south dakota
DEPARTMENT OF EDUCATION
Learning. Leadership. Service.

South Dakota Comprehensive Plan/Program Narrative

Sec. 300.201 Consistency with State policies.

The LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures, established under Secs. 300.101 through 300.163, and 300.165 through 300.174. (Authority: 20 U.S.C. 1413(a)(1))

South Dakota Administrative Rule 24:05:21:01. Local education agency comprehensive plans- Contents.

Each local education agency must have a current comprehensive plan approved by the school board on file with the district superintendent or designee. Documentation supporting the implementation of the local school district's comprehensive plan shall be maintained by the district for review by Special Education Programs staff during onsite monitoring visits. Districts shall update comprehensive plans consistent with 24:05:21:01.02 and recertify their content annually.

The Clark School District/Cooperative has formally adopted the following policies and procedures as the district's comprehensive plan for special education. These policies and procedures were approved by the school board on June 8th, 2026. As indicated by the signature below, the authorizing official acknowledges the district will meet all requirements of the Individuals with Disabilities Education Act and Article 24:05 through the implementation of these policies and procedures and furthermore, provides assurances that it meets each of the conditions in 34 CFR 300.201 through 300.213.

CERTIFICATION- I certify that I have read and reviewed the above assurance and will comply with all provisions of applicable federal and state laws.

Signature of Authorized Official

Date 6-8-2026

Travis Ahrens

Superintendent of the Clark School District

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605-532-3605

South Dakota LEA Comprehensive Plan: Clark School District Program Narrative

SECTION I: Free and Appropriate Public Education (FAPE) 34 C.F.R. §§ 300.101-300.108, 300.110; ARSD 24:05:13:02

The Clark School District and all member schools/districts will make available to all children with disabilities residing in the district(s) between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in 300.530(d); 24:05:26 and 24:05:26.01, ARSD. Specific reference in the narrative to include:

- FAPE beginning at age 3; 300.101(b); ARSD 24:05:13:02
- Children advancing from grade to grade; 300.101(c); ARSD 24:05:13:02
- Limitations- age exceptions to FAPE; 300.102; ARSD 24:05:22:04.01
- FAPE- methods and payments; 300.103; ARSD 24:05:19:08
- Residential placement; 300.104; ARSD 24:05:19:08
- Assistive technology; 300.105; ARSD 24:05:27:20, ARSD 24:05:27:18, ARSD 24:05:27:19
- Extended school year services; 300.106; ARSD 24:05:25:26
- Nonacademic services; 300.107; ARSD 24:05:28:06
- Physical education; 300.108; ARSD 24:05:28:08
- Program options; 300.110; ARSD 24:05:28:04

District Narrative:

- FAPE beginning at age 3; 300.101(b); ARSD 24:05:13:02

The Clark School District will make a FAPE available to all students with disabilities who reside within the boundaries of the district between the ages of 3 and 21 years of age. This includes any student with a disability who has been suspended or expelled. All eligible preschool aged students will have FAPE made available to them by their third birthday, including those whose birthdays fall during the summer months.

- Children advancing from grade to grade; 300.101(c); ARSD 24:05:13:02

All eligible students with disabilities, regardless of whether they are advancing from grade to grade, will have FAPE available to them on an individualized basis as determined by the student's IEP team on an annual basis. Exceptions to FAPE for students aged 3-21 includes those students who have graduated from high school with the regular high school diploma.

- Limitations- age exceptions to FAPE; 300.102; ARSD 24:05:22:04.01

A child's eligibility for special education or special education and related services continues from age 3 through completion of an approved public or nonpublic school secondary program or through age 21, as designated in that child's individual education program as set out in SDCL 13-37-1.

- FAPE- methods and payments; 300.103; ARSD 24:05:19:08

The Clark School district will not delay the implementation of the IEP requirements, including cases in which the payment source for providing or paying for special education and related services to the child is being determined.

- Residential placement; 300.104; ARSD 24:05:19:08

If it is determined by the IEP team that placement in a private or public residential program is necessary to provide the special education or special education and related services to a child with disabilities, the program, including nonmedical care and room and board, must be provided at no cost to the parent of the child.

- Assistive technology; 300.105; ARSD 24:05:27:18 ARSD 24:05:27:19

If deemed necessary for a child in need of special education, or special education and related services to receive FAPE, the Clark School District will provide assistive technology and assistive technology service in accordance with ARSD 24:05:27:18, and 24:05:27:19. This will not include devices that are medical devices surgically implanted, nor the replacement of such devices.

- Extended school year services; 300.106; ARSD 24:05:25:26

In accordance with ARSD 24:05:25:26, the Clark School District ensures that Extended School Year (ESY) services are made available, as necessary, to provide eligible children with a free appropriate public education (FAPE). ESY services are determined annually by the student's Individualized Education Program (IEP) team and are based on the individual needs of the student.

The IEP team considers relevant data and determines:

- Whether ESY services are necessary for the provision of FAPE;
- The specific goals and services to be addressed;
- The type, amount, frequency, and duration of services needed.

The district does not:

1. Limit ESY services to particular categories of disability;
2. Unilaterally limit the type, amount, or duration of services; or
3. Apply a regression/recoupment standard as the sole criterion for determining eligibility for ESY services.

Decisions regarding ESY services are individualized and may include consideration of factors such as regression and recoupment, emerging skills, critical life skills, rate of progress, behavioral or communication needs, and the degree of support necessary for the student to make meaningful educational progress.

- Nonacademic services; 300.107; ARSD 24:05:28:06

The district will ensure that each child with a disability has the supplementary aids and services determined by the child's IEP team to be appropriate and necessary for the child to participate in nonacademic settings. This is to include meals, recess periods, and the services and activities listed in chapter 24:05:28:06, ensuring the children in need of special education or special education and related services participates with children without disabilities in those services and activities to the maximum extent appropriate to the needs of that child.

- Physical education; 300.108; ARSD 24:05:28:08

Physical education, specifically designed if the IEP team deems necessary, shall be made available to every student, including those in need of special education or special education and related services, if same-aged peers enrolled within the district without disabilities are provided physical education in the same grades. Each child shall be afforded the opportunity to participate in the regular physical education program available to children without disabilities unless the child is enrolled full time in a separate facility, or the child needs specifically designed physical education which cannot be provided in the regular physical education program.

If specifically designed physical education is prescribed in the child's IEP, the school responsible for the education of the child shall provide the services directly or make arrangements for it to be provided through other public or private programs.

For children enrolled in separate facilities, the district responsible for the education of the child shall ensure that the child receives appropriate physical education services.

- Program options; 300.110; ARSD 24:05:28:04

The Clark School District ensures that children in need of special education, or special education and related services, has available to them a variety of educational programs available to children without disabilities in the areas served by the district, including art, music, industrial arts, family and consumer science, and vocational education.

SECTION II: Full educational opportunity goal (FEOG) 34 C.F.R. § 300.109; ARSD 24:05:22:04, ARSD 24:05:22:04.01

The Clark School District will have in effect policies and procedures, demonstrating that the district/cooperative has established a goal of providing full educational opportunity to all children with disabilities, aged birth through 21, and include a timetable for accomplishing that goal.

The Clark School District, consistent with the timetable established by the State of South Dakota and Part B of the Individuals with Disabilities Education Act (IDEA), has a goal of providing full educational opportunity to all children with disabilities, aged birth through twenty-one. The district will review data annually to guide decisions with regard to adjustments in its programs to ensure appropriate services to all students with disabilities.

SECTION III: Child Find 34 C.F.R. § 300.111; Child Identification ARSD 24:05:22

The Clark School District and all member schools/districts must have in effect policies and procedures for ensuring that all children with disabilities who reside within the boundaries of the district/cooperative member districts, including those who are homeless children or are wards of the state, and children with disabilities who attend private schools, regardless of the severity of their disabilities, who are in need of special education and related services are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services. Specific reference in the narrative to include:

- Use of the term developmental delay; ARSD 24:05:24.01:09
- Children who may be suspected of having a disability, and in need of special education, even though they are advancing from grade to grade, 300.111(c)(1); ARSD 24:05:22:01
- Children who are highly mobile, including migrant children, 300.111(c)(2); ARSD 24:05:22:01

The Clark School District, has in effect policies and procedures to ensure that all children with disabilities who reside within the boundaries of the district/cooperative member districts and who may be in need of special education and related services are located, identified, and evaluated according to all relevant regulations. This includes those students who may be homeless or wards of the state, as well as children with disabilities who may attend private schools within the jurisdiction of the district. Child find includes our ongoing efforts to identify pre-school and school age students with disabilities through our referral and evaluation procedures, as well as our periodic screening of preschoolers who may be experiencing developmental delays.

A student who is at least three years of age, but less than nine years of age may be identified as a student with a disability if the student has one of the major disabilities listed in 24:05:24:01:01, or if the student has a severe delay in development, as specified below, and needs special education and related services.

The district notices a student as one with development delay if:

The student functions at a level with two or more standard deviations below the mean in any one area of development below or is 1.5 standard deviations below the mean in two or more areas of development listed below, inclusive.

Areas of development:

1. Cognitive development
2. Physical development
3. Communication development
4. Social or emotional development; and
5. Adaptive development.

- Children who may be suspected of having a disability, and in need of special education, even though they are advancing from grade to grade, 300.111(c)(1); ARSD 24:05:22:01
- Children who are highly mobile, including migrant children, 300.111(c)(2).

The Clark School District has developed and utilizes the following system for Child Find to include the identification, locations, and evaluation of all children residing within the jurisdiction of the district who are ages birth-21, regardless of severity of disability, including children of all public and private agencies and institutions, private schools, religious schools, and children receiving alternative instruction under SDCL 13-27-3 within the legal boundaries of the district. Every school year the Clark school district places an ad in our local newspaper and sends notices through our school newsletter, posts on social media, and informs parents through school announcements. The screening date, time, location, and how to sign up are all included.

This applies to wards of the state and highly mobile children with disabilities, migrant children and homeless children, and all children who are suspected of having disabilities under this article and in need of special education, even though they are advancing from grade to grade.

SECTION IV: Individualized Education Program (IEP) 34 C.F.R. 300.112; ARSD 24:05:27

The Clark School District will ensure that an individualized education plan (IEP), or an individual family service plan (IFSP) that meets the requirements of section 636(d) of the Act, is developed, reviewed, and revised for each child with a disability in accordance with 34 C.F.R. §§ 300.320 – 300.324, except as provided in 300.300(b)(3)(ii). Specific reference must include:

- Content of the IEP; 300.320(a) (1-7); ARSD 24:05:27:01.03
- Transition services; 300.320(b); ARSD 24:05:27:13.02
- Transfer of rights at the age of majority; 300.320(c); ARSD 24:05:27:01.03
- The IEP team; 300.321; ARSD 24:05:27:01.01
- Parent participation in the IEP; 300.322; ARSD 24:05:25:16
- When the IEP must be in effect; 300.323; ARSD 24:05:25:22
- Development of the IEP; 300.324; ARSD 24:05:27:01.02
- Routine checking of hearing aids and external components of surgically implanted medical devices, 300.113; ARSD 24:05:27:05

The Clark School District ensures that each identified student with a disability has a current IEP in place that meets the requirements of Section 636(d) of the IDEA, and that has been developed in accordance with the requirements of 34 CFR sections 300.320 through 324. All identified students with disabilities in our district will have a current IEP in place at the beginning of the school year, and for eligible preschool students, by their third birthday. Each eligible student's IEP will be reviewed periodically, but not less than annually, to review progress and determine whether annual goals are being met.

- Content of the IEP; 300.320(a) (1-7); ARSD 24:05:27:01.03

Each child's IEP will include:

(1). Statement of the student's present levels of academic achievement and functional performance:

A. How the student's disability affects the student's involvement and progress in the general education curriculum

B. For preschool children, as appropriate, how the disability affects the student's participation in appropriate activities

(2). A statement of measurable annual goals, including academic and functional goals, designed to:

A. Meet the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum; and

B. Meet each of the student's other educational needs that result from the student's disability;

C. For students with disabilities who take alternate assessments aligned to alternate achievement standards, each student's IEP shall provide a description of benchmarks or short-term objectives

(3). A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student:

A. To advance appropriately toward attaining the annual goals;

B. To be involved and make progress in the general education curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and

C. To be educated and participate with other students with disabilities and nondisabled students in the activities described in this section:

(4). An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in activities described in this section:

(5). A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and district-wide assessments consistent with 24:05:14:14. If the IEP team determines that the student shall take an alternate assessment instead of a particular regular state or district-wide assessment of student achievement, a statement of why:

A. The student cannot participate in the regular assessment; and

B. The alternate assessment selected is appropriate for the student;

(6). The projected date for the beginning of the services and modification described in this section and the anticipated frequency, location, and duration of those services and modifications;

(7). A description of how the student's progress toward the annual goals described in this section will be measured and when periodic report on the progress the student is making toward meeting the annual goals will be provided (such as quarterly progress reports, concurrent with the issuance of the report cards).

(8). Beginning not later than the first IEP to be in effect when the student turns 16, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP shall include:

A. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, if appropriate, independent living skills; and

B. The transition services (including specific course of study) needed to assist the student in reaching those goals; and
(9). Beginning no later than one year before a student reaches the age of majority under state law, the student's individualized education program must include a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act, if any, that will transfer to the student on reaching the age of majority consistent with 24:05:30:16:01.

- Transition services; 300.320(b); ARSD 24:05:27:13.02

The Clark School District engages in transition services when applicable to the student. The transition services are coordinated activities for student with a disability, designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to postsecondary activities, including postsecondary education, continuing and adult education, vocational education, integrated employment (including supported employment), adult services, independent living, or community participation.

Transition services are based on the individual's needs, considering the student's strengths, preferences and interests, and shall include instruction, related services, community experiences, the development of employment and other postsecondary adult living objectives, and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

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

- Transfer of rights at the age of majority; 300.320(c); ARSD 24:05:27:01.03

Beginning no later than one year before the student reaches the age of majority under state law, the student's IEP must include a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act, if any, that will transfer to the student on reaching the age of majority consistent with 24:05:30:16:01.

- The IEP team; 300.321; ARSD 24:05:27:01.01

The Clark School District ensures that the following individuals are a part of the IEP team for each child:
(1). Parents of the student;
(2). At least one regular education teacher of the student if the student is, or may be, participating in the regular education environment;
(3). At least one special education teacher of the student of, if appropriate, at least one special education provider of the student;
(4). A representative of the school district who:
A. Is qualified to provide, or supervise the provision of, specifically designed instruction to meet the unique needs of students with disabilities:
B. Is knowledgeable about the general education curriculum; and
C. Is knowledgeable about the availability of resources of the school district;
(5). An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in subdivisions 2 to 6, inclusive, of this section:
(6). At the discretion of the parent or school district, other individuals that have knowledge of special expertise regarding the student including related service personnel as appropriate:
(7). If appropriate, the student;
(8) Transition services participants as described in 24:05:25: 16:01 and 24:05:25: 16:02.

The determination of the knowledge or special education expertise of any individual described in this section shall be made by the party (parents or district) who invited the individual to be a member of the IEP team. A district may designate another district member of the IEP team to also serve as the district representative; if the criteria in this section are satisfied.

- Parent participation in the IEP; 300.322; ARSD 24:05:25:16

The Clark School District values the input of parents, and as such, takes steps to ensure that one or both parents of the child are present at each IEP team meeting, or are afforded the opportunity to participate. The district shall notify parents of the meeting early enough to ensure that they will have an opportunity to attend, scheduling the meeting at a mutually agreed-upon time and place. The notice to the parents shall state the purpose, time, and location of the IEP team meeting and who will be in attendance and inform the parents of the provisions relating to the participation of other individuals on the IEP team who

have knowledge or special expertise about the child, including information related to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previous serviced under Part C of the IDEA.

If a purpose of the IEP team meeting is the consideration of postsecondary goals and transition services for a student, the notice must also address the provisions of 24:05:25:16:01

If parents cannot attend, the district shall use other methods to ensure participation, including individual or conference telephone calls consistent with 24:05:27:08:04.

- When the IEP must be in effect; 300.323; ARSD 24:05:25:22

If the child is determined to be in need of special education, or special education and related services, the IEP team shall develop an appropriate individual education program for the child. At the beginning of each school year thereafter, the district must have in effect an IEP for each child with disabilities under its jurisdiction. For children beginning at age three, an IEP shall be in effect by that date. If a child's third birthday occurs during the summer, the IEP team shall determine the date when services under the IEP will begin. All IEPs shall be developed in accordance with the provisions of this article.

- Development of the IEP; 300.324; ARSD 24:05:27:01.02

In developing, reviewing, and revising each student's IEP, the team shall consider the strengths of the student and the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, the academic, developmental, and functional needs of the student. The IEP team also shall:

(1) In the case of a student whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports and other strategies to address that behavior;
(2) In the case of a student with limited English proficiency, consider the language needs of the student as these needs relate to the student's individualized education program;
(3) In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the student;
(4) Consider the communication needs of the student and, in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and
(5) Consider whether the student requires assistive technology devices and services.

The regular education teacher of a student with a disability, as a member of the individualized education program team, must, to the extent appropriate, participate int eh development, review, and revision of the student's individualized education program, including the determination of appropriate positive behavioral interventions and supports and other strategies for the student and the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student consistent with subdivision 24:05:27:01:03(3).

Nothing in this section requires the team to include information under one component of a student's individualized education program that is already contained under another component of the student's IEP. No additional information may be required to be included in a student's IEP beyond what is explicitly required in this section.

- Routine checking of hearing aids and external components of surgically implanted medical devices, 300.113; ARSD 24:05:27:05

For children with hearing impairments, including deafness, in need of special education who wear hearing aids in school, the IEP team shall include, as a related service, a monitoring schedule in the IEP to ensure proper functioning of these corrective devices.

SECTION V: Least Restrictive Environment (LRE), 34 C.F.R. §§ 300.114 – 300.120; ARSD 24:05:28

The Clark School District will ensure that, to the maximum extent appropriate, children with disabilities, including those in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when

the nature and severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. Specific reference must include:

- A continuum of alternative placements; 300-115; ARSD 24:05:28:02
- Placements; 300.116; ARSD 24:05:28:03
- Non-academic settings, 300.117; ARSD 24:05:28:06
- Children in public or private institutions; 300.118; ARSD 24:05:28:07
- Teachers and administrators are provided with technical assistance and training; 300.119; ARSD 24:05:28:11
- Monitors placements, 300.120; ARSD 24:05:28:12

The Clark School District ensures the availability of a continuum of alternative placements to provide each student with a disability the opportunity for education in the Least Restrictive Environment. Any removal of a student with a disability from the regular education environment may occur only when the nature and severity of the child's needs dictate that education in regular classes, with the use of supplementary aids and services cannot be achieved satisfactorily.

- A continuum of alternative placements; 300-115; ARSD 24:05:28:02

The Clark School District follows the continuum of alternative placements when serving a child with potential need:

(1) Regular classroom
(2) Resource room
(3) Self-contained programs
(4) Separate day school program
(5) Residential school program
(6) Home and hospital program
(7) Other setting

The IEP team shall determine the extent to which related services are required in order for the child to benefit from the program. The length of a school day must be equal in duration to that of a regular public-school day unless an adjusted school day is required to meet the individual needs of the child. The IEP team must provide supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with regular class placement, as applicable.

In cases where placement is made in a separate day school program or residential school program, the district may abide by the school term of the facility in which the child is placed based on the individual needs of the child.

- Placements; 300.116; ARSD 24:05:28:03

Each school district shall establish and implement procedures which ensure that the following factors are addressed in determining placements:

(1) Each child's educational placement must be individually determined at least annually and must be based on the child's individual education program;
(2) Provisions are made for appropriate classroom or alternative settings necessary to implement a child's IEP;
(3) Unless a child's IEP requires some other arrangement, the child shall be educated in the school which that child would normally attend if not disabled. Other placements shall be as close as possible to the child's home;
(4) Placement in the least restrictive environment will not produce a harmful effect on the child or reduce the quality of services which that child needs; and
(5) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modification in the general education curriculum.

- Non-academic settings, 300.117; ARSD 24:05:28:06

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities listed in this chapter, the Clark School District shall develop and implement procedures which ensure that each child in need of special education or special education and related services participate with children without disabilities in those services and activities to the maximum extent appropriate to the needs of that child. The district shall ensure that each child with a disability has the supplementary aids and services determined by the child's IEP to be appropriate and necessary for the child to participate in nonacademic settings.

- Children in public or private institutions; 300.118; ARSD 24:05:28:07

The Clark School District ensures that children placed in public or private institutions or other care facilities are educated with children who are not disabled to the maximum extent appropriate.

- Teachers and administrators are provided with technical assistance and training; 300.119; ARSD 24:05:28:11

The Clark School District makes a concerted effort to ensure that teachers and administrators in all public agencies are fully informed about their responsibilities for implementing the provisions of this chapter and are provided with technical assistance and training necessary to assist them.

- Monitors placements, 300.120; ARSD 24:05:28:12

The Clark School District's IEP team ensures that children in need of special education, or special education with related services, are provided those services in the least restrictive environment per the individual student's needs identified in the IEP.

If the department finds evidence that a district makes placements that are inconsistent with the requirements for the least restrictive environment in Part B of the Individuals with Disabilities Act, the department shall review the district's justification for its actions and shall assist in planning and implementing any necessary corrective action.

SECTION VI: Procedural Safeguards, 34 C.F.R. § 300.121; ARSD 24:05:30

The Clark School District and all member schools/districts will ensure that all children with disabilities and their parents are afforded procedural safeguards required by 34 C.F.R. §§300.500 through 300.536, and consistent with South Dakota Administrative Rule. Specific reference must include:

- Opportunity to examine records; parent participation in meetings; 300.501(a)(b)(c); ARSD 24:05:30:02
- Independent educational evaluations; 300.502; ARSD 24:05:30:03
- Prior written notice; content of notice; 300.503; ARSD 24:05:30:04
- Procedural safeguards notice; 300.504; ARSD 24:05:30:06.01, ARSD 24:05:30:06.02
- Use of electronic mail; 300.505; ARSD 24:05:30:06.03
- Availability of mediation; 300.506; ARSD 24:05:30:09
- Filing of due process complaints; 300.507; 300.508; 300.509; ARSD 24:05:30:07.01
- Resolution process; 300.510; ARSD 24:05:30:08.09-.12
- Impartial due process hearing; 300.511; ARSD 24:05:30:09.04
- Hearing rights; 300.512; ARSD 24:05:30:12
- Hearing decisions; 300.513; 300.514; 300.515; 300.516; 300.517; ARSD 24:05:30:11
- Status of child during due process proceedings; 300.518; 24:05:30:14 ARSD.
- Surrogate parents; children who are wards of the state; homeless youth; 300.519; ARSD 24:05:30:15
- Transfer of rights at age of majority; 300.520; ARSD 24:05:30:16.01
- Discipline procedures and manifestation determination; 300.530; ARSD 24:05:26:09.03
- Determination of setting; 300.531; ARSD 24:05:26:09.2
- Right of appeal of the determination of setting; 300.532; ARSD 24:05:26:09.05
- Placement during appeals; 300.533; ARSD 24:05:26:09.06
- Protections for children not determined eligible for special education and related services; 300.534; ARSD 24:05:26:14
- Referral to action by law enforcement and judicial authorities; 300.535; ARSD 24:05:26:15
- Change of placement due to disciplinary removals; 300.536; ARSD 24:05:26:02.01

The Clark School District ensures that all children with disabilities and their parents are afforded the required procedural safeguards of 34 CFR 300.500 through 300.356 as outlined in the *South Dakota Parental Rights and Procedural Safeguards* document.

The district will provide a copy of the procedural safeguards document to the parents of an eligible child with a disability at least one time each year, in addition to the following:

- Upon initial referral or parent request for an evaluation;
- Upon request by the parent;
- In accordance with discipline procedures outline in the procedural safeguards document;
- Upon receipt of the first state complaint or first due process complaint in a given school year.

The district posts a copy of the procedural safeguards document on its website in both English and Spanish to afford access to the public.

- Opportunity to examine records; parent participation in meetings; 300.501(a)(b)(c); ARSD 24:05:30:02

The parents of a child in need of special education or special education and related services shall be afforded, in accordance with the procedures in Chapter 24:05:29, an opportunity to inspect and review all education records concerning the identification, evaluation, and educational placement of the child and provisions of a few appropriate public education to the child.

- Independent educational evaluations; 300.502; ARSD 24:05:30:03

If the parent disagrees with the evaluation obtained by the district subject to the conditions in this section, they have the right to an independent educational evaluation at public expense.

Each district shall provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the district criteria applicable for independent educational evaluations specified in this section.

If a parent does request an IEE, while the district may ask for the parent's reason why he or she objects to the public evaluation, the parents are not required to provide reasoning and the IEE may not be unreasonably delayed either providing the IEE at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.

If a parent requests an IEE, the district must, without unnecessary delay, will file a due process complaint to request a hearing under this chapter to show that it's evaluation is appropriate, or ensure than an IEE is provided at public expense unless the district demonstrates in a hearing that the evaluation obtained by the parent did not meet the requirements.

If the district files a due process complaint to request a hearing under this chapter and the final decision is that the evaluation is appropriate, the parent still has the right to an IEE, but NOT at public expense.

The parent is only entitled to one IEE at public expense per evaluation with which the parent disagrees.

If a parent obtains an IEE, regardless of at public or private expense, the results of the evaluation, as long as it meets district criteria, must be considered by the district in any decision made with respect to the provision of a free appropriate public education to the child and may be presented by any party as evidence at a hearing under this chapter regarding that child.

If a hearing officer requests an IEE as part of the hearing, the cost of the evaluation must be at public expense.

If an independent evaluation is made at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the district uses when it initiates an evaluation to the extent those criteria are consistent with the parent's right to an IEE. Each district shall provide to parents, on request, information about where an independent educational evaluation may be obtained.

For the purposes of this section, the term, IEE means an evaluation conducted by a qualified examiner who is not employed by the district responsible for the education of the child in question. For purposes of this section, the term, public expense, means that the district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent consistent with 24:05:14:01 to 24:05:14:01:05, inclusive.

Except for the criteria described in this section, a district may not impose conditions or timelines related to obtaining an IEE at public expense.

- Prior written notice; content of notice; 300.503; ARSD 24:05:30:04

The Clark School District ensures that parents are given notice five days before the district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child of the provision of a free appropriate education to the child. The five-day notice requirement may be waived by the parent. The date is identified specifically on the PPWN.

- Procedural safeguards notice; 300.504; ARSD 24:05:30:06.01; ARSD 24:05:30:06.02

Availability:

The Clark School District special education staff ensures that a copy of the procedural safeguards are provided to the parents of a child with a disability at least one time per year, and additionally in the following conditions:

(1) Upon initial referral or parental request for evaluation;
(2) Upon request by a parent;
(3) In accordance with the discipline procedures in chapters 24:05:26 and 24:05:26:01 and;
(4) Upon receipt of the first state complaint under chapter 24:05:15 and first due process complaint under this chapter in a school year.
A copy of the current procedural safeguards is also on our school webpage.

Contents:
The procedural safeguards notice must include a full explanation of all the procedural safeguards available under this article and the state complaint procedures relating to:
(1) Independent Educational Evaluations
(2) Prior Written Notice
(3) Parental Consent
(4) Access to educational records
(5) Opportunity to present and resolve complaints through the due process complaint and state complaint procedures,
including:
(a) The time in which to file a complaint
(b) The opportunity for the district to resolve the complaint; and
(c) The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.
(6) The child's placement during pendency of any due process complaint
(7) Procedures for students who are subject to placement in an interim alternative educational setting
(8) Requirements for unilateral placement by parents of children in private schools at public expense;
(9) The availability of mediation;
(10) Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
(11) Civil actions, including the period in which to file those actions; and
(12) Attorney's fees.

The form of notice must be consistent with 24:05:30:06, including written evidence that the requirements in this section have been met.

- Use of electronic mail; 300.505; ARSD 24:05:30:06.03

A parent of a child with a disability may elect to receive notices required by this chapter by an electronic mail communication, if the district makes that option available.

- Availability of mediation; 300.506; ARSD 24:05:30:09

The Clark School District ensures that procedures are established and implemented to allow parties to dispute any matter under this article, including matters that arise before the filing of a due process complaint, to resolve disputes through a mediation process. Procedures for mediation are as follows:

(1) The district shall ensure that mediation is viewed as voluntary and freely agreed to by both parties and is in no way used to deny or delay an aggrieved party's right to a hearing on a parent's due process complaint, or to deny any other rights afforded under this article; and
(2) The mediation conference is an intervening, informal process conducted in a no adversarial atmosphere that is scheduled in a timely manner and held in a location that is convenient to the parties in the dispute.

The state shall bear the cost of the mediation process, including the costs of meetings described in 24:05:30:09.02

- Filing of due process complaints; 300.507; 300.508; 300.509; ARSD 24:05:30:07.01

A due process complaint may be filed by the school district or parent on any matters relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child.

- Resolution process; 300.510; ARSD 24:05:30:08.09-.12

Participants:
Within 15 days of receiving notice of the parent's due process complaint, and before the initiation of a due process hearing under this chapter, the district shall convene a meeting with the parent and the relevant member or members of the IEP team who have specific knowledge of the facts identified in the due process complaint. The meeting:

(1) Shall include a representative of the district who has decision-making authority on behalf of the district; and
(2) May not include an attorney of the district unless the parent is accompanied by an attorney.

The parent and district shall determine the relevant members of the IEP team to attend the meeting.

Purpose:
The purpose of the resolution meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the district has the opportunity to resolve the dispute that is the basis for the due process complaint.

Waive or Mediate:
The resolution meeting need not be held if:

(1) The parent and the district agree in writing to waive the meeting; or
(2) The parent and the district agree to use the mediation process described in this chapter.

General:
If within 30 days of receipt of the due process complaint, the district has not resolved the due process complaint to the satisfaction of the parent, the due process hearing may occur.
Except as provided in 24:05:30: 08:14, the timeline for issuing a final decision in a due process hearing begins at the expiration of the 30-day period.
Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding the above the two paragraphs, the failure of the parent filing a due process complaint to participate in the resolution meeting delays the timelines for the resolution process and due process hearing until the meeting is held.

- Impartial due process hearing; 300.511; ARSD 24:05:30:09.04

If a due process hearing is received under this chapter, chapter 24:05:26, or chapter 24:05:26.01, the parents or the district involved in the dispute shall have an opportunity for an impartial due process hearing, consistent with the procedures in this article.

The department is responsible for ensuring that a due process hearing is held.

- Hearing rights; 300.512; ARSD 24:05:30:12

Any party to a hearing, under this chapter or chapter 24:05:26 and 24:05:06.01, has the right to:

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training concerning the problems of children with disabilities, except that neither party has the right to be represented by a Non attorney at a hearing:
(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;
(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;
(4) Obtain a written or, at the option of the parents, electronic verbatim record of the hearing; and
(5) Obtain written or, at the option of the parents, electronic findings of face and decisions. The public agency shall transmit those findings and decisions, after deleting any personally identifiable information, to the state advisory council and shall make those findings and decisions available to the public.

Parents involved in hearings must be given the right to have the child who is the subject of the hearing present and open the hearing to the public. The record of the hearing and the findings of fact and decisions must be provided at no cost to the parents.

- Hearing decisions; 300.513; 300.514; 300.515; 300.516; 300.517; ARSD 24:05:30:11

Appeal of hearing decision- Civil Action:

Any aggrieved party by the decision of the hearing officer under this chapter or chapters 24:05:26 and 24:05:26.01 may bring a civil action with respect to a due process complaint notice requesting a due process hearing under the Individuals with Disabilities Education Act, 20 U.S.C. 1415(l)(2). A civil action may be filed in either state of federal court without regard to the amount in controversy. The party bringing the action has 30 days from the date of a hearing officer's decision to file a civil action. In any action brought under this section, this court:

(1) Shall review the records of the administrative proceedings;
(2) Shall hear additional evidence at the request of a party; and
(3) Basing its decision on the preponderance of the evidence, shall grant the relief that the court determines to be appropriate.

Nothing in Part B of the IDEA restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990 as amended to July 1, 2013, Title V of the Rehabilitation Act of 1973 as amended to July 1, 2013, or other federal laws protecting the right of children with disabilities. However, before the filing of a civil action under these laws, seeking relief that is also available under section 615 of IDEA, the procedures under this chapter for filing a due process complaint must be exhausted to the same extent as would be required had the action been brought under section 615 of IDEA.

- Status of child during due process proceedings; 300.518; ARSD 24:05:30:14

Except as provided in chapters 24:05:26 and 24:05:26.01, during the pendency of any administrative hearing or judicial proceeding regarding a due process complaint notice requesting a due process hearing pursuant to this chapter, the child involved must remain in the present educational placement unless the state or school district and the parents agreed otherwise. If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public-school program until the completion of all the proceedings.

If the complaint involves an application for initial services under this article from a child who is transitioning from Part C of the IDEA to Part B and is no longer eligible for Part C services because the child has turned three, the district is not required to provide the Part C services that the child has been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services, then the district must provide those special education and related services that are not in dispute between the parent and the district.

If the decision of a hearing officer in a due process hearing agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the state and the parents for purposes of pendency.

- Surrogate parents; children who are wards of the state; homeless youth; 300.519; ARSD 24:05:30:15

The Clark School District has established procedures for the assignment of a surrogate parent to ensure that the rights of a child are protected if no parent, as defined in 24:05:13:04, can be identified and the district, after reasonable effort, cannot locate a parent of if the child is a ward of the state or the child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act, as amended to January 1, 2009. A district's method for determining whether a child needs a surrogate parent must include the following:

(1) The identification of staff members at the district or building level responsible for referring students in need of a surrogate parent;
(2) The provision of in-service training on the criteria in this section for determining whether a child needs a surrogate parent; and
(3) The establishment of a referral system within the district for the appointment of a surrogate parent.

If a child is a ward of the state, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, if the surrogate meets the requirements of this section.

The district superintendent or designee shall appoint surrogate parents.

The district shall ensure that a person selected as a surrogate has no personal or professional interest that conflicts with the interest of the child the surrogate represents and has knowledge and skills that ensure adequate representation of the child. The district is responsible for the training and certification of surrogate parents and shall maintain a list of persons who may serve as surrogate parents.

A person assigned as a surrogate may not be an employee of the department, district, or any other agency that is involved in the education of care of the child.

If a child is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents, without regard to the nonemployee provision above, until a surrogate parent can be appointed who meets all the requirements of this section.

A person who otherwise qualifies to be a surrogate under the provisions of this section is not an employee of the agency solely because the person is paid by the agency to serve as a surrogate parent.

The surrogate parent may represent the student in all matters relating to the identification, evaluation, educational placement, and provision of FAPE to the students.

The department shall make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a district determines that the child needs a surrogate parent.

- Transfer of rights at age of majority; 300.520; ARSD 24:05:30:16.01

Consistent with state law, when a child with a disability reaches the age of majority that applies to all children, except for an eligible child who has been determined to be incompetent, the following shall occur:

(1) The school district shall provide any notice required by this article to both the individual and the parents;

(2) All other rights accorded to parents under this article transfer to the child; and

(3) All rights accorded to parents under this article transfer to children who are incarcerated in an adult or juvenile, state, or local correctional institution.

If a state transfers right under this section, the school district shall notify the individual and the parents of the transfer of rights. If, consistent with state law, an eligible child is determined not to have the ability to provide informed consent with respect to the educational program of the child, the school district shall appoint the parent or, if the parent in not available, another appropriate individual to represent the educational interests of the child throughout the child's eligibility under this article.

- Discipline procedures and manifestation determination; 300.530; ARSD 24:05:26:09.03

Within ten school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, the school district, the parent, and relevant members of the student's IEP team, as determined by the parent and the district, shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine;

(1) Whether the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
(2) Whether the conduct in question was the direct result of the school district's failure to implement the IEP.

The conduct must be determined to be a manifestation of the student's disability if the district, the parent, and relevant members of the student's IEP team determine that a condition in either subdivision (1) or (2) of this section was met.

If the district, the parent, and relevant members of the student's IEP team determine that the condition described in subdivision (2) of this section was met, the district shall take immediate steps to remedy those deficiencies.

- Determination of setting; 300.531; ARSD 24:05:26:09.2

The IEP team shall determine the interim alternative educational setting in which a student is placed under 24:05:26:08.01, 24:05:26:02.01, and 24:05:26:09.05.

- Right of Appeal of the Determination of Setting; 300.532; ARSD 24:05:26:09.05

<u>Not a Manifestation of Disability:</u>

For disciplinary changes in placement that would exceed ten consecutive school days, if the behavior that gave rise to the violation of the school code is determine not to be a manifestation of the student's disability pursuant to this chapter, school personnel may apply the relevant disciplinary procedures to students with disabilities in the same manner and for the same duration as the procedures would be applied to students without disabilities, except as provided in this section.

A student with a disability who is removed from the student's current placement pursuant to this section or 24:05:26:08.01 must:

(1) Continue to receive educational services, as provided in this article, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP; and
(2) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

- Placement during appeals; 300.533; ARSD 24:05:26:09.06

Appeal:

The parent of a student with a disability who disagrees with any decision regarding placement under this chapter or with the manifestation determination, or a school district that believes that maintaining the current placement of the student is substantially likely to result in injury to the student or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to this article.

- Protections for children not determined eligible for special education and related services; 300.534; ARSD 24:05:26:14

A student who has not been determined to be eligible for special education and related services under this article and who has engaged in behavior that violated any rule or code of conduct of the school district, including any behavior described in this chapter, may assert any of the protections provided for in this article if the school district has knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. A school district is deemed to have knowledge that a student is a student with a disability if:

(1) The parent of the student has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the student, that the student is in need of special education and related services;

(2) The parent of the student has requested an evaluation of the student pursuant to this article; or

(3) The teacher of the student, or other personnel of the district or other public agency has expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education of the district or to other supervisory personnel of the district.

A district is not deemed to have knowledge that the student is a student with a disability under this section, if the parent of the student has not allowed an evaluation of the student pursuant to this article, or has refused services under this article, or the district conducted an evaluation consistent with this article and determined that the student was not a student with a disability.

If the district does not have knowledge that a student is a student with a disability before taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as measures applied to students without disabilities who engaged in comparable behaviors consistent with this chapter.

If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures under this chapter, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, the student shall remain int eh educational placement determined by school authorities, which can include suspension or expulsion without educational services. If the student is determined to be a student with a disability taking into consideration information from the evaluation conducted by the district and information provided by the parents, the district shall provide special education and related services in accordance with the provisions of this article including the discipline procedures and free appropriate public education requirements.

- Referral to action by law enforcement and judicial authorities; 300.535; ARSD 24:05:26:15

Nothing in Part B of the Individuals with Disabilities Education Act prohibits a school district or other public agency from reporting a crime committed by a student with a disability to appropriate authorities or to prevent state law enforcement and

judicial authorities from exercising their responsibilities regarding the application of federal and state law to crimes committed by a student with a disability.

- Change of placement due to disciplinary removals; 300.536; ARSD 24:05:26:02.01

For purposes of removal of a student with a disability from the student's current educational placement under this chapter, a change of placement occurs if:
(1) Removal is for more than ten consecutive school days; or
(2) The student is subjected to a series of removals that constitute a pattern because:
a) They cumulate to more than ten school days in a school year;
(b) Of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another; and
(c) The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals.

The school will determine on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

SECTION VII: Evaluation 34 C.F.R. §300.122; ARSD 24:05:25

The Clark School District and all member schools/districts will ensure that all children with disabilities are evaluated in accordance with 34 C.F.R. §§300.300 through 300.311. Specific references must include:

- Parental consent (for initial evaluation, services, and re-evaluations; 300.300; ARSD 24:05:25:02.01, ARSD 24:05:25:06.01
- Initial evaluations; 300.301; ARSD 24:05:25:03
- Screening for instructional purposes; 300.302; ARSD 24:05:25:03.03
- Re-evaluations; 300.303; ARSD 24:05:25:06
- Evaluation procedures; 300.304; 300.305; ARSD 24:05:25:04
- Determining eligibility; 300.306; ARSD 24:05:25:04.03
- Specific learning disabilities; 300.307 through 300.311; ARSD 24:05:25:07, ARSD 24:05:25:08, ARSD 24:05:25:11, ARSD 24:05:25:12

The Clark School District ensures that all children with disabilities are evaluated in accordance with the following regulatory provisions:

- Parental consent (for initial evaluation, services, and re-evaluations; 300.300; ARSD 24:05:25:02.01, ARSD 24:05:25:06.01 ARSD.

Any school district proposing to conduct an initial evaluation to determine whether a child qualifies as a child with a disability shall, after providing notice consistent with chapter 24:05:30; obtain informed consent from the parent of the child before conducting the evaluation.

Parental consent for initial evaluation may not be construed as consent for initial provision of special education and related services.

The Clark School District shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.

To meet the reasonable efforts requirement in this section, the district shall document its attempts to obtain parental consent using the following procedures (found in 24:05:25:17).

The IEP team meeting may be conducted without a parent in attendance if the district is unable to convince the parents that they should attend. The district must have a written documentation of its attempts to arrange a mutually agreed upon time and place, such as the following:

(1) Detailed records and dates of telephone calls made or attempted to parents and the results of those calls;
(2) Detailed copies of dated correspondence sent to the parents and any responses received; and

(3) Detailed records and dates of visits made to the parent's home or place of employment and the results of those visits

- Initial evaluations; (Preplacement evaluations, ARSD 24:05:25:03)

Before any action is taken concerning the initial placement of a child with disabilities in a special education program, a full and individual evaluation of the child's educational needs must be conducted in accordance with the requirements of this chapter. Initial evaluations must be completed within 25 school days after receipt by the district of signed parent consent to evaluate unless other timelines are agreed to by the school administration and the parents.

Written evaluation reports, determination of eligibility, and conducting an IEP team meeting must be completed within 30 days from the end of the 25-school day evaluation timeline. If another timeline for completing the evaluation process is agreed to by the parent and school administration, the written evaluation reports, determination of eligibility, and conducting an IEP team meeting must be completed within 30 days from the end of agreed upon evaluation timeline.

Consistent with the consent requirements in this section, either a parent of a child or a school district may initiate a request for an initial evaluation to determine whether the child is a child with a disability.

- Screening for instructional purposes; 300.302; ARSD 24:05:25:03.03

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation is not considered to be an evaluation for eligibility for special education and related services.

- Re-evaluations; 300.303; ARSD 24:05:25:06

The Clark School District shall ensure that a reevaluation of each child with a disability is conducted in accordance with this chapter if the school district determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation or if the child's parents or teacher requests a reevaluation.

A reevaluation conducted under this section may occur not more than once a year, unless the parent and district agree otherwise, and must occur at least once every three years, unless the parent and the district agree that a reevaluation is unnecessary.

Reevaluations must be completed within 25 school days after receipt by the district of signed consent to reevaluate unless other time limits are agreed to by the school administration and the parents consistent with 24:05:25:03.

The Clark School District follows the procedures under 24:05:25:04.02 when reevaluating a student for additional purposes of:

(1) Determining whether the child continues to have a disability and determining the educational needs of the child,
(2) Determining the present levels of academic achievement and related developmental needs of the child;
(3) Determining whether the child continues to need special education and related services; and
(4) Determining whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP and to participate, as appropriate, in the general education curriculum.

If no additional data are needed to determine continuing eligibility and the child's educational needs, the district shall notify the parents of that determination and reasons for it and of the right of the parent to request an assessment, for purposes of determining the child's educational needs under this article, and to determine continuing eligibility. The school district is not required to conduct an assessment unless requested to do so by the child's parents. However, a school district shall follow the procedures in this chapter before determining that the child is no longer a child with a disability. The evaluation procedures described in this chapter are not required before the termination of a child's eligibility under this article due to graduation from secondary school with a regular high school diploma or exceeding the age eligibility for FAPE.

- Evaluation procedures; 300.304; 300.305; ARSD 24:05:25:04

Evaluation procedures include the following:

(1) Assessment and other evaluation materials are provided and administered in the child's native language or by another mode of communication and in the form most likely to yield accurate information on what the child knows

and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer. In addition, assessments and other evaluation materials:

a. Are used for the purposes for which the assessments or measures are valid and reliable; and
b. Are administered by trained and knowledgeable personnel in conformance with the instructions provided by their producer;

(2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient;
(3) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment accurately reflects the child's aptitude or achievement level or whatever other factors the assessment purports to measure, rather than the child's impaired sensory, manual, or speaking skills except where those skills are the factors which the assessment purports to measure;
(4) No single measure or assessment is used as the sole criterion for determining eligibility or an appropriate educational program for a child;
(5) A variety of assessment tools and strategies are used to gather relevant functional, developmental, and academic information about the child, including information provided by the parents, that may assist in determining:
    a. To be involved in and progress in the general education curriculum; or
    b. For a preschool child, to participate in appropriate activities
(6) Technically sound instruments, assessment tools, and strategies are used that:
    a. May assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors; and
    b. Provide relevant information that directly assists persons in determining the educational needs of the child;
(7) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities, and
(8) The evaluation is sufficiently comprehensive to identify all of the child's special education and related service needs, whether commonly linked to the disability category in which the child has been classified.

Assessments of children with disabilities who transfer from one school district to another school district in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with 24:05:25:03.01, to ensure prompt completion of full evaluations.

- Determining eligibility; 300.306; ARSD 24:05:25:04.03

Upon completing the administration of assessments and other evaluation measures as required by this chapter, the individual education program team and other qualified individuals required by 24:05:25:04.02 shall determine whether the student is a student with a disability, and shall determine the educational needs of the child, as defined in this article. The school district shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. A student may not be determined to be a student with a disability if the determinant factor for that decision is a lack of appropriate instruction in reading, including the essential components of reading instruction as defined in ESSA, or lack of appropriate instruction in math or limited English proficiency and if the student does not otherwise meet the eligibility criteria under chapter 24:05:24.01.

- Specific learning disabilities; 300.307 through 300.311; ARSD 24:05:25:07, ARSD 24:05:25:08, ARSD 24:05:25:11, ARSD 24:05:25:12

Additional procedures for evaluating specific learning disabilities:

In order for a school district to certify a child as learning disabled for purposes of the federal child count, requirements in 24:05:24.01:19 and 24:05:25:08 to 24:05:25:13, inclusive, must be met and documented in a child's record.

Additional group members for specific learning disabilities:

The determination of whether a child suspected of having a specific learning disability is a child with a disability shall be made by the child's parents and a team of qualified professionals, which shall include:

(1) The child's regular teacher;
(2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of that age;
(3) If the child is less than school age, an individual certified by the department to teach a child of that age; and

(4) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, remedial reading teacher, or special education teacher.

Observation for specific learning disabilities:

The school district shall ensure that the child is observed in the child's learning environment, including the regular classroom setting, to document the child's academic performance and behavior in the areas of difficulty.

The group described in this section, in determining whether a child has a specific learning disability, shall:

(1) Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation, as in a response to intervention model; or
(2) Have at least one member of the group conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with this chapter, is obtained, as in a discrepancy model.

If a child is less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.

Documentation of eligibility for specific learning disabilities:

For a child suspected of having a specific learning disability, the documentation of the determination of eligibility shall contain a statement of:

(1) Whether the child has a specific learning disability;
(2) The basis for making the determination, including an assurance that the determination has been made in accordance with this section;
(3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;
(4) The educationally relevant medical findings, if any;
(5) Whether:
    a. The child does not achieve adequately for the child's age or does not meet state-approved grade-level standards; and
    b. The child does not make sufficient progress to meet age or state-approved grade-level standards; or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade level standards or intellectual development;
(6) The determination of the group concerning the effects of a visual, hearing, or motor disability; cognitive disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level;
(7) If the child has participated in a process that assesses the child's response to scientific, research-based intervention:
    a. The instructional strategies used and the student-centered data collected; and
    b. The documentation that the child's parents were notified about:
        i. The state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
        ii. Strategies for increasing the child's rate of learning; and
        iii. The parents' right to request an evaluation;
(8) If using the discrepancy model, the group finds that the child has a severe discrepancy of 1.5 standard deviations between achievement and intellectual ability in one or more of the eligibility areas, the group shall consider regression to the mean in determining the discrepancy; and
(9) If using the response to intervention model for eligibility determination, the group shall demonstrate that the child's performance is below the mean relative to age or state approved grade level standards.

SECTION VIII: Confidentiality 34 C.F.R. 300.123; ARSD 24:05:29, ARSD 24:05:21:05

The Clark School District and all member schools/districts will ensure compliance with all regulations regarding the confidentiality of records and information, as noted in 34 C.F.R. §§300.610 through 300.626. Specific references must include:

- Notice requirements to parents; 300.612; ARSD 24:05:29:18

- Access rights; 300.613; ARSD 24:05:29:04
- Record of access; 300.614; ARSD 24:05:29:05
- Records on more than one child; 300.615; ARSD 24:05:29:06
- List of types and locations of information; 300.616; ARSD 24:05:29:07
- Fees for copies of records; 300.617; ARSD 24:05:29:08
- Amendments to records at parent's request; 300.618; ARSD 24:05:29:09
- Opportunity for a hearing; 300.619; ARSD 24:05:29:10
- Result of hearing and hearing procedures; 300.620-621; ARSD 24:05:29:12
- Parental consent for the release of records; 300.622; ARSD 24:05:29:13
- Safeguarding of records; 300.623: ARSD 24:05:29:14
- Destruction of information; 300.624; ARSD 24:05:29:15
- Children's rights; transfer at the age of majority; 300.625; ARSD 24:05:29:16
- Enforcement; policies and procedures; 300.626; ARSD 24:05:29:17
- Transfer of records for migratory children with disabilities; 300.213; ARSD 24:05:21:05

The Clark School District ensures the compliance with all regulations regarding the confidentiality of personally identifiable information and all records according to 34 CFR 300.610 through 300.626.

- Notice requirements to parents; 300.612; ARSD 24:05:29:18

The department shall give notice that fully informs parents about the requirements under this chapter, including the following:

(1) A description of the extent to which the notice is given in the native languages of various population groups in the state;
(2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the state intends to use in gathering the information, including sources from whom information is gathered, and the uses to be made of the information;
(3) A summary of the policies and procedures which participating agencies must follow regarding storage, disclosure third parties, retention, and destruction of personally identifiable information; and
(4) A description of all the rights of parents and children regarding this information, including the right under 34 CFR part 99, Family Educational Rights and Privacy Act, as amended to July 1, 2013.

Before any major identification, location, or evaluation activity, the notice shall be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the state of the activity.

- Access rights; 300.613; ARSD 24:05:29:04

Each school district shall permit parents to inspect and review any education records relating to their student which are collected, maintained, or used by the agency under this chapter. The agency shall comply with a request without unnecessary delay and before any meeting regarding an individual education program or hearing relating to the identification, evaluation, or placement of the student, or discipline hearing, or resolution session, and in no case more than 45 calendar days after the request has been made.

The right to inspect and review educational records under this section includes the following:

(1) The right to response from the district to reasonable requests for explanations and interpretations of the records;
(2) The right to request that the district provide copies of the records containing the information if failure to provide these copies would effectively prevent the parent from exercising the right to inspect and review the records; and
(3) The right to have a representative of the parents inspect and review the records.

The district may presume that the parent has authority to inspect and review records relating to the parent's child unless the agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, divorce, or custody.

- Record of access; 300.614; ARSD 24:05:29:05

The Clark School District keeps a record of parties obtaining access to educational records collected, maintained, or used under this chapter, except access by parents and authorized employees of the district, including the name of the party, the date

access was given, and the purpose for which the party is authorized to use the records. A parent or eligible student may inspect this record on request.

- Records on more than one child; 300.615; ARSD 24:05:29:06

If any educational record includes information on more than one child, that parents of those children may inspect and review only the information relating to their child or may be informed of that specific information.

- List of types and locations of information; 300.616; ARSD 24:05:29:07

Upon request, the district shall provide parents with the types and location of educational records collected, maintained, or used by the district.

- Fees for copies of records; 300.617; ARSD 24:05:29:08

Per district policy, a district may charge a fee for copies of the records, which are made for parents under this chapter if the fee does not effectively prevent the parents from exercising their right to inspect and review those records. The district may not charge a fee to search for or retrieve information under this chapter.

- Amendments to records at parent's request; 300.618; ARSD 24:05:29:09

A parent who believes that information in education records that were collected, maintained, or used under this article are inaccurate or misleading or violates the privacy or other rights of the student, may request the district which maintains the information to amend the information.

The district can then decide whether to amend the information in accordance with the request within a reasonable period of time after receipt of the request.

If the district decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing.

- Opportunity for a hearing; 300.619; ARSD 24:05:29:10

The district shall, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.

- Result of hearing and hearing procedures; 300.620-621; ARSD 24:05:29:12

Results of a hearing:

If, as a result of the hearing, the district decides that the information is inaccurate, misleading, or otherwise in violation of the privacy of other rights of the student, it shall amend the information accordingly and inform the parents in writing.

If, as a result of the hearing, the district decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parents of the right to place in the records it maintains on the student a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the district.

Any explanation placed in the records of the student under this section must be maintained by the district as part of the records of the student as long as the record or contested portion is maintained by the district. If the records of the student or the contested portion is disclosed by the district to any party, the explanation must also be disclosed to the party.

- Parental consent for the release of records; 300.622; ARSD 24:05:29:13

Parental consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies collecting or using the information under this article or used for any purpose other than meeting a requirement under this chapter, unless the information is contained in education records and the disclosure is authorized without parental consent under FERPA. The district may not release information from education records to participating agencies without parent consent except as follows:

(1) Educational agency or institution may disclose personally identifiable information from the educational record of a student without written consent of the parent of the student or the eligible student if disclosure is to other school officials, including teachers, within the educational institution or local educational agency who have been determined by the agency or institution to have legitimate educational interests or to officials of another school or school system in which the student seeks or intends to enroll, subject to the requirements set forth in subdivision (2) of this section; and
(2) The educational agency or institution that discloses the educational records of a student pursuant to subdivision (1) of this section shall make a reasonable attempt to notify the parent of the student or the eligible student at the last known address of the parent or eligible student, unless the disclosure is initiated by the parent or eligible student.

If the agency or institution includes in its annual notice of parent's rights that it is the policy of the public agency to forward education records on request to a school in which a student seeks or intends to enroll, then the public agency does not have to provide any further notice of the transfer of records.

Notwithstanding the FERPA exceptions for releasing information from educational records without parental consent including the annual notice provision, if a student is enrolled, or will enroll in private school that is not located in the district of the parent's residence, parental consent must be obtained before any personally identifiable information about the student is released between official in the district where the private school is located and officials in the district of the parent's residence.

An educational agency receiving personally identifiable information from another educational agency or institution may make further disclosures of the information on behalf of the educational agency without the prior written consent of the parent or eligible student if the conditions in subdivisions (1) and (2) of this section are met and if the educational agency informs the party to whom disclosure is made of these requirements.

- Safeguarding of records; 300.623; ARSD 24:05:29:14

The Clark School District shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

One official in the district shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction regarding the provisions of this chapter concerning personally identifiable information.

Each district shall maintain for public inspection a current listing of the names and positions of those employees within the district who may have access to personally identifiable information on students in need of special education or special education and related services.

- Destruction of information; 300.624; ARSD 24:05:29:15

The Clark School District shall inform parents when personally identifiable information collected, maintained, or used under this chapter is no longer needed to provide educational services to the student.

The information no longer needed must be destroyed at the request of the parents. However, a permanent record of the student's name, address, and phone number, the student's grades, attendance record, classes attended, and grade level completed may be maintained without a time limit.

- Children's Rights; transfer at the age of majority; 300.625; ARSD 24:05:29:16

24:05:29:16 Child's Rights:

All of the parental rights in this chapter are extended to the child upon reaching the age of 18 unless the child has been declared incompetent by the courts, consistent with 24:05:30:16.01, including taking into consideration the type or severity of a child's disability.

- Enforcement; policies and procedures; 300.626; ARSD 24:05:29:17

Enforcements:

The department shall ensure that all school districts in this state comply with the requirements on confidentiality of information through on-site monitoring, approval of comprehensive plans, and complaint resolution. Sanctions for noncompliance include the disapproval of local special education programs and the withholding of state and federal funds.

- Transfer of records for migratory children with disabilities; 300.213; ARSD 24:05:21:05

A school district shall cooperative in the U.S. Secretary of Education's efforts under ESSA to ensure the linkage of records pertaining to migratory children with disabilities for the purpose of electronically exchanging, among the states, health and educational information regarding those children.

SECTION IX: Transition from Part C to Part 34 C.F.R. § 300.124; ARSD 24:05:27:21

The Clark School District and all member schools/districts will ensure that children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under Part B, experience a smooth and effective transition to those preschool programs. By the third birthday of such a child, an individualized education program (IEP) or, if consistent with 34 C.F.R. § 300.323(b), in individualized family service plan (IFSP), has been developed and is being implemented for the child. The local education agency (LEA) will participate in transition planning conferences arranged by the designated lead agency.

The Clark School District ensures that children participating in early intervention programs under Part C, and who will participate in preschool programs under Part B experience a smooth and effective transition to district preschool programs. Further, each eligible child with a disability will have in place at the time of their third birthday, an appropriate IEP or IFSP for the provision of special education and related services has been developed and implemented. The district participates in transition planning conferences as coordinated by the local Part C agency.

SECTION X: Private School Placements; 34 C.F.R. §§ 300.129 – 300.148; 24:05:31, ARSD 24:05:32

The Clark School District and all member schools/districts will ensure that all responsibilities to children placed in private schools within the jurisdiction of the LEA are met. Consistent with the number and location of children with disabilities within the jurisdiction of the district/cooperative, such students enrolled in private elementary and secondary schools will have provisions made for the participation in programs assisted or carried out under Part B for the purpose of providing special education and related services. Specific references must include:

- Definition of parentally-placed private school children; 300.130; ARSD 24:05:32:01
- Child find for parentally-placed private school children with disabilities; 300.131; ARSD 24:05:32:01.01
- Provision of services for parentally-placed private school children with disabilities; 300.132; ARSD 24:05:32:03.01, ARSD.
- Expenditures for parentally-placed private school children with disabilities; 300.133; ARSD 24:05:32:01:02
- Consultation process with private schools attended by children with disabilities; 300.134; ARSD 24:05:32:01:05
- Written affirmation by private school officials of meaningful consultation; 300.135; ARSD 24:05:32:01.06
- Compliance; rights of private school officials to submit a state complaint; 300.136; ARSD 24:05:32:01.07
- Determination of equitable services for parentally-placed private school students with disabilities; 300.137; ARSD 24:05:32:03.02,
- Provision of equitable services for parentally-placed private school students with disabilities; 300.138; ARSD 24:05:32:03.02
- Location of services and transportation; 300.139; ARSD 24:05:32:03.03
- Due process complaints and state level complaints; 300.140; ARSD 24:05:32:03.04
- Requirements that funds not benefit a private school; 300.141; ARSD 24:05:32:12
- Use of personnel for the provision of services to parentally placed private school students with disabilities; 300.142; ARSD 24:05:32:13
- Prohibition on separate classes; 300.143; ARSD 24:05:32:11
- Property, equipment, and supplies used to provide special education and related services to parentally placed private school students with disabilities; 300.144; ARSD 24:05:32:15, ARSD 24:05:32:16
- Children with disabilities in private schools placed or referred by public agencies; 300.145 – 300.147; ARSD 24:05:34:02
- Placement of children with disabilities by their parents in private schools when FAPE is an issue; 300.148; ARSD 24:05:31:01-07

District Narrative:

While the Clark School District does not currently have a private school within the district, we will ensure overall compliance with 34 CFR 300.129 through 300.148 if a private school were to be developed. This would include governing private school placements within the boundaries of the district, through consultation with private school representatives, the district will ensure that it will locate, identify and evaluate all children with disabilities who are enrolled by their parents in a private school within the district's boundaries. For all eligible students with disabilities enrolled in private schools by their parents, a service plan will be developed in accordance with 300.132, and records maintained documenting the number of students evaluated and served in these settings.

- Definition of parentally placed private school children; 300.130; ARSD 24:05:32:01

Responsibility of department:

The department is responsible for ensuring the participation of eligible parentally-placed private school children in the program assisted or carried out under this article consistent with their number and location by providing them with special education and related services in accordance with this chapter including direct services, unless the U.S. Secretary of Education has arranged for services under the by-pass procedures in Part B of IDEA. The department shall ensure that a service plan is developed and implemented for each private school child with a disability who has been designated by the district in which a private school is located to receive special education and related services under this chapter. For purposes of this chapter, the term, parentally-placed private school children with disabilities, means children with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the state definition of elementary school or secondary school, other than children with disabilities covered under chapter 24:05:31.

- Child find for parentally-placed private school children with disabilities; 300.131; ARSD 24:05:32:01.01

The Clark School District would also ensure that all private school students are aware of our established child find process to locate, identify, and evaluate all private school children with disabilities, including religious elementary and secondary school children and children receiving alternative instruction under 13-27-3 in schools located in the school district served by the district. Parentally-placed private school students would be welcome and equally involved in our district's child find process. Child find activities undertaken for children with disabilities would be available and accessible to private school children, as it is in the public schools.

The child find process shall be designed to ensure:

(1) The equitable participation of parentally placed private school children; and
(2) An accurate count of those children.

The child find process shall be completed in a time period comparable to that for students attending public schools in the district consistent with this article.

Each school district in which private, including religious, elementary schools and secondary schools are located shall, in carrying out the child find requirements in this section, include parentally placed private school children who reside in a state other than the state in which the private schools that they attended are located.

The Clark School District will maintain in its records, and provide to the department, the following information related to parentally- placed private school children covered under this chapter: the number of children evaluated; the number of children determined to be children with disabilities; and the number of children served.

- Provision of services for parentally placed private school children with disabilities; 300.132; ARSD 24:05:32:03.01

Service Plan:

If a child with a disability is enrolled in a religious or other private school, by the child's parent, and will receive special education or related services from the district, the district shall:

(1) Initiate and conduct meetings to develop, review, and revise a service plan for the child, in accordance with 24:05:32:03.02; and
(2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the district shall use other methods to ensure participation by the private school, including individuals or conference telephone calls.

- Expenditures for parentally-placed private school children with disabilities; 300.133; ARSD 24:05:32:01:02

The Clark School District will spend the following amounts on providing special education and related services including direct services to parentally-placed private school children with disabilities:

(1) For children 3-21, inclusive, an amount that is the same proportion of the school district's total subgrant under Part B of IDEA as the number of private school children with disabilities aged 3-21, inclusive, who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the district is to the total number of children with disabilities in its jurisdiction aged 3-21, inclusive: and

(2) For children 3-5, inclusive, an amount that is the same proportion of the school district's total subgrant under Section 619, Preschool, of the IDEA as the number of private school children with disabilities aged 3-5, inclusive, who are enrolled by their parents in private, including religious, elementary schools located in the school district served by the district is to the total number of children with disabilities in its jurisdiction aged 3-5, inclusive.

If a district has not expended for equitable services all of the funds described in this section by the end of the fiscal year for which Congress appropriated funds, the district shall obligate the remaining funds for special education and related services, including direct services, to parentally-placed private school children with disabilities during a carry-over period of one additional year.

In calculating the proportionate share, the district, after timely and meaningful consultation with representatives of private schools, shall conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending private schools located in the district.

State and local funds may supplement and in no case supplant the proportionate amount of federal funds required to be expended for parentally-placed private school children with disabilities under this chapter.

- Consultation process with private schools attended by children with disabilities; 300.134; ARSD 24:05:32:01:05

Consultation:

To ensure timely and meaningful consultation, a school district, or, if appropriate, the department shall consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

(1) The child find process, including:
    a. How parentally-placed private school children suspected of having a disability can participate equitably;
    b. How parents, teachers, and private school officials will be informed of the process:
(2) Determination of proportionate share of federal funds available to serve parentally-placed private school children with disabilities under this chapter, including the determination of how the proportionate share of those funds was calculated;
(3) The consultation process among the district, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services;
(4) How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of:
    a. The types of services, including direct services and alternative service delivery mechanisms;
    b. How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and
    c. How and when those decisions will be made; and
(5) How, if the district disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the district will provide to the private school officials a written explanation of the reasons why the district chose not to provide services directly or through a contract.

- Written affirmation by private school officials of meaningful consultation; 300.135; ARSD 24:05:32:01.06

When timely and meaningful consultation, as required by 24:05:32:01.05 has occurred, the district shall obtain a written affirmation signed by representatives of participating private schools.

If the representatives do not provide the affirmation within a reasonable period of time, the district shall forward the documentation of the consultation process to the department.

- Compliance; rights of private school officials to submit a state complaint; 300.136; ARSD 24:05:32:01.07

Compliance:

A private school official has the right to submit a complaint to the department that the school district did not engage in consultation that was meaningful and timely or did not give due consideration to the views of the private school official.

If the private school official wishes to submit a complaint, the official shall provide to the department the basis of the noncompliance by the district with the applicable private school provisions in this chapter. The district shall forward the appropriate documentation regarding its consultation process to the department.

If the private school official is dissatisfied with the decision of the department, the official may submit a complaint to the U.S. Secretary of Education by providing the information on noncompliance described in this section. The department shall forward the appropriate documentation regarding the state's decision on the complaint to the U.S. Secretary of education.

- Determination of equitable services for parentally-placed private school students with disabilities; 300.137; ARSD 24:05:32:03.02

The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities are not required to meet the qualified special education teacher requirements of this article. Private school children with disabilities may receive a different amount of services than children with disabilities in public schools. No private school child with a disability is entitled to any service or to any amount of service the child would receive if enrolled in a public school. Each private school child with a disability who has been designated to receive services under this chapter, must have a services plan that describes the specific special education and related services that the district will provide to the child in light of the services that the district has determined, through the process described in this chapter, it will make available to private school children with disabilities. The services plan must to the extent appropriate:

(1) Meet the IEP content requirements with respect to the services provided; and
(2) Be developed, reviewed, and revised consistent with the IEP provisions in this article.

- Provision of equitable services for parentally-placed private school students with disabilities; 300.138; ARSD 24:05:32:03.02

The provision of services pursuant to this chapter shall be provided by employees of a school district, or through contract by the school district with an individual, association, agency, organization, or other entity.

Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, shall be secular, neutral, and nonideological.

- Location of services and transportation; 300.139; ARSD 24:05:32:03.03

In accordance with the Individuals with Disabilities Education Act (IDEA) and South Dakota Administrative Rule 24:05:32:01.02, the district shall fulfill all child find, consultation, and equitable participation requirements for parentally placed private school students with disabilities. At this time, there are no private schools located within district boundaries. Should a private school become established within the district, the district will consult with appropriate private school representatives and representatives of parents of parentally placed private school students with disabilities regarding the provision of equitable services.

1) The district retains discretion regarding the location, scheduling, manner, and provider of services consistent with applicable federal and state laws and administrative rules. Services may be provided at a public school site,

private school site, neutral site, or another location determined appropriate by the district following required consultation procedures and in accordance with IDEA requirements.

2) Parentally placed private school students do not have an individual entitlement to receive the same special education and related services they would receive if enrolled in a public school. Transportation will not be provided from the student's home to the private school. If transportation is necessary for a student to access an agreed-upon equitable services location, the district will determine any required transportation in accordance with applicable state and federal law and administrative rules.

- Due process complaints and state level complaints; 300.140; ARSD 24:05:32:03.04

Complaints:

The due process hearing and mediation procedures in chapter 24:05:30 do not apply to complaints that a school district has failed to meet the requirements of this chapter, including the provision of services indicated on the child's service plan. The due process hearing and mediation procedures in chapter 24:05:30 apply to complaints that the district has failed to meet the child find requirements in 24:05:32:01.01, including the parent consent and evaluations requirements in this article. Any due process complaint regarding the child find requirements shall be filed with the school district in which the private school is located, and a copy shall be forwarded to the department. Complaints that the department or a school district has failed to meet the requirements of this chapter may be filed under the procedures in chapter 24:05:15 consistent with the procedures in 24:05:32:01.07.

3) Requirements that funds not benefit a private school; 300.141; ARSD 24:05:32:12

The Clark School District will not use IDEA Section 619 Preschool or Part B funds to finance the existing level of instruction in a private school or to otherwise benefit the private school. The school district shall use funds provided under Part B of the IDEA to meet the special education and related services needs of students enrolled in private schools, but not for:

(1) The needs of a private school; or
(2) The general needs of the students enrolled in the private school.

4) Use of personnel for the provision of services to parentally-placed private school students with disabilities; 300.142; ARSD 24:05:32:13

The Clark School District may use IDEA Section 619 Preschool and Part B funds to make public personnel available in other than public facilities to the extent necessary to provide services designed for students enrolled in a private school if those services are not normally provided by the private school.

5) Prohibition on separate classes; 300.143; ARSD 24:05:32:11

The Clark School District will not use IDEA Section 619 Preschool or Part B funds for classes that are organized separately on the basis of school enrollment or religion of the students if the classes are at the same site and the classes include students enrolled in public schools and students enrolled in private schools.

6) Property, equipment, and supplies used to provide special education and related services to parentally-placed private school students with disabilities; 300.144; ARSD 24:05:32:15, ARSD 24:05:32:16

The Clark School District will control and administer the funds used to provide special education and related services under this chapter, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in Part B of IDEA.

The school district may place equipment and supplies in a private school for the period of time needed for the Part B program.

The school district shall ensure that the equipment and supplies placed in a private school are used only for the purposes of the Part B program and can be removed from the private school without remodeling the private school facilities.

7) Children with disabilities in private schools placed or referred by public agencies; 300.145 – 300.147; ARSD 24:05:34:02

Determination of educational program costs for in-state placement of children for whom the state is responsible:

The school district in which the child under care and custody of the state resides is responsible for the identification, evaluation, and placement of the child pursuant to the rules in this article governing children in need of special education or special education and related services. The state is responsible for the costs of special education or special education and related services.

8) Placement of children with disabilities by their parents in private schools when FAPE is an issue; 300.148; ARSD 24:05:31:01-07

Applicability:

The provisions of this chapter apply to eligible children who are or have been placed in or referred to a private school or facility by a school district as a means of providing special education or special education and related services and to eligible children placed in private schools by their parents when FAPE is at issue.

Responsibility of Department:

The department shall ensure that an eligible child who is placed in or referred to private school or facility by a school district is provided special education or special education and related services in conformance with an individual educational program which meets the requirements of this article at no cost to the parents and is provided an education which meets the standards that apply to state and local school districts, including requirements in this chapter, with the exception of requiring qualified special education teachers. The eligible child has all the rights of a child with a disability served by a school district.

Implementation by Department:

The department shall do the following to implement this chapter:

(1) Monitor compliance with this chapter through procedures such as written reports, on-site visits, and parent questionnaires;
(2) Disseminate copies of this chapter to each private school and facility to which a public agency has referred or placed an eligible child; and
(3) Provide an opportunity for those private schools and facilities to participate in the development and revision of state standards which apply to them.

Placement of children by parents:

If an eligible child has available a free appropriate public education and the parents choose to place the child in a private school or facility, the public agency is not required by this chapter to pay for the child's education, including special education and related services, at the private school or facility. However, the public agency must include the child in the population whose needs are addressed consistent with chapter 24:05:32.

Disagreements between a parent and a public agency regarding the availability of a program appropriate for the child and the question of financial responsibility are subject to the due process procedures.

Reimbursement for private school placement:

If the parents of an eligible child, who previously received special education and related services under the authority of a school district, enroll the child in a private preschool, elementary, or secondary school without the consent of or referral by the school district, a court of hearing officer may require the school district to reimburse the parents for the cost of that enrollment if the court or hearing office finds that the school district has not made a free appropriate public education available to the child in a timely manner before that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or court even if it does not meet the state standards that apply to education provided by the state and districts.

Limitations on reimbursements:

The cost of reimbursement described in 24:05:31:05 may be reduced or denied if:

(1) At the most recent IEP team meeting the parents attended before removal of the child from the public school:

a. The parents did not inform the IEP team that they were rejecting the placement proposed by the school district to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or
b. At least 10 business days, including holidays that occur on a business day, before the removal of the child from public school, the parents did not give written notice to the school district of the information described in subsection (a);

(2) Before the parents' removal of the child from the public school, the school district informed the parents, through the notice requirements described in chapter 24:05:30, of its intent to evaluate the child, including a statement of the purpose of the evaluation that was appropriate and reasonable, but the parents did not make the child available for the evaluation; or
(3) Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

Exceptions to limitations on reimbursement:

Notwithstanding the notice requirements in 24:05:31:06, the cost of reimbursement may not be reduced or denied for failure to provide notice if:

(1) Compliance with 24:05:31:06 would likely result in physical harm to the child;
(2) The school prevented the parent from providing the notice; or
(3) The parents had not received notice, pursuant to chapter 24:05:30, of the notice requirement in 24:05:31:06.

In addition, the cost of reimbursement, may, in the discretion of the court or hearing officer, not be reduced or denied for failure to provide this notice if the parents are not literate or cannot write in English, or if compliance with this section would likely result in serious emotional harm to the child.

SECTION XI: Compliance with SEA General Supervision Requirements and Implementation of Procedural Safeguards; 34 C.F.R. §§ 300.149 – 300.150; ARSD 24:05:30:01, ARSD 24:05:20:18; State Complaint Procedures; 34 C.F.R. §§ 300.151 – 300.153; ARSD 24:05:15

The district/cooperative and all member schools/districts will ensure compliance with all SEA procedures under general supervision and that programs meet the standards of the SEA. Specific references must include:

- Responsibility for general supervision and procedural safeguards; 300.149-150; ARSD 24:05:20:18; ARSD 24:05:30:01
- State complaint procedures; 300.151-153; ARSD 24:05:15

The Clark School District will comply with any and all requests for information from the South Dakota Department of Education, Special Programs Office related to its obligation to provide general supervision over LEAs in the state. This includes any and all requests for information or data related to monitoring and compliance with regulations as established by the SEA.

- Responsibility for general supervision and procedural safeguards; 300.149-150; ARSD 24:05:30:01

General responsibility of school district:

The Clark School District establishes, maintains, and implements procedural safeguards which meet the requirements of this chapter.

Program Monitoring and Evaluation:

In conjunction with its general supervisory responsibility under the IDEA, Part B, the special education programs of the Office of Educational Services and Support shall monitor agencies, institutions, and organizations responsible for carrying out special education programs in the state, including any obligations imposed on those agencies, institutions, and organizations.

The department shall ensure:

(1) Requirements of this article are carried out;
(2) Each educational program for children with disabilities administered within the state, including each program administered by any other state or local agency, but not including elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior:
    a. Is under the general supervision of the persons responsible for educational programs for children with disabilities in the department; and

b. Meets the educational standards of the state educational agency, including the requirements of this article; and

(3) In carrying out this article with respect to homeless children, the requirements of McKinney-Vento Homeless Assistance Act, as amended to January 1, 2007, are met.

- State complaint procedures; 300.151-153; ARSD 24:05:15

A complaint is a written signed statement by an individual or organization, including an individual or organization from another state, containing a statement that the department of education or a school district has violated a requirement of federal or state statutes, rules, or regulations that apply to a program and a statement of the facts on which the complaint is based. The complaint must allege a violation that occurred not more than one year before the date the complaint is received by the department. The written signed statement shall also include:

(1) The signature and contact information for the complainant; and
(2) If alleging violations with respect to a specific child:
    a. The name and address of the residence of the child;
    b. The name of the school the child is attending
    c. In the case of a homeless child or youth, available contact information for the child and the name of the school the child is attending;
    d. A description of the nature of the problem of the child, including facts related to the problem; and
    e. A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

SECTION XII: FAPE Methods of Ensuring Services 34 C.F.R. § 300.154; ARSD 24:05:14:01.03, ARSD 24:05:14:01.06

The Clark School District and all member schools/districts will ensure that public and/or private benefits available to a student with a disability are used appropriately, and that parents incur no cost in the provision of those services necessary for FAPE. Specific references must include:

- Restrictions and requirements on accessing public benefits (Medicaid); 300.154(d); ARSD 24:05:14:01.03
- Restrictions and requirements on accessing private benefits; 300.154(e); ARSD 24:05:14:01.03
- Use of Part B funds for services when parent consent is unable to be obtained; 300.154(f); ARSD 24:05:14:01.06

The Clark School District ensures that public and private benefits available to a student with a disability will be used appropriately to support the provision of FAPE at no cost or harm to the parents.

- Restrictions and requirements on accessing public benefits (Medicaid); 300.154(d); ARSD 24:05:14:01.03

A public agency may use the Medicaid or other public benefits or insurance programs in which a student participates to provide or pay for services required under this article as permitted under the public benefit or insurance program, except as provided in this section. With regard to services required to provide FAPE to an eligible student under this article the public agency:

(1) May not require parents to sign up for or enroll in public benefits or insurance programs in order for their student to receive FAPE under Part B of IDEA;
(2) May not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to this article, but pursuant to 24:05:14:01.06, may pay the cost that the parent otherwise would be required to pay;
(3) May not use a student's benefits under a public benefits or insurance program if that use would:
    a. Decrease available lifetime coverage or any other insured benefit;
    b. Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the student outside of the time the student is in school;
    c. Increase premiums or lead to the discontinuation of benefits or insurance; or
    d. Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures;
(4) Must provide written notification to the student's parents pursuant to 24:05:14:01.04; and
(5) Must obtain written parental consent consistent with 24:05:29:13 before accessing a student's or parent's public benefits or insurance for the first time specifying;
    a. Personally identifiable information
    b. The purpose of disclosure

c. That disclosure will be made to the state Medicaid agency; and
d. That the parent understands and agrees that the public agency may access the parent's or student's public benefits or insurance to pay for services under this article.

- Restrictions and requirements on accessing private benefits; 300.154(e); ARSD 24:05:14:01.03
- Use of Part B funds for services when parent consent is unable to be obtained; 300.154(f); ARSD 24:05:14:01.06

SECTION XIII: Hearings Related to LEA Eligibility 34C.F.R. § 300.155; ARSD 24:05:2023:01

The Clark School District and all member schools/districts understand their right to a hearing regarding any final determination of the SEA on eligibility for funding under Part B.

The Clark School District understands it has a right to a hearing before the SEA makes any final determination regarding eligibility for funding under Part B.

SECTION XIV: Personnel Qualifications 34 C.F.R. § 300.156; ARSD 24:05:16:16 & ARSD 24:05:16:01

The Clark School District and all member schools/districts will ensure that personnel necessary to carry out the provision of special education and related services are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities, including related service personnel and paraprofessionals. Each district/cooperative will take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services to children with disabilities (24:05:16:05, ARSD).

The Clark School District ensures that only appropriately certified and/or licensed professionals will be employed to provide services to students with disabilities. In addition, the district will provide ongoing training to all staff and paraprofessionals to assist all in the provision of services to students with disabilities. Further, the district ensures that each special education teacher at the elementary, middle, and high school level is highly qualified per the standards of the ESEA. The district will take steps to recruit, hire, train and retain highly qualified personnel as specified under SD administrative rule.

- Personnel qualifications; ARSD 24:05:16:16

To ensure that all personnel necessary to carry out the purposes of Part B and Part C of the IDEA are appropriately and adequately prepared and trained, including ensuring that those personnel have the content knowledge and skills to serve children with disabilities, the department shall determine that all personnel providing special education or related services, including related services, paraprofessionals and assistants, early intervention, and early childhood personnel, perform these functions under state-approved or state-recognized certification or licensure or other comparable requirements that apply to the area in which the person is providing special education or related services. The department shall ensure that related services personnel who deliver services in their discipline or profession meet the requirements of this section and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.

- Paraprofessionals and assistants; ARSD 24:0516:16:01

Paraprofessionals and assistants who are appropriately trained and supervised in accordance with this section may be used to assist in the provision of special education and related services to children with disabilities under Part B of the IDEA. At a minimum, the following standards must be met:

(1) Paraprofessionals must have a high school diploma or GED
(2) Paraprofessionals must work within defined roles and responsibilities as identified by the school district,
(3) Paraprofessionals must work under the supervision of, and be evaluated by, certified staff; and
(4) Each school district must describe the training to be provided paraprofessionals in the staff development component of the district's comprehensive plan under 24:05:16:05.

SECTION XV: Performance Goals and Indicators 34 C.F.R. § 300.157; ARSD 24:05:14:13

The Clark School District and all member schools/districts will ensure the implementation of state established performance goals and indicators for students with disabilities within their jurisdiction. Specific reference must include:

- Student information management system (SIMS)

The Clark School District will comply with all requests by the SEA for data submission that is instrumental in monitoring the performance of the student population with respect to state established performance goals and indicators, and will submit such data on a timely basis.

SECTION XVI: Participation in Assessments 34 C.F.R. § 300.160; ARSD 24:05:14:14, ARSD 24:05:14:14.01

The Clark School District and all member schools/districts will ensure that all children with disabilities are included in all general State and districtwide assessment programs, including those assessments described under section 1111 of the Elementary and Secondary Education Act (ESEA), with appropriate accommodations and alternate assessments where necessary, and as indicated in their respective individual education programs (IEP).

The Clark School District ensures that all students with disabilities will be included in state and district assessments, with appropriate accommodations and alternate assessments when necessary. Parents will be informed of their child's participation during the course of the IEP meeting, including any necessary accommodations or any assessment that will be based on alternate or modified achievement standards.

The district will provide all necessary data to the SEA on the participation of students with disabilities in state and district wide testing programs and will, to the extent possible, utilize universal design principles in the development and administration of any assessments.

SECTION XVII: Supplementation of State, local, and other Federal Funds 34 C.F.R. §§ 300.162-163; ARSD 24:05:19:0

The district/cooperative and all member schools/districts will ensure the appropriate use of funds under Part B, consistent with 34 C.F.R. § 300.202(a)(1)(2)(3), to pay for the excess costs of providing special education and related services to children with disabilities within their jurisdiction and that such funds will be used to supplement state, local, and Federal funds, not supplant those funds.

- Maintenance of effort; 300.163; ARSD 24:05:19:08.03

The Clark School District ensures appropriate use of funds under Part B to pay for the excess costs of providing special education and related services to children with disabilities. Available funding will be used to supplement state, local, and federal funds, and not supplant those funds.

SECTION XVIII: Public Information 34 C.F.R. § 300.165; ARSD 24:05:20:02

The Clark School District and all member schools/districts will ensure that prior to the adoption of any policies necessary to comply with the requirements under Part B, including any amendments to policies and procedures, there will be public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of individuals with disabilities. The district/cooperative will make available to parents of children with disabilities and the general public all documents relating to the district/cooperative eligibility under Part B of the IDEA.

The Clark School District ensures that prior to the adoption of any policies or procedures that are needed to comply with Part B regulations, that there will be an opportunity for public input at a hearing with adequate notice of the hearing and the opportunity to provide input.

The annual submission of the Part B application will be preceded by adequate notice of a public hearing as part of the school board agenda, with an opportunity for public comment. All Part B applications are available to the public at their request through the district office and are available on the district's website.

SECTION XIX: State Advisory Panel 34 C.F.R. § 300.167-169; ARSD 24:05:14:18-19

The Clark School District and all member schools/districts support the work of the State Advisory Panel to provide policy guidance to the SEA with respect to special education and related services for children with disabilities.

The Clark School District supports the work of the State Special Education Advisory Panel and will refer interested parents to the appropriate state contact if they are interested in serving on the panel.

SECTION XX: Other Required Provisions 34 C.F.R. § 300.170 through 300.174.

The Clark School District and all member schools/districts will ensure the following specific provisions have consistent policies for implementation at the local level. Specific references must include:

- Suspension and expulsion rates; 300.170; ARSD 24:05:14:16
- Annual description of Part B funds; 300.171; ARSD 24:05:21:03
- Access to instructional materials (NIMAC); 300.172; ARSD 24:05:14:17
- Over-identification and disproportionality; 300.173; ARSD 24:05:17:10
- Prohibition on mandatory medication; 300.174; ARSD 24:05:14:21

The Clark School District ensures that the specific provisions of 300.170 through 300.173 and 24:05:21:04, ARSD have been implemented at the district level, consistent with state policy.

- Suspension and expulsion rates; 300.170; ARSD 24:05:14:16

The department shall examine data, including data disaggregated by race and ethnicity, from local educational agencies and other state agencies, as appropriate, to determine whether significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities among local educational agencies in the state or compared to the rates for nondisabled children within the agencies. If discrepancies are occurring, the department shall review, and if appropriate, revise or require the affected local educational agency or state agency to review its policies, procedures, and practices relating to:

(1) Development and implementation of IEPs
(2) Use of positive behavioral interventions and supports; and
(3) Procedural safeguards to ensure that these policies, procedures, and practices comply with IDEA, Part B.

- Annual description of Part B funds; 300.171; ARSD 24:05:21:03

The information required in an agency's comprehensive plan coupled with statements of expenditures, descriptions of the annual use of IDEA, Part B funds, and certification of federal assurances establish a local education agency's eligibility for funds under the IDEA, Part B.

- Access to instructional materials (NIMAC); 300.172; ARSD 24:05:14:17

The department shall adopt the National Instructional Materials Accessibility Standard (NIMAS), for the purpose of providing instructional materials to blind people or other people with print disabilities. Blind persons or other persons with print disabilities means children served under this article who qualify to receive books and other publications produced in specialized formats in accordance with the federal Act to Provide Books for Adults who are Blind, in accordance with 2 USC 135a, as amended to January 1, 2007.

In implementing NIMAS, the department shall coordinate with the NIMAC, and the department:

(1) As part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, shall enter into a written contract with the publisher of the print instructional materials to:
    a. Require the publisher to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instructional materials using the NIMAS; or
    b. Purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats;
(2) Shall provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

In carrying out this section, the department, to the maximum extent possible, shall work collaboratively with the state agency responsible for assistive technology programs.

- Over-identification and disproportionality; 300.173; ARSD 24:05:17:10

The department shall provide for the collection and examination of data to determine whether any inappropriate overidentification or significant disproportionality based on race and ethnicity is occurring in the state and in districts of the state with respect to:

(1) Identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in Chapter 24:05:24.01
(2) The placement in particular educational settings of these children; and
(3) The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

In the case of a determination of inappropriate overidentification or significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular settings of these children, the department shall provide for the review of and, if appropriate, revision of the policies, procedures, and practices used in the identification or placement to ensure compliance with the requirements of Part B of the IDEA; require any district identified under this section to reserve the maximum amount of funds allowable to provide comprehensive coordinated early intervening services to serve children in the district, particularly, but not exclusively, children in those groups that were significantly overidentified under this section; and require the district to publicly report on the revision of policies, practices, and procedures described under this section.