reside within the school district boundaries, the parent, with the assistance of the school district, shall notify the district in which the parents reside of the needs of the student and the residence school district will assume responsibility for follow-up. For parentally-placed private school students the school district within whose boundaries the non-profit private school is located is responsible for such evaluation.~~
 11. If, after consultation with the parent, the responsible public education agency determines that a full and individual evaluation is not warranted, the public education agency shall provide prior written notice and procedural safeguards notice to the parent in a timely manner.
- E. Evaluation/re-evaluation.**
1. Each public education agency shall establish, implement, disseminate to its school-based personnel, and make available to parents within its boundaries of responsibility, written procedures for the initial full and individual evaluation of students suspected of having a disability, and for the re-evaluation of students previously identified as being eligible for special education.

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2. Procedures for the initial full and individual evaluation of children suspected of having a disability and for the re-evaluation of students with disabilities shall meet the requirements of IDEA and regulations, and state statutes and State Board of Education rules.
 3. The initial evaluation of a child being considered for special education, or the re-evaluation per a parental request of a student already receiving special education services, shall be completed as soon as possible, but shall not exceed 60 calendar days from receipt of informed written consent. If the public education agency initiates the evaluation, the 60-day period shall commence with the date of receipt of informed written consent and shall conclude with the date of the Multidisciplinary Evaluation Team (MET) determination of eligibility. If the parent requests the evaluation and the MET concurs, the 60-day period shall commence with the date that the written parental request was received by the public education agency and shall conclude with the date of the MET determination of eligibility.
 4. The 60-day evaluation period may be extended for an additional 30 days, provided it is in the best interest of the child, and the parents and PEA agree in writing to such an extension. Neither the 60-day evaluation period nor any extension shall cause a re-evaluation to exceed the timelines for a re-evaluation within three years of the previous evaluation.
 5. The public education agency may accept current information about the student from another state, public agency, public education agency, or independent evaluator. In such instances, the Multidisciplinary Evaluation Team shall be responsible for reviewing and approving or supplementing an evaluation to meet the requirements identified in subsections (E)(1) through (7).
 6. For the following disabilities, the full and individual initial evaluation shall include:
 - a. Emotional disability: verification of a disorder by a psychiatrist, licensed psychologist, or a certified school psychologist.
 - b. Hearing impairment:
 - i. An audiological evaluation by an audiologist; and
 - ii. An evaluation of communication/language proficiency.
 - c. Other health impairment: verification of a health impairment by a doctor of medicine.
 - d. Specific learning disability: a determination of whether the discrepancy between achievement and ability meet the public education agency criteria.
 - e. Orthopedic impairment: verification of the physical disability by a doctor of medicine.
 - f. Speech/language impairment: an evaluation by a certified speech/language therapist.
 - g. For students whose speech impairments appear to be limited to articulation, voice, or fluency problems, the written evaluation may be limited to:
 - i. An audiometric screening within the past calendar year;
 - ii. A review of academic history and classroom functioning;
 - iii. An assessment of the speech problem by a speech therapist; or
 - iv. An assessment of the student's functional communication skills.
 - h. Traumatic brain injury: verification of the injury by a doctor of medicine.
 - i. Visual impairment: verification of a visual impairment by an ophthalmologist or optometrist.
 7. The Multidisciplinary Evaluation Team shall determine, in accordance with the IDEA and regulations, whether the requirements of subsections (E)(6)(a) through (i) are required for a student's re-evaluation.
- F. Individualized Education Program (IEP).**
1. Each public education agency shall establish, implement, and disseminate to its school-based personnel, and make available to parents, written procedures for the development, implementation, review, and revision of IEPs.
 2. Procedures for IEPs shall meet the requirements of the IDEA and regulations, and state statutes and State Board of Education rules.
 3. Procedures shall include the incorporation of Arizona Academic Standards into the development of each IEP. IEP goals aligned with the Arizona Academic Standards shall identify the specific level within the Standard that is being addressed.
 4. Each IEP of a student with a disability shall stipulate the provision of instructional or support services by a special education teacher, certified speech/language therapist, and/or ancillary service provider(s), as appropriate.
 5. Each student with a disability shall participate in the Arizona Student Assessment Program. The level at which a student will be assessed shall be documented on the student's IEP and shall be at least at the student's instructional level. The IEP shall also document instructional and assessment adaptations required by the student.
 6. A meeting shall be conducted to review and revise each student's IEP at least annually, or more frequently if the student's progress substantially deviates from what was anticipated. The public education agency shall provide written notice of the meeting to the parents of the student to ensure that parents have the opportunity to participate in the meeting.
 7. A parent or public education agency may request in writing a review of the IEP. Such review shall take place within 15 school days of the receipt of the request or at a mutually agreed upon time but not to exceed 30 school days.
- G. Least Restrictive Environment.**

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1. Each public education agency shall establish, implement, and disseminate to its school-based personnel, and make available to parents, written procedures to ensure the delivery of special education services in the least restrictive environment as identified by IDEA and regulations, and state statutes and State Board of Education rules.
 2. A continuum of services and supports for students with disabilities shall be available through each public education agency.
- H. Procedural Safeguards.**
1. Each public education agency shall establish, implement, and disseminate to its school-based personnel and parents of students with disabilities written procedures to ensure children with disabilities and their parents are afforded the procedural safeguards required by federal statute and regulation and state statute. These procedures shall include dissemination to parents information about the public education agency's and state's dispute resolution options.
 2. In accordance with the prior written notice requirements of IDEA, prior written notice must be issued in a timely manner following a decision by a PEA to propose to initiate or change, or refuse to initiate or change, the identification, evaluation, educational placement or the provision of FAPE to the child.
- I. Confidentiality.**
1. Each public education agency shall establish, implement, and disseminate to its personnel, and make available to parents, written policies and procedures to ensure the confidentiality of records and information in accordance with the IDEA, the Family Education Educational Rights and Privacy Act (FERPA) and regulations, and state statutes.
 2. Parents shall be fully informed about the requirements of the IDEA 300-127 and regulations, including an annual notice of the policies and procedures that the PEA must follow regarding storage, disclosure to a third party, retention, and destruction of personally identifiable information.
 3. Upon receiving a written request, each public education agency shall forward special education records to any other public education agency in which a student is attempting to enroll. Records shall be forwarded within the time-frame specified in A.R.S. § 15-828(F). The public education agency shall also forward records to any other person or agency for which the parents have given signed consent.
- J. Preschool Programs.** Each public education agency responsible for serving preschool children with disabilities shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures for:
1. The operation of the preschool program in accordance with federal statute and regulation, and state statute;
 2. The smooth and effective transition from the Arizona Early Intervention Program (AzEIP) to a public school preschool program in accordance with the agreement between the Department of Economic Security and the Department; and
 3. The provision of a minimum of 360 minutes of instruction in a program that operates at least three days a week.
- K. Children in Private Schools.** Each public education agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures regarding the access to special education services to students enrolled in private schools as identified by the IDEA and regulations, and state statutes and State Board of Education rules.
- L. State Education Agency Responsible for General Supervision and Obligations Related to and Methods of Ensuring Services.**
1. The Department is responsible for the general supervision of services to children with disabilities aged 3 through 21 served through a public education agency.
 2. The Department shall ensure through fund allocation, monitoring, dispute resolution, and technical assistance that all eligible students receive a free appropriate public education in conformance with the IDEA regulations, A.R.S. Title 15, Chapter 7, Article 4, and these rules.
- M. Procedural Requirements Relating to Public Education Agency Eligibility.**
1. Each public education agency shall establish eligibility for funding with the Arizona Department in accordance with the IDEA and regulations, and state statutes and with schedule and method prescribed by the Department.
 2. In the event the Department determines that a public education agency does not meet eligibility for funding requirements, the public education agency has a right to a hearing before such funding is withheld.
 3. The Department may temporarily interrupt payments during any time period when a public education agency has not corrected deficiencies in eligibility for federal funds as a result of fiscal requirements of monitoring, auditing, complaint and due process findings.
 4. Each public education agency shall, on an annual basis, determine the number of children within each disability category who have been identified, located, evaluated, and/or receiving special education services. This includes children residing within the boundaries of responsibility of the public education agency who have been placed by their parents in private schools or who are home schooled.
- N. Public Participation.**
1. Each public education agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures to ensure that, prior to the adoption of any policies and procedures needed to comply with federal and state statutes and regulations, there are:
 - a. Public hearings,
 - b. Notice of the hearings, and

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- c. An opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.
2. This requirement does not pertain to day-to-day operating procedures.
- O. Suspension and Expulsion.
 1. Each public education agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures for the suspension and expulsion of students with disabilities.
 2. Each public education agency shall require all school-based staff involved in the disciplinary process to review the policies and procedures related to suspension and expulsion on an annual basis. The public education agency shall maintain documentation of staff review.
 3. Procedures for such suspensions and expulsions shall meet the requirements of the IDEA and regulations, and state statutes.

R7-2-402. Standards for Approval of Special Education Programs in Private Schools

- A. Definitions. All terms defined in the regulations for the Individuals with Disabilities Education Improvement Act (IDEA) 1997 Amendments (~~34 CFR 300.4 through 300.30~~), A.R.S. § 15-761, and State Board of Education rule R7-2-401 are applicable.
- B. No student may be placed by a public education agency in a private school special education school program unless the facility has been approved as meeting the standards as outlined in this rule, and the public education agency is unable to provide satisfactory education and services through its own facilities and personnel.
- C. In order for a private special education school to be approved by the Department for the purpose of contracting with a public education agency, the private facility shall:
 1. Provide special education instructional programs for students with disabilities that are at least comparable to those provided by the public schools of Arizona and meet the requirements of IDEA.
 2. Provide the following documentation:
 - a. Policies and procedures based on IDEA and state statutes;
 - b. Curriculum that is aligned with the Arizona Academic Standards;
 - c. A completed application;
 - d. Copies of all teacher and related service personnel certifications and licenses; and
 - e. If applicable, a copy of North Central Accreditation.
 3. Provide certificated special education teachers in each classroom to implement the IEPs of those students assigned to that classroom.
 4. Provide related services to meet the needs of the students as indicated on their IEPs.
 5. Provide administration personnel such as head teacher, principal, or other administrator certificated in an administrative area or experienced and certificated in the appropriate area of special education.
 6. Provide an education that meets the standards that apply to education provided by the public education agency.
 7. Maintain student records in accordance with the statutory requirements.
 8. Accept all responsibilities concerning instructional programs to the disabled student and parent or guardian that are required of the public schools of Arizona. Ultimate responsibility for any student under contract in a private special education school rests with the public education agency contracting for the students' education.
 9. Administer all required statewide assessments to those students placed in the private facility by a PEA or through the educational voucher system.
 10. Maintain adequate liability insurance.
 11. Maintain an accounting system and budget which includes the costs of operation, maintenance, transportation, and capital outlay, and which is open to review upon request.
 12. Maintain an attendance reporting system that provides public education agencies and the Department with required information.
 13. Provide notification to contracting public education agencies and the Department of any changes in staff or deletion of programs within 10 school days of the change or deletion.
 14. Provide notification to the contracting PEA of any intent to discontinue, suspend, or terminate services to a student for longer than 10 days. Services to the student must be continued by the private school until an IEP meeting with the PEA is convened to determine an appropriate alternative placement. The PEA must be given up to 10 school days to arrange for the transition of the student after the IEP determination.
 15. Permit onsite evaluation of the program by the Department or its designees, and the representatives of the public education agencies.
 16. Request approval to contract with public education agencies from the Department in accordance with the prescribed procedures.

R7-2-405. Due Process Standards Relating to Special Education

- A. Definitions. The following definitions are applicable to this rule:

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1. A “due process hearing” means a fair and impartial administrative hearing conducted by the State Education Agency by an impartial hearing officer through the Arizona Office of Administrative Hearings.
 2. “Impartial hearing officer” or “hearing officer” means an Administrative Law Judge (“ALJ”) of the Arizona Office of Administrative Hearings (“OAH”) and who is knowledgeable in the laws governing special education and administrative hearings.
 3. “Public agency” (“PEA”) has the same definition as provided in R7-2-401.
 4. “State Education Agency” (“SEA”) means the Department of Education, Exceptional Student Services Section.
- B.** The due process procedures specified in this rule apply to all public agencies dealing with the identification, evaluation, special educational placement of, and the provision of a free appropriate public education (“FAPE”) for children with disabilities.
- C.** The SEA shall establish procedures concerning:
1. Impartial due process hearings, and
 2. Confidentiality and access to student records.
- D.** An impartial hearing officer shall be:
1. Unbiased - not prejudiced for or against any party in the hearing;
 2. Disinterested - not having any personal or professional interest that would conflict with objectivity in the hearing;
 3. Independent - may not be an officer, employee, or agent of a public agency involved in the education or care of the child or the SEA. A person who otherwise qualifies to conduct a hearing is not an employee of the public agency or the SEA solely because the person is paid by the public agency to serve as a hearing officer;
 4. Trained and evaluated by the SEA as to the state and federal laws pertaining to the identification, evaluation, placement of, and the provision of FAPE for children with disabilities.
- E.** Hearing officer qualifications and training.
1. All hearing officers shall participate in all required training and evaluation conducted by the SEA as to the state and federal laws pertaining to the identification, evaluation, educational placement, and the provision of FAPE for children with disabilities.
 2. A hearing officer shall meet the requirements set forth by OAH regarding ALJs. A hearing officer shall not have represented a parent in a special education matter during the preceding 12 months, and shall not have represented a school district in any matter during the preceding 12 months.
- F.** Selection of hearing officers.
1. The SEA shall prepare and maintain a list of individuals who meet the qualifications specified in subsection (E) to serve as hearing officers. This list shall also include the qualifications of each hearing officer.
 2. A hearing officer shall be assigned in accordance with the procedures of the Office of Administrative Hearings.
- G.** Request for Due Process Hearing.
1. The due process complaint must allege a violation that occurred not more than two years before the date the parent or public education agency knew or should have known about the alleged action that forms the basis of the due process complaint.
 - ~~1-2.~~ A parent shall submit a written request for a due process hearing to the public education agency and the SEA. The SEA shall provide a model form that a parent may use in requesting a due process hearing. Upon receipt of a written request, there shall be no change in the educational placement of the child except under the applicable provisions of IDEA, unless the PEA and parents agree. If a parent requests a due process hearing, the public education agency shall advise the parents of any free or low-cost legal services available, and provide a copy of the procedural safeguards notice. All correspondence to the parent shall be provided in English and the primary language of the home. If the written request involves an application for initial admission, the child, with the consent of the parent, shall be placed in a program for which the child is eligible the public school until the completion of all proceedings.
 - ~~2-3.~~ If the public education agency requests a due process hearing, such request ~~shall~~ may be made on a model form, as noted in subsection ~~(G)(1)~~ (G)(2), and a copy shall be provided to the parent and the SEA. Upon receipt of a written request, there shall be no change in the educational placement of the child except under the applicable provisions of IDEA, unless the PEA and the parents agree. In conjunction with its request for due process hearing, the public education agency shall advise the parents of any free or low-cost legal services available and provide a copy of the procedural safeguards notice. All correspondence to the parent, including the due process request, shall be provided in English and the primary language of the home. If the written request involves an application for initial admission, the child, with the consent of the parent, shall be placed in a program for which the child is eligible the public school until the completion of all proceedings.
- H.** An impartial due process hearing shall be conducted in accordance with the following procedures:
1. The hearing officer shall hold a pre-hearing conference, either telephonically or at a location that is reasonably convenient to the parents and the child involved, to determine if the complaint is a legitimate due process complaint, to ensure that all matters are clearly defined, to establish the proceedings that will be used for the hearing, to determine who will represent and/or advise each party, and to set the time and dates for the hearing.

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2. The hearing officer shall conduct the hearing at a location that is reasonably convenient to the parents and the child involved.
 3. The hearing officer shall preside at the hearing and shall conduct the proceedings in a fair and impartial manner, and shall ensure that all parties involved have an opportunity to:
 - a. Present their evidence and confront, cross-examine, and compel the attendance of witnesses;
 - b. Object to the introduction of any evidence at the hearing that has not been disclosed to all parties at least five business days before the hearing;
 - c. Produce outside expert witnesses;
 - d. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities.
 4. The parent involved in the hearing shall be given the right to:
 - a. Have the child who is the subject of the hearing present;
 - b. Have the hearing conducted in public;
 - c. Have an interpreter provided by the public agency.
 5. The hearing officer shall review all relevant facts concerning the identification, evaluation, the educational placement, and the provision of FAPE. This shall include any Independent Education Evaluation secured by the parent.
 - a. The hearing officer shall determine whether the public agency has met all requirements of federal and state law, rules, and regulations.
 - b. The hearing officer shall render findings of fact and a decision, which shall be binding on all parties unless appealed pursuant to this rule.
 6. The hearing officer's findings of fact and decision shall be in writing and shall be provided to the parent, the public education agency, the SEA, and their respective representatives. The parent may choose to receive an electronic verbatim record of the hearing and electronic findings of fact and decision relative to the hearing in addition to the written findings of fact and decision. The hearing officer's findings of fact and decision shall be delivered by certified mail or by hand within 45 calendar days after notification to the hearing officer that the parties have been unable to resolve the matter in accordance with 20 U.S.C. 1415(f)(1)(B). A hearing officer may grant specific extensions of time beyond the 45 calendar days for good cause shown at the request of either party.
 7. The findings of fact and decision of the hearing officer shall be final at the administrative level. The notification of the findings of fact and decision shall contain notice to the parties that they have a right to judicial review.
 8. Any party to the proceeding has the right to appeal a final administrative decision to a court of competent jurisdiction within 35 calendar days after receipt of the decision.
 9. The SEA, after deleting any personally identifiable information, shall make such written findings of fact and decision available to the public.
- I. Expedited hearing.**
1. An expedited hearing regarding disciplinary matters may be requested in accordance with federal law as set forth in 20 U.S.C. 1415(k).
 2. Hearing officers for an expedited hearing shall be assigned by the Office of Administrative Hearings.
 3. The expedited hearing shall be conducted within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.