



## DEPARTMENT OF EDUCATION

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Dover, Delaware 19901-3639  
DOE WEBSITE: <http://www.doe.k12.de.us>

Susan S. Bunting, Ed.D.  
Secretary of Education  
Voice: (302) 735-4000  
FAX: (302) 739-4654

April 27, 2020

**Overnight Delivery**

Ms. Laurie VanderPloeg  
U.S. Department of Education  
Potomac Center Plaza  
Mailstop 2600, Room 5031-A  
550 12th Street, SW  
Washington, DC 20202

RE: Submission of IDEA Part B 2020 Application Packet

Dear Ms. VanderPloeg:

Enclosed you will find a hard copy of the FFY 2020 completed application with the original signature pages. The application was signed by Susan S. Bunting, Ed.D., Secretary of Education. She can be reached via email at [susan.bunting@doe.k12.de.us](mailto:susan.bunting@doe.k12.de.us) or by phone at 302-735-4000. The package contains the grant application, the interactive spreadsheet, the document of State of Delaware rules, regulations and policies and a copy of the Significant Disproportionality Reporting form. An electronic submission of our application packet was sent on April 27, 2020. In addition, the electronic form was completed for Significant Disproportionality and submitted on April 21, 2020.

The public notification period began on February 10, 2020 and ended on April 10, 2020. The timeline for submission of public comment ended April 10, 2020. No public comment was received.

Sincerely,

A handwritten signature in cursive script that reads "Mary Ann Mieczkowski".

Mary Ann Mieczkowski, Director  
Exceptional Children Resources  
Delaware Department of Education

MAM:bd  
Enclosures

cc: Gregg Corr, OSEP  
Susan S. Bunting, Ed.D., Department of Education  
Christine Pilgrim, OSEP  
Rebecca Walawender, OSEP

OMB NO. 1820-0030

Expires: 1/31/2023

**ANNUAL STATE APPLICATION UNDER PART B OF THE  
INDIVIDUALS WITH DISABILITIES EDUCATION ACT AS AMENDED IN 2004  
FOR FEDERAL FISCAL YEAR 2020**

CFDA No. 84.027A and 84.173A

ED FORM No. 9055

**UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION PROGRAMS**

Washington, DC 20202-2600

**Public Burden Statement**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a currently valid OMB control number. The valid OMB control number for this collection is 1820-0030. Public reporting burden for this collection of information is estimated to average 14 hours per responses, and an average of 25 additional hours for responses reporting data related to significant disproportionality in a given year, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain or retain a benefit under 20 U.S.C. 1411 and 1419. If you have comments or concerns regarding the status of your individual submission of this form, please contact Jennifer Simpson at [Jennifer.Simpson@ed.gov](mailto:Jennifer.Simpson@ed.gov) or at the Office of Special Education and Rehabilitative Services US Department of Education, 400 Maryland Avenue SW, Washington, DC 20202.

Respondents are required to submit information for Sections I-IV of the Annual State Application in order to receive a grant under Section(s) 611 and/or 619 of the Individuals with Disabilities Education Act. Respondents are required to provide the data in Section V pursuant to IDEA section 618(a)(3), which provides the Secretary authority to collect annual data on any information that may be required by the Secretary and 34 CFR §300.647(b)(7), which requires States to report all risk ratio thresholds, minimum cell sizes, minimum n-sizes, standards for measuring reasonable progress if the State uses the "reasonable progress" flexibility in 34 CFR §300.647(d)(2), and the rationales for each, to the Department.

## Section I

### A. Submission Statement for Part B of IDEA

Please select 1 or 2 below. Check 3 if appropriate.

1. The State provides assurances that it has in effect policies and procedures to meet all eligibility requirements of Part B of the Act as found in PL 108-446, the Individuals with Disabilities Education Act and applicable regulations (IDEA). The State is able to meet all assurances found in Section II.A of this Application.
2. The State cannot provide assurances for all eligibility requirements of Part B of the Act as found in PL 108-446. The State has determined that it is unable to make the assurances that are checked as 'No' in Section II.A. However, the State assures that throughout the period of this grant award the State will operate consistent with all requirements of IDEA in PL 108-446 and applicable regulations. The State will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2021. The State has included the date by which it expects to complete necessary changes associated with assurances marked 'No'. (Refer to Assurances found in Section II.A.)

Optional:

3. The State is submitting modifications to State policies and procedures previously submitted to the Department. These modifications are: (1) deemed necessary by the State, for example when the State revises applicable State law or regulations; (2) required by the Secretary because there is a new interpretation of the Act or regulations by a Federal court or the State's highest court; and/or (3) because of an official finding of noncompliance with Federal law or regulations.

### B. Conditional Approval for Current Grant Year

If the State received conditional approval for the current grant year, check the appropriate statement(s) below:

#### 1. Conditional Approval Related to Assurances in Section II.A:

- a. Section II.A provides documentation of completion of all issues identified in the FFY 2019 conditional approval letter.
- b. As noted in Section II.A, the State has not completed all issues identified in the FFY 2019 conditional approval letter.

#### 2. Conditional Approval Related to Other Issues:

- a. The State previously submitted documentation of completion of all issues identified in the FFY 2019 conditional approval letter.
- b. The State is attaching documentation of completion of all issues identified in the FFY 2019 conditional approval letter. *(Attach documentation showing completion of all issues.)*
- c. The State has not completed all issues identified in the FFY 2019 conditional approval letter. *(Attach documentation showing completion of any issues and a list of items not yet completed.)*

**Section II**

**A. Assurances Related to Policies and Procedures**

The State makes the following assurances that it has policies and procedures in place as required by Part B of the Individuals with Disabilities Education Act. (20 U.S.C. 1411-1419; 34 CFR §§300.100-300.174)

<p><b>Yes</b> <i>(Assurance is given.)</i></p>	<p><b>No</b> <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i>  <i>Check and enter date(s) as applicable</i></p>	<p><b>Assurances Related to Policies and Procedures</b></p>
<p>X</p>		<p>1. A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1); 34 CFR §§300.101-300.108.</p>
<p>X</p>		<p>2. The State has established a goal of providing a full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. (20 U.S.C. 1412(a)(2); 34 CFR §§300.109-300.110)</p>
<p>X</p>		<p>3. All children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and 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 in accordance with 20 U.S.C. 1412(a)(3); 34 CFR §300.111.</p>
<p>X</p>		<p>4. An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with 34 CFR §§300.320 through 300.324, except as provided in §§300.300(b)(3) and 300.300(b)(4). (20 U.S.C. 1412(a)(4); 34 CFR §300.112)</p>
<p>X</p>		<p>5. To the maximum extent appropriate, children with disabilities, including children 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 or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be</p>

<p><b>Yes</b> (Assurance is given.)</p>	<p><b>No</b> (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)  Check and enter date(s) as applicable</p>	<p><b>Assurances Related to Policies and Procedures</b></p>
		<p>achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B); 34 CFR §§300.114-300.120.</p>
<p>X</p>		<p>6. Children with disabilities and their parents are afforded the procedural safeguards required by 34 CFR §§300.500 through 300.536 and in accordance with 20 U.S.C. 1412(a)(6); 34 CFR §300.121.</p>
<p>X</p>		<p>7. Children with disabilities are evaluated in accordance with 34 CFR §§300.300 through 300.311. (20 U.S.C. 1412(a)(7); 34 CFR §300.122)</p>
<p>X</p>		<p>8. Agencies in the State comply with 34 CFR §§300.610 through 300.626 (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8); 34 CFR §300.123)</p>
<p>X</p>		<p>9. Children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 34 CFR §300.323(b) and section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10). (20 U.S.C. 1412(a)(9); 34 CFR §300.124)</p>
<p>X</p>		<p>10. Agencies in the State, and the SEA if applicable, comply with the requirements of 34 CFR §§300.130 through 300.148 (relating to responsibilities for children in private schools), including that to the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 34 CFR §§300.130 through 300.148 unless the Secretary has arranged for services to those children under subsection (f) [By pass]. (20 U.S.C. 1412(a)(10); 34 CFR §§300.129-300.148)</p>

<p><b>Yes</b> (Assurance is given.)</p>	<p><b>No</b> (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)  Check and enter date(s) as applicable</p>	<p><b>Assurances Related to Policies and Procedures</b></p>
<p>X</p>		<p>11. The State educational agency is responsible for ensuring that the requirements of Part B are met including the requirements of 34 CFR §§300.113, 300.149, 300.150 through 300.153, and 300.175 and 300.176 and that the State monitors and enforces the requirements of Part B in accordance with 34 CFR §§300.600-300.602 and 300.606-300.608. (20 U.S.C. 1412(a)(11); 34 CFR §300.149)</p>
<p>X</p>		<p>12. The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (b) of 34 CFR §300.154 and the State educational agency, in order to ensure that all services described in paragraph (b)(1)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under §300.154(a)(3). Such agreement or mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154.</p>
<p>X</p>		<p>13. The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing. (20 U.S.C. 1412(a)(13); 34 CFR §300.155)</p>
<p>X</p>		<p>14. The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E), as amended by the Every Student Succeeds Act; 34 CFR §300.156.</p>
<p>X</p>		<p>15. The State has established goals for the performance of children with disabilities in the State that meet the requirements found in 20 U.S.C. 1412(a)(15)(A)-(C), as amended by the Every Student Succeeds Act; 34 CFR §300.157.</p>
<p>X</p>		<p>16. All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized</p>

<b>Yes</b> <i>(Assurance is given.)</i>	<b>No</b> <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i>  <i>Check and enter date(s) as applicable</i>	<b>Assurances Related to Policies and Procedures</b>
		education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E); as amended by the Every Student Succeeds Act; 34 CFR §300.160.
X		17. Funds paid to a State under this part will be expended in accordance with all the provisions of Part B including 20 U.S.C. 1412(a)(17)(A)-(C); 34 CFR §300.162.
X		18. The State will not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year, unless a waiver is granted, in accordance with 20 U.S.C. 1412(a)(18)(A)-(D); 34 CFR §§300.163 through 300.164.
X		19. Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. (20 U.S.C. 1412(a)(19); 34 CFR §300.165)
X		20. In complying with 34 CFR §§300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation. (20 U.S.C. 1412(a)(20); 34 CFR §300.166)
X		21. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D); 34 CFR §§300.167-300.169.
X		22. The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities in accordance with 20 U.S.C. 1412(a)(22)(A)-(B); 34 CFR §300.170.
X		23a. The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility

<b>Yes</b> (Assurance is given.)	<b>No</b> (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)  Check and enter date(s) as applicable	<b>Assurances Related to Policies and Procedures</b>
		Standard in the Federal Register in accordance with 20 U.S.C. 1412(a)(23)(A) and (D); 34 CFR §300.172.
		23b. (Note: Check either "23b.1" or "23b.2" whichever applies.
X		23b.1 The State educational agency coordinates with the National Instructional Materials Access Center and not later than 12/03/06 the SEA as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials enters into a written contract with the publisher of the print instructional materials to: <ul style="list-style-type: none"> <li>• require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or</li> <li>• purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. (20 U.S.C. 1412(a)(23)(C); 34 CFR §300.172)</li> </ul>
		23b.2 The State educational agency has chosen not to coordinate with the National Instructional Materials Access Center but assures that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. (20 U.S.C. 1412(a)(23)(B); 34 CFR §300.172)
X		24. The State has in effect, consistent with the purposes of the IDEA and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 34 CFR §300.8. (20 U.S.C 1412(a)(24); 34 CFR §300.173)
X		25. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school, receiving an evaluation under 34 CFR §§300.300 through 300.311, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B); 34 CFR §300.174.



**B. Other Assurances**

The State also makes the following assurances:

Yes	Other Assurances
X	1. The State shall distribute any funds the State does not reserve under 20 U.S.C. 1411(e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part as provided for in 20 U.S.C. 1411(f)(1)-(3); 34 CFR §300.705.
X	2. The State shall provide data to the Secretary on any information that may be required by the Secretary. (20 U.S.C. 1418(a)(3); 34 CFR §§300.640-300.645.)
X	3. The State, local educational agencies, and educational service agencies shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702)
X	4. As applicable, the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.

**C. Certifications**

The State is providing the following certifications:

Yes	Certifications
X	<p>1. The State certifies that ED Form 80-0013, <i>Certification Regarding Lobbying</i>, is on file with the Secretary of Education.</p> <p>With respect to the <i>Certification Regarding Lobbying</i>, the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.</p>
X	2. The State certifies that certification in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §76.104 relating to State eligibility, authority and approval to submit and carry out the provisions of its State application, and consistency of that application with State law are in place within the State.
X	3. The State certifies that the arrangements to establish responsibility for services pursuant to 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154 (or 20 U.S.C. 1412(a)(12)(A)); 34 CFR §300.154(a) are current. This certification must be received prior to the expenditure of any funds reserved by the State under 20 U.S.C. 1411(e)(1); 34 CFR §300.171.

**D. Statement**

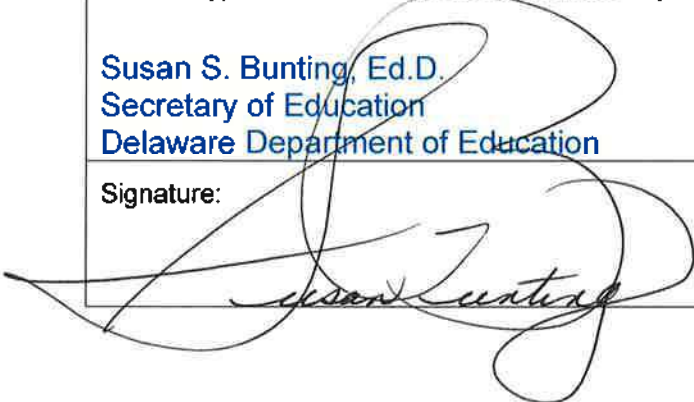
I certify that the State of Delaware can make the assurances checked as 'yes' in Section II.A and II.B and the certifications required in Section II.C of this application. These provisions meet the requirements of the Part B of the Individuals with Disabilities Education Act as found in PL 108-446. The State will operate its Part B program in accordance with all of the required assurances and certifications.

If any assurances have been checked 'no', I certify that the State will operate throughout the period of this grant award consistent with the requirements of the IDEA as found in PL 108-446 and any applicable regulations, and will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2021. (34 CFR § 76.104)

I, the undersigned authorized official of the

Delaware Department of Education,  
*(Name of State and official name of State agency)*

am designated by the Governor of this State to submit this application for FFY 2020 funds under Part B of the Individuals with Disabilities Education Act (IDEA).

Printed/Typed Name and Title of Authorized Representative of the State:  Susan S. Bunting, Ed.D. Secretary of Education Delaware Department of Education	
Signature: 	Date: 4/12/2020

## Section III

### **Description of Use of Funds Under Part B of the Individuals with Disabilities Education Act—20 U.S.C. 1411(e)(5); 34 CFR § 300.171**

States must provide the Description of Use of Funds by completing and submitting the Excel Interactive Spreadsheet with the FFY 2020 Application.

Describe how the amount retained by the State educational agency under 20 U.S.C. 1411(e)(1) will be used to meet the following activities under Part B. (20 U.S.C. 1411(e)(1)-(3), (6) and (7)) The Department annually identifies for States the maximum amounts that a State may retain under Section 1411(e)(1) and (2).<sup>1</sup> The dollar amounts **listed in the Excel Interactive Spreadsheet** by the State for administration and for other State activities should add up to less or equal to the dollar amount provided to the State by the Department for each of these activities.

**Enter whole dollar amounts (do not enter cents) in appropriate cells on the State's Excel Interactive Worksheet. The Excel Interactive Spreadsheet must be submitted as part of the State's application.**

Describe the process used to get input from LEAs regarding the distribution of amounts among activities described in the Excel Interactive Spreadsheet to meet State priorities. (20 U.S.C. 1411(e)(5)(B); 34 CFR § 300.704)

**The Delaware Department of Education State Director for Special Education presented all the assurances, Significant Disproportionality formula, Maintenance of State Financial Support, proposed activities, budget, and expenditures of IDEA funds to many stakeholder groups for their input during the months of February and March 2020. These groups included the Governor's Advisory Council for Exceptional Citizens (State Advisory Council for Special Education), State Special Education Leadership Group, and individually to County and Charter Special Education LEA directors. At the conclusion of each presentation, input was sought with the expectation that each person had 60 days to comment on the assurances, proposed activities, budget and expenditures of funds. In addition, the FFY2020 IDEA application was posted on the Delaware Department of Education website and a notice was placed in two newspapers for a 60 day comment period from the public. Three public meetings were scheduled and held, one in each county, during the month of February 2020, to seek further input from the community.**

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<sup>1</sup>Each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under this section for fiscal year 2004 or \$800,000 (adjusted in accordance with 20 U.S.C. 1411(e)(1)(B)), whichever is greater; and each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under 20 U.S.C. 1411(b)(1) for the fiscal year or \$35,000, whichever is greater.

For each fiscal year beginning with fiscal year 2005, the Secretary shall cumulatively adjust: 1) the maximum amount the State was eligible to reserve for State administration under this part for fiscal year 2004; and 2) \$800,000, by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

## Section IV

### State Administration

Section 608(a) of the IDEA requires each State that receives funds under this title to:

- (1) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title;
- (2) identify in writing to local educational agencies located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by this title and Federal regulations; and
- (3) minimize the number of rules, regulations, and policies to which the local educational agencies and schools located in the State are subject under this title.

States must attach to this application a list identifying any rule, regulation, or policy that is State-imposed (not required by IDEA or Federal regulations). If there are no such State-imposed rules, regulations, or policies, please so indicate. In addition, the State is required to inform local education agencies in writing of such State-imposed rules, regulation or policy. (20 U.S.C. 1407(a); 34 CFR § 300.199)

**See attached document labeled: ATTACHMENT TO SECTION IV ( State Administration) of Part B Annual State Application: FFY 2020**

**Each proposed regulation was registered for a 60 day comment period before State Board of Education approval and going into effect. In addition, presentations to LEAs were conducted and LEAs were informed in writing of such code/regulations changes or additions.**

**Section V**

**A. Maintenance of State Financial Support**

Pursuant to the authority established in IDEA section 618(a)(3), each applicant for funds under section 611 must provide the following State fiscal data with a certification of its accuracy by the State budget office or an authorized representative thereof. Amounts should be shown in whole dollars and are for the State fiscal year (SFY). States may establish compliance with the maintenance of State financial support (MFS) requirement in IDEA section 612(a)(18) and 34 CFR § 300.163 on either a total or per capita basis. In order to complete Section V.A of the Application, States must provide in whole dollars the total amount of State financial support made available for special education and related services for children with disabilities during SFYs 2018 and 2019. However, if a State met the MFS requirement on a per capita basis, it must complete the first chart and then may also complete the second chart by providing, in whole dollars, the amount of State financial support made available for special education and related services per child with a disability during SFYs 2018 and 2019.

<b>Total Amount of State Financial Support Made Available for Special Education and Related Services for Children with Disabilities</b>	
<b>SFY 2018</b>	\$ 378,540,900
<b>SFY 2019</b>	\$ 400,253,700

<b>Per capita amount of State Financial Support Made Available for Special Education and Related Services for Children with Disabilities</b>	
<b>SFY 2018</b>	
<b>SFY 2019</b>	

Kim A. Klein

State Budget Officer or Authorized Representative (Printed Name)

*Kim A. Klein*

Signature of State Budget Officer or Authorized Representative

3/3/2020

Date

## B. Significant Disproportionality<sup>2</sup>

In accordance with 34 CFR § 300.647(b)(7), each State must report all risk ratio thresholds, minimum cell sizes, minimum n-sizes, standards for measuring reasonable progress if the State uses the “reasonable progress” flexibility in 34 CFR § 300.647(d)(2), and the rationales for each, to the Department. Under § 300.647(b)(7), rationales for minimum cell sizes that exceed 10 and minimum n-sizes that exceed 30 must include a detailed explanation of why the numbers chosen are reasonable and how they ensure that the State is appropriately analyzing and identifying LEAs with significant disproportionality based on race and ethnicity, in the identification, placement, or discipline of children with disabilities. Additionally, pursuant to the authority established in IDEA section 618(a)(3), each applicant must also provide the number of years of data it uses in making annual determinations of significant disproportionality. Each applicant must provide this information by completing and submitting the Significant Disproportionality Reporting Form.

Each State must complete and submit the **Significant Disproportionality Reporting Form** with its FFY 2020 IDEA Part B application. After the initial submission of the Form, a State will only be required to submit the Form with any future annual IDEA Part B State applications if the State modifies its risk ratio thresholds, minimum cell sizes, minimum n-sizes, standards for measuring reasonable progress, and rationales for each, or the number of years of data used in making annual determinations of significant disproportionality.

- The form is included with the FFY 2020 IDEA Part B Grant Application package and can be found at <https://osep.grads360.org/#program/grants>. Please submit the form by following the instructions with the document.

### Stakeholder Engagement

In Delaware, a Significant Disproportionality Stakeholder group was formed and convened five separate times to review proposed federal regulations, dive into data and offer recommendations for policies, procedures and practices. These sessions were lead by DDOE and National TA providers. Governor’s Advisory Council for Exceptional Citizens (GACEC) was engaged through the presentation of information at their annual retreat lead by DDOE and National TA providers. Presentations were made at their monthly meetings, as well as individual member meetings. GACEC was given opportunity to review proposed federal regulations, review data and offer recommendations. Special Education Directors, and other advisory groups related to categories were provided information and opportunities for comment. All recommendations were reviewed and discussed by DDOE core team as a part of the decision making process.

### Significant Disproportionality

**Identification** - Significant disproportionality in “identification is defined as students ages 6-21 in a particular racial/ethnic group being at a considerably greater risk of being:

1. Identified as a student with a disability or
  2. Identified within a particular disability category
- LEA needs to meet an “N” size of **30** students in a one of the race/ethnicity categories (ex. At least 30 students who are considered Hispanic)
  - LEA needs to have a cell size of **10** students in a particular special education classification (ex. 10 students with Learning Disability)
  - Exceed rate ratio of 3.0

<sup>2</sup> This collection is not intended to replace or duplicate the information collected through the Significant Disproportionality State Survey (Docket No. ED-2019-ICCD-0065; 1820-NEW). That survey will collect information that the Department will use to support States and LEAs in their efforts to comply with the statutory requirement at section 618(d) of the IDEA.

**Placement** - Significant disproportionality in "placement" is defined as students ages 6-21 in a particular racial/ethnic group (i.e.,) being at a considerably greater risk of being placed in one of the following Educational Environment placement categories than all other racial/ethnic groups:

- Inside the regular classroom less than 40 percent of the school day
  - In separate schools and residential
- LEA needs to meet an "N" size of **30** students in one of the race/ethnicity categories
  - LEA needs to have a cell size of **10** students within one of the Least Restrictive Environments (ex. 10 students in a separate or residential placement)
  - Exceed rate ratio of 2.0

**Discipline** - Significant disproportionality in "discipline" is defined as students with disabilities ages 3-21 in a particular racial/ethnic group being at a considerably greater risk of being subjected to disciplinary action during the school year than all other racial/ethnic groups. The discipline categories used to calculate significant disproportionality are listed below:

- In-school suspensions of 10 days or less (ISS <= 10 days)
- In-school suspension of greater than 10 days (ISS > 10 days)
- Out-of-school suspensions/expulsions of 10 days or less (OSS <= 10 Days)
- Out-of-school suspensions/expulsions of greater than 10 days (OSS > 10 days)
- Total number of disciplinary removals

All discipline data is reviewed based on cumulative days during the school year

- LEA needs to meet an "N" size of **30** students in one of the race/ethnicity categories
- LEA needs to have a cell size of **10** students within one of the discipline categories (ex. 10 students with disabilities with in-school suspensions)
- Exceed rate ratio of 3.0

- ✓ **In Delaware, 3 years of data is reviewed and an LEA has to have disproportionality consecutively over a 3 year period.**
- ✓ **New federal regulations were implemented beginning July 1, 2018**
- ✓ **An LEA only needs to meet the definition for one area within one category to be identified with Significant Disproportionality (98 ways to be identified- 14 categories times 7 race/ethnicity categories)**
- ✓ **Comprehensive Coordinated Early Intervening Services (CCEIS)**  
If an LEA is identified with Significant Disproportionality, they must spend 15% of their IDEA funds (611 & 619) on the root cause of the identification. LEA can spend it on both students with disabilities and students without disabilities (Pre-K through 12)
- ✓ **Coordinated Early Intervening Services (CEIS)**  
An LEA can voluntarily spend up to 15% of their IDEA (611 & 619) funds for Early Intervening Services for at-risk students not identified as special education (K-12)

Delaware submitted the electronic form on Significant Disproportionality.

**Delaware**

**FFY 2020**

**REGULAR AWARD AMOUNT Est.** \$39,412,835

**TOTAL AWARD AMOUNT** \$39,412,835

**ADMINISTRATION**

Maximum Available for Administration.

**Sec.**  
**III** \$1,112,729

How much do you want to set aside for Administration in dollars?

**OK**

**You must distribute, in whole dollars, the amount you want to set aside for Administration among the following activities:**

For the purpose of administering IDEA Part B including Preschool Grants under 20 U.S.C. 1419, a High Cost Fund, and the coordination of activities under Part B with, and providing technical assistance to, other programs that provide services to children with disabilities. (Note: These funds may be used for Administering but not Financing a High Cost Fund)

a.

For the administration of Part C of IDEA, if the SEA is the Lead Agency for the State under Part C.

b.

You may set aside a portion of your Administration funds resulting from inflation for the following 4 Other State-Level Activities. Additional funds for these purposes may also be set aside under Other State-Level Activities. Based on the amount that you propose to set aside for Administration, the maximum amount of Administration funds that you may use for these 4 activities is:

**\$50,000**

For support and direct services, including technical assistance, personnel preparation, and professional development and training.

c.

To assist local educational agencies in providing positive behavioral interventions and supports and appropriate mental health services for children with disabilities.

d.

To assist local educational agencies in meeting personnel shortages.

e.

To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.

f.

Subtotal, Administration funds used for Other State-Level Activities

\$0

**OK**

If you receive a Preschool Grant under 20 U.S.C. 1419, you may use Administration funds, along with other funds, to develop and implement a State policy jointly with the lead agency under Part C and the SEA to provide early intervention services (which must include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with Part C to children with disabilities who are eligible for services under the Preschool Grant program and who previously received services under Part C until such children enter, or are eligible under State law to enter, kindergarten, or elementary school as appropriate.

g.



The total of details for your Administration set-aside is

\$850,000 **OK**

**OTHER STATE-LEVEL ACTIVITIES**

If you propose to set aside more than \$850,000 for Administration and you DO wish to use funds for a High Cost Fund, the maximum amount that you may use for Other State-Level Activities is:

\$3,841,923

Of the amount you set aside for Other State-Level Activities at least 10% must be used for the High Cost Fund.

If you propose to set aside more than \$850,000 for Administration and you DO NOT wish to use funds for a High Cost Fund, the maximum amount that you may use for Other State-Level Activities is:

\$3,457,731

If you propose to set aside \$850,000 or less for Administration and you DO wish to use funds for a High Cost Fund, the maximum amount that you may use for Other State-Level Activities is:

\$4,034,019

Of the amount you set aside for Other State-Level Activities at least 10% must be used for the High Cost Fund.

If you propose to set aside \$850,000 or less for Administration and you DO NOT wish to use funds for a High Cost Fund, the maximum amount that you may use for Other State-Level Activities is:

\$3,649,827

**Do you wish to use funds for a High Cost Fund? (Yes or No)**

Based on the amount that you intend to set aside for Administration, the size of your total award, and your decision

**TO** use set aside funds to support a High Cost Fund, the

maximum that you may use for Other State-Level Activities is:

\$4,034,019

**How much do you want to set aside for Other State-Level Activities?**

**OK**

**You must distribute the amount you want to set aside for Other State-Level Activities the following activities.**

**You can distribute amounts in any order you wish. The total balance remaining to be distributed at any time appears in red.**

**How much do you want to use for the High Cost Fund?**

**OK**

**You must use at least \$403,402**

**Required Activities:**

**\$0** More needs to be distributed.

For monitoring, enforcement, and complaint investigation. (You must use at least \$1 for this purpose)

h.

To establish and implement the mediation process required by 20 U.S.C. 1415(e), including providing for the cost of mediators and support personnel. (You must use at least \$1 for this purpose)

i.

\$0 More needs to be distributed.

**Optional Authorized Activities:**

For support and direct services, including technical assistance, personnel preparation, and professional development and training

j.

\$0 More needs to be distributed.

To assist local educational agencies in providing positive behavioral interventions and supports and appropriate mental health services for children with disabilities.

k.

\$0 More needs to be distributed.

To assist local educational agencies in meeting personnel shortages.

l.

\$0 More needs to be distributed.

To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.

m.

\$0 More needs to be distributed.

To support paperwork reduction activities, including expanding the use of technology in the IEP process.

n.

\$0 More needs to be distributed.

To improve the use of technology in the classroom by children with disabilities to enhance learning.

o.

\$0 More needs to be distributed.

To support the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities.

p.

\$0 More needs to be distributed.

Development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of children with disabilities to postsecondary activities.

q.

\$0 More needs to be distributed.

Alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children enrolled in State-operated or State-supported schools, and children with disabilities in charter schools.

r.

\$0 More needs to be distributed.

To support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with Sections 1111(b) and 1201 of the Elementary and Secondary Education Act of 1965.

s.

\$0 More needs to be distributed.

To provide technical assistance to schools and LEAs, and direct services, including direct student services described in section 1003A(c)(3) of the ESEA to children with disabilities, to schools or LEAs implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the ESEA on the basis of consistent underperformance of the disaggregated subgroup of children with disabilities, including providing professional development to special and regular education teachers, who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement based on the challenging academic standards described in section 1111(b)(1) of the ESEA.

t.

\$0 More needs to be distributed.

The total of details for your Other State-Level Activities set-aside is

\$4,034,019 **OK**

You are almost done.

If you are using money for a High Cost Fund. You must report how much you will use for each of the following two activities. You reported that you would use

**\$403,402**

To establish and make disbursements from the high cost fund to local educational agencies in accordance with 20 U.S.C. 1411(e)(3) during the first and succeeding fiscal years of the high cost fund.

u.

To support innovative and effective ways of cost sharing by the State, by an LEA, or among a consortium of LEAs, as determined by the State in coordination with representatives from LEAs, subject to 20 U.S.C. 1411(e)(3)(B)(ii) (Amount may not be more than 5% of the amount reserved for the LEA Risk Pool.)

v.

Establishment of High Cost Fund (20 U.S.C. 1411(e)(3)(B)(i) - A State shall not use any of the funds the State reserves pursuant to 20 U.S.C. 1411(e)(3)(A)(i), but may use the funds the State reserves under 20 U.S.C. 1411(e)(1), to establish and support the high cost fund.

Subtotal, High Cost Fund

\$403,402

**OK**

**ATTACHMENT TO SECTION IV**  
**( State Administration )**  
**of Part B Annual State Application: FFY 2020**

**Delaware Department of Education**  
**John G. Townsend Building**  
**401 Federal Street**  
**Dover, DE 19901**

**The following list identifies rules, regulations, and policies that are State-imposed (not required by the IDEA or Federal regulations).**

The Delaware Department of Education (“DDOE”) adopted into state regulation most of the federal regulations implementing Part B of the IDEA. Any rule or regulation that is state-imposed (rather than a federal requirement) is italicized throughout DDOE’s regulations at 14 DE Admin Code §§ 922 through 929.

<b>State Rule, Regulation, and/or Practice</b>	<b>Brief Description</b>
<b>14 DE Admin Code § 922.3.0</b>	<b><u>"Emotional Disability"</u></b> means a condition exhibiting one (1) or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems. <u>Emotional disability</u> includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an <u>emotional disability</u> as defined in this section. <i>The term "emotional disturbance" is sometimes used as a substitute for the term "emotional disability" and shall be considered an equivalent term for purposes of these regulations.</i>
<b>14 DE Admin Code § 923.5.1.2.3</b>	<b><u>Parent Councils</u></b>  Each school district and charter school enrolling any child with a disability shall, on an annual basis, contact the parents of each such child to attempt to facilitate the creation and maintenance of a Parent Council for the parents of students with disabilities. Parent Councils will advocate generally for students with disabilities and provide person-to-person support with individual parents and children. Each school district and charter school shall collaborate and coordinate with existing parent groups and other information and support groups to facilitate creation, maintenance, and effectiveness of the Parent Councils.

<p><b>14 DE Admin Code § 923.7.3</b></p>	<p><b><u>Transportation</u></b></p> <p>When special transportation needs are identified in an IEP, transportation must be deemed a related service, and provided at the expense of the public agency, including the costs of travel to and from school and between schools, and any required specialized equipment. Transportation incidental to the educational program of a child with a disability shall not be at the expense of the public agency. Travel arrangements shall be made in consultation with the public agency's transportation representative when unusual requirements are necessary for a child with a disability. (Authority: 34 C.F.R. § 300.107)</p>
<p><b>14 DE Admin Code § 923.9.0</b></p>	<p><b><u>Full Educational Opportunity; Length of School Day; Compulsory School Attendance</u></b></p> <p>State regulations require each public agency to ensure full educational opportunity is offered to its eligible children with disabilities. The minimum length of the school day for a child with a disability in K-12 must be the same as it is for non-disabled children. The minimum length of the school day for children with disabilities in pre-K must approximate that of non-disabled pre-K children, except in a program for the hearing impaired in which the parent is involved in the educational program. In such a program, the school and the parent together shall determine the schedule for at least 5 hours a week of instruction. State regulations further specify compulsory school attendance requirements in accordance with state law apply to children with disabilities. (Authority: 34 C.F.R. § 300.109)</p>
<p><b>14 DE Admin Code § 923.10.0</b></p>	<p><b><u>Vocational and Career Technical Programs and Services</u></b></p> <p>State regulations require each public agency to ensure children with disabilities have available to them a variety of educational programs and services available to non-disabled children in the area served by the agency, including arts, music, industrial arts, consumer, and homemaking education, and vocational and career technical programs and services. Each public agency must provide assurances to the DOE it will assist in fulfilling the transitional service requirement of the state regulations, and ensure the provision of a vocational and career technical programs in the least restrictive environment to ensure equal access by children with disabilities. (Authority: 34 C.F.R. § 300.110)</p>
<p><b>14 DE Admin Code § 923.11.0</b></p>	<p><b><u>Child Find</u></b></p> <p>State regulations outline procedures to ensure all children in need of special education are identified, located, and evaluated. State regulations also establish practices and procedures for identifying children in need of general education interventions consistent with response to intervention procedures.</p>
<p><b>14 DE Admin Code § 923.14.4</b></p>	<p><b><u>Interagency Agreements</u></b></p> <p>When a child's IEP team determines that the child's needs cannot be met appropriately in the LEA of residence or other public agency, inter-LEA or interagency programs shall be considered within least restrictive environment requirements. When special education and related services for children with disabilities are provided in whole, or in part, by an LEA or LEAs, other than the LEA of residence, a written interagency agreement must be developed between or among the LEAs and meet the criteria outlined in state regulations.</p>

<p><b>14 DE Admin Code § 923.49.5</b></p>	<p><b><u>General Supervision and Procedural Safeguards</u></b></p> <p>In addition to any other authority under the state regulations or State law, the DDOE may use any of the following mechanisms to identify and correct noncompliance and to document and exercise its general supervisory responsibilities: interagency agreements; compliance monitoring; dispute resolution systems; general project coordination and contracting; specific program evaluations; personnel systems; public dissemination of information; and financial aid and administrative audits and reporting. The DDOE may use any reasonable method to collect, analyze and verify information to monitor compliance with Part B and state regulations. Monitoring methods may include, but are not limited to, use of offsite review, on site review, letters of inquiry, and follow up and verification of specific activities. Potential noncompliance may be identified from any generally reliable source of information. The DDOE shall document its monitoring activity through correspondence and reports. The DDOE shall notify a public agency in writing when it identifies noncompliance and the notice shall describe each corrective action which shall be taken, including a reasonable time frame for submission of a corrective action plan, and require that the corrective action plan provide for: the immediate discontinuance of the violation; the prevention of the occurrence of any future violation; documentation of the initiation and completion of actions to achieve current and future compliance; the timeframe for achieving full compliance; and the description of actions the agency shall take to remedy the identified areas of noncompliance. All noncompliance shall be corrected within one year from when the DDOE identifies the noncompliance. The DDOE shall have the authority to enforce legal obligations under the regulations and to compel correction of deficiencies in program operations and other identified noncompliance by any mechanism available under State or federal law. The DDOE shall distribute the regulations, required and model forms, guidance, and letters of general notification to all public and private agencies providing services to children with disabilities and determine the method of dissemination.</p>
<p><b>14 DE Admin Code § 923.53.2.3.6</b></p>	<p><b><u>Administrative Complaints</u></b></p> <p>When filing an administrative complaint, state regulations request the complainant to include a description of the attempts made to resolve the issue(s) prior to filing the complaint, if any.</p>
<p><b>14 DE Admin Code § 924.1.0</b></p>	<p><b><u>Condition of Assistance</u></b></p> <p>Each public agency providing services to children with disabilities must use any forms or procedures as from time to time are specifically developed or promulgated by the DDOE.</p>
<p><b>14 DE Admin Code § 924.29.0</b> <b>14 DE Admin Code § 252</b></p>	<p><b><u>Discipline Record</u></b></p> <p>State regulations establish procedures for maintaining the school discipline records of a child with a disability. (Authority: 34 C.F.R. § 300.229)</p>

<p><b>14 DE Admin Code § 924.9.1.2</b></p>	<p><b><u>Charter School Designee</u></b></p> <p>No later than September 1 of each school year each charter school shall identify at least one professional staff member who holds a current certification in any area of special education in Delaware. Training shall be completed by September 30 of the current school year. The designee shall complete annual training approved by DOE regarding the legal responsibilities of charter schools with respect to preparation of Individual Education Programs for students with disabilities and resources available to charter schools to assist in preparation of such programs.</p> <p>Each charter school shall notify DOE of any changes in staff appointed as designee(s) within seven (7) business days of the staff change.</p> <p>The initial and refresher training shall be the annual training in special education regulations, policies, procedures, and procedural safeguards as outlined in IDEA and Delaware Administrative Code as it relates to special education. DOE shall annually publish date(s) for this training.</p>
<p><b>14 DE Admin Code § 925.2.1</b></p>	<p><b><u>Time for Initial Evaluations</u></b></p> <p>State regulations require public agencies to conduct initial evaluations in a manner which precludes undue delay in the evaluation of students.</p>
<p><b>14 DE Admin Code § 925.2.3</b></p>	<p><b><u>Time for Initial Evaluations</u></b></p> <p>State regulations require public agencies to conduct initial evaluations within 45 school days or 90 calendar days, whichever is less, of receiving written parental consent. (Authority: 34 C.F.R. § 300.301(c)(1)(ii))</p>
<p><b>14 DE Admin Code § 925.6.1</b></p>	<p><b><u>Determination of Eligibility</u></b></p> <p>The evaluation report provided to parents must document the team’s discussion of the eligibility determination.</p>
<p><b>14 DE Admin Code § 925.6.3</b></p>	<p><b><u>Determination of Eligibility</u></b></p> <p>When determining a child’s eligibility for special education and related services, eligibility decisions may include historical information to the extent relevant to the child’s current needs.</p>
<p><b>14 DE Admin Code § 925.6.5.4.1</b></p>	<p><b><u>State Exit Criteria</u></b></p> <p>State regulations generally require a child’s eligibility for special education and related services to terminate when the child reaches his or her 21<sup>st</sup> birthday. However, a child with a disability who reaches his or her 21<sup>st</sup> birthday after August 31<sup>st</sup> may continue to receive special education and related services until the end of the school year, including appropriate summer services through August 31<sup>st</sup>.</p>
<p><b>14 DE Admin Code §§ 925.6.6 - 6.18</b></p>	<p><b><u>State Eligibility Criteria</u></b></p> <p>State regulations establish eligibility criteria for 13 disability categories (i.e., autism, developmental delay, deaf/blind, <u>emotional disability</u>, hearing impairment, learning disability, mental disability, orthopedic impairment, other health impairment, speech and language impairment, traumatic brain injury, visual impairment, preschool speech delay). (Authority: 34 C.F.R. § 300.307)</p>

<p><b>14 DE Admin Code § 925.12.0</b></p>	<p><b><u>Response to Intervention</u></b></p> <p>Each public agency must establish procedures to determine whether a child responds to scientific, research-based interventions in the area of reading as described in 14 DE Admin Code § 925.12.0. RTI procedures are currently required for all elementary school children. Implementation of RTI for secondary students and in the area of math will be determined on a timeline and schedule to be determined by the State.</p>
<p><b>14 DE Admin Code § 925.20.1.8</b></p>	<p><b><u>Required Content of IEP</u></b></p> <p>The IEP must include a statement designating whether or not it is necessary to place the child who is transported from school by bus into the charge of a parent or other authorized person.</p>
<p><b>14 DE Admin Code § 925.20.2</b></p>	<p><b><u>Required Content of IEP – Transition Services</u></b></p> <p>Beginning with the earlier of the first IEP to be in effect when the child turns 14 or enters the 8<sup>th</sup> grade, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP must include the child’s strengths, interests, and preferences, postsecondary goals, high school courses of study needed to assist the child in reaching these goals, and plans to make application to high school and career technical education programs.</p>
<p><b>14 DE Admin Code § 925.20.2.2.1.2</b></p>	<p><b><u>Transition Services</u></b></p> <p>The IEP team shall discuss employment options with children and parents consistent with Delaware’s Employment First Policy articulated by 19 Del. C. § 743. Progress made on activities and services that reasonably enable the child to reach their postsecondary goals in transition IEPs shall be reported with the same frequency as academic goals.</p>
<p><b>14 DE Admin Code § 925.20.3</b></p>	<p><b><u>Transfer of Rights at Age of Majority</u></b></p> <p>Transfer of rights at age of majority: Beginning no later than one year before the child reaches the age of 18, the IEP shall include a statement that the child has been informed that the child’s rights under 14 Del.C. §3132 will transfer to the child, or an <u>educational representative or educational surrogate parent</u> on reaching the age of 18 under 13 DE Admin. Code 926.20.</p>
<p><b>14 DE Admin Code § 925.20.4</b></p>	<p><b><u>Required Use of State IEP Forms</u></b></p> <p>Each public agency shall use the IEP forms as developed and required by the DDOE.</p>
<p><b>14 DE Admin Code §§ 923.6.0 and 925.20.5</b></p>	<p><b><u>Extended School Year Services Criteria</u></b></p> <p>State regulations obligate public agencies to consider specific factors in deciding whether a child needs extended school year services in order to receive FAPE. Such factors are set forth in the regulations, and include the degree of impairment, regression, recoupment, breakthrough opportunities, vocational opportunities, and any other rare and unusual extenuating circumstances.</p> <p>In addition, State regulations include ESY for reading acquisition. Notwithstanding any contrary provision, if a child is not beginning to read by age seven, or is beyond age seven and not yet beginning to read, the team shall presumptively include extended year services in the IEP which incorporate</p>



	evidenced-based interventions that address the child’s inability to read. The team may decline to include such extended school year services in the IEP only if the team provides a specific explanation in the IEP why such services are inappropriate. A child is beginning to read if the child demonstrates phonological awareness and ability to use letter sound knowledge and decode unknown words.
<b>14 DE Admin Code § 925.21.1.4.4</b>	<b><u>IEP Team</u></b>  The IEP team must include a public agency representative who has authority to commit agency resources and be able to ensure that whatever services are set out in the IEP will actually be provided.
<b>14 DE Admin Code § 925.21.1.8</b>	<b><u>IEP Team</u></b>  Whenever the child is, or may be, participating in a career and technical education program, a career technical educational teacher of the child, or career technical teacher coordinator, must be part of the IEP team.
<b>14 DE Admin Code § 925.21.2</b>	<b><u>IEP Team</u></b>  The public agency must, in writing, invite a child with a disability to attend the child's IEP team meeting if a purpose of the meeting will be the consideration of postsecondary goals for the child and transition services.
<b>14 DE Admin Code § 925.21.7.1</b>	<b><u>Adverse Employment Action</u></b>  No public agency, or any person acting under the authority of a public agency, shall discriminate or take any adverse employment or contract action against any person based upon statements that person makes while advocating for a student in connection with an IEP, including statements made in preparation for or at a meeting, review, or conference concerning a child with a disability’s free and appropriate public education. Entities or persons who violate this subsection shall be subject to the same sanctions as persons or entities that engage in unlawful employment practices under 19 Del. C., Chapter 7.
<b>14 DE Admin Code § 925.22.1.1</b>	<b><u>Parent Participation</u></b>  State regulations require public agencies to notify parents of an IEP team meeting no less than 10 school days prior to the meeting (unless mutually agreed otherwise) to ensure parents will have an opportunity to attend, and no less than 5 school days prior to a meeting to conduct a manifestation determination.
<b>14 DE Admin Code § 925.22.2.1.3</b>	<b><u>Parental Input</u></b>  The IEP Team shall provide notice to the parent, and if appropriate, the child, that they may request the presence of any teacher, paraprofessional, and any additional staff members at an IEP meeting. A full copy of the procedural safeguards under state and federal law and regulations shall be offered to the parents at the IEP meeting. The IEP Team shall provide notice to the parent, and if appropriate, the child, that they may request any data (e.g. classroom assessments, formative assessments, behavior data, related service reports,

	<p>Response to Intervention data) in the agency’s possession relevant to the child’s needs or disability prior to the IEP meeting.</p> <p>The IEP team will ensure parent input by:</p> <p>The IEP team shall provide a questionnaire requesting the input of a child’s parent, and where appropriate, the input of the child, with respect to the child’s progress to date and additional proposed steps that should be taken to adjust the child’s goals, curriculum, services, aids, modifications, and/or other elements of the child’s Individualized Education Program.</p> <p>The questionnaire shall be sent with or prior to the written meeting notice inviting the parent to attend the IEP meeting.</p> <p>If the IEP Team prepares a draft of the IEP prior to the date of the IEP meeting, the IEP Team shall provide the parent, and if appropriate, the child, with a copy of the draft IEP accompanied by a letter clearly indicating that the document is a draft for discussion purposes only and is therefore subject to revisions.</p> <p>The Department in collaboration with the Governor’s Advisory Council for Exceptional Citizens shall create and provide a draft letter and associated guidance to assist public agencies with the content and application of the letter referred to in 14 <b>DE Admin Code</b> Section 925.22.3.2.</p>
<p><b>14 DE Admin Code § 925.22.2.3</b></p>	<p><b><u>Parent Participation</u></b></p> <p>For a child with a disability beginning with the earlier of the first IEP to be in effect when the child turns 14 or enters the 8<sup>th</sup> grade, or younger if determined appropriate by the IEP team, the notice of meeting must indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, and that the agency will invite the student, and identify any other agency that will be invited to send a representative. The notice to the child shall be in writing.</p>
<p><b>14 DE Admin Code § 925.22.8</b></p>	<p><b><u>Parent Survey</u></b></p> <p>The Department of Education, in conjunction with the Department of Justice, shall annually survey a random and representative sample of parents and their children who have Individualized Education Programs with respect to the parents’ and children’s satisfaction with the IEP process. Information gathered through this survey shall be used by the Department of Education and Department of Justice to conduct follow-up examinations with school districts and charter schools as to their good faith compliance with state and federal laws and regulations.</p> <p>Information gathered through this survey shall also be used by the Department of Education in carrying out monitoring duties as outlined in 14 <b>DE Admin. Code</b> Section 927 to ensure compliance with state and federal laws and regulations.</p> <p>A summary of the survey results will be made available on the Department of Education’s website.</p>
<p><b>14 DE Admin Code § 925.23.6.1</b></p>	<p><b><u>Transfer Students</u></b></p> <p>For children who transfer, the receiving public agency must ensure that all requirements concerning evaluation, IEP development, placement, and procedural safeguards are applied in determining the provision of special education and related services.</p>

<p><b>14 DE Admin Code § 925.24.2.6 and 925.24.2.7</b></p>	<p><b><u>IEP Development, Review, and Revision</u></b></p> <p>In the case of a child who is blind, visually impaired, and/or has a physical or print disability, the IEP shall consider whether the child needs accessible instructional materials.</p> <p>In the case of any child with limited reading proficiency, consider the reading services, supports and evidenced-based interventions as those related to the child’s IEP;</p> <p>For a child who is not beginning to read by age seven, or who is beyond the age seven and is not yet beginning to read, enumerate the specific evidence-based interventions that are being provided to that child to address the child’s inability to read. Eligibility for reading based extended school year services shall be determined in accordance with 14 DE Admin Code 923.6.0.</p>
<p><b>14 DE Admin Code § 925.27</b></p>	<p><b><u>Placement in the Least Restrictive Environment</u></b></p> <p>State regulations describe a continuum of educational placement options based on the LRE requirement, including criteria when public agencies are considering homebound instruction for temporary periods.</p>
<p><b>14 DE Admin Code § 925.29.0</b></p>	<p><b><u>High School Graduation</u></b></p> <p>State regulations permit students with disabilities who are unable to meet the requirements for graduation an option to complete those requirements by continuing their education, at public agency expense, until their 21<sup>st</sup> birthday. Regardless of the document received at graduation by the student, whether a diploma or certificate of performance, the student may not be discriminated against during the graduation ceremonies. Specifically, a student with disabilities must be allowed to participate in graduation exercise without reference to his or her disability, educational placement, or the type of document conferred.</p>
<p><b>14 DE Admin Code § 926.1.2.3 14 Del. C. § 3130</b></p>	<p><b><u>Opportunity to Examine Educational Placements</u></b></p> <p>Public agencies must permit the parents of a child with a disability to visit and observe, either personally or through a representative, their child’s current or proposed educational program.</p>
<p><b>14 DE Admin Code § 926.1.5 14 Del. C. § 3131</b></p>	<p><b><u>Minutes of Meetings</u></b></p> <p>State law permits parents and public agencies to take minutes of IEP meetings. Minutes must be maintained subject to applicable confidentiality requirements.</p> <p>Minutes of Meetings. A parent, a parent’s authorized representative, or any public agency conducting a meeting, review or conference may take minutes of the meeting, review or conference concerning a child with a disability’s free and appropriate public education. Minutes may be taken by a disclosed recording device or by a stenographer. The cost of recording the minutes is the responsibility of the person or agency electing to take minutes. Once taken, public agency minutes shall be maintained subject to the confidentiality requirements of these regulations and any other applicable Delaware or federal law. If initiated by the public agency, parents must be offered a free digital copy.</p>

<p><b>14 DE Admin Code § 926.3.1</b> <b>14 Del. C. § 3133</b></p>	<p><b><u>Prior Written Notice</u></b></p> <p>State law requires public agencies to provide prior written notice no less than 10 school days before the public agency proposes or refuses an action. In cases involving a change of placement for a disciplinary removal, public agencies must provide prior written notice no less than 5 school days before the public agency proposes to change the child’s placement.</p>
<p><b>14 DE Admin Code § 926.3.2.8</b></p>	<p><b><u>Content of Notice</u></b></p> <p>A <i>written</i> description of the action proposed or refused by the agency; and  A <i>written</i> explanation of why the agency proposes or refuses to take the action; and  A <i>written</i> description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action; and  A <i>written</i> statement that the parents of a child with a disability have protection under the procedural safeguards of <i>state and federal</i> regulations and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and  Sources for parents to contact to obtain assistance in understanding the provisions of these regulations, <i>including contact information for parent assistance programs, legal assistance programs, and the Delaware State Bar Association</i>; and  A <i>written</i> description of any other options the IEP Team considered and the reasons why those options were rejected; and  A <i>written</i> description of other factors which are relevant to the agency’s proposal or refusal; <i>and</i>  <i>A written summary of procedural safeguards must be available to the parents under state and federal law and regulations.</i>  <i>A full copy of the procedural safeguards under state and federal law and regulations shall be provided to the parents at the IEP meeting.</i></p>
<p><b>14 DE Admin Code § 926.3.2.8</b> <b>14 Del. C. § 3134</b></p>	<p><b><u>Prior Written Notice</u></b></p> <p>State law requires the prior written notice to include a full explanation of all the procedural safeguards available to parents.</p>
<p><b>14 DE Admin Code § 926.4.0</b></p>	<p><b><u>Procedural Safeguards Notice</u></b></p> <p>Public agencies must provide a copy of the procedural safeguards notice to parents upon a decision to remove a child with a disability from his or her educational placement because of a violation of a code of student conduct and <u>provide</u> a copy to the parents of a child with a disability at each IEP meeting.</p>
<p><b>14 DE Admin Code § 926.6.0</b></p>	<p><b><u>Mediation</u></b></p> <p>Any public agency involved in mediation must assure that an individual from the public agency with the authority to make decisions and commit resources to agreed upon services attends the mediation. In addition, parents are permitted to be accompanied and advised at mediation by individuals of their choice.</p>

<p><b>14 DE Admin Code § 926.11.4</b></p>	<p><b><u>Due Process Hearings</u></b></p> <p>The impartial due process hearing officer is required to work in cooperation and consultation with other hearing officers appointed to a given hearing panel and complete training as required by the Secretary of Education.</p>
<p><b>14 DE Admin Code § 926.11.10</b> <b>14 Del. C. § 3140</b></p>	<p><b><u>Due Process Hearings</u></b></p> <p>The burden of proof and persuasion in a due process hearing is placed on the public agency which is a party to the proceeding.</p>
<p><b>14 DE Admin Code § 926.12.1.6</b> <b>14 Del. C. § 3139</b></p>	<p><b><u>Due Process Hearings</u></b></p> <p>State regulations afford parties the right to compel the attendance of witnesses at due process hearings by requesting the issuance of subpoenas through the Secretary of Education.</p>
<p><b>14 DE Admin Code § 926.12.3</b> <b>14 Del. C. § 3138</b></p>	<p><b><u>Due Process Hearings</u></b></p> <p>State regulations require that any testimony presented at a due process hearing be under oath or affirmation. The hearing panel must also ensure that parents have been advised of their procedural safeguards.</p>
<p><b>14 DE Admin Code § 926.12.3.4</b></p>	<p><b><u>Due Process Hearings</u></b></p> <p>Parents shall be given the right to have the due process hearing conducted at a time and place which is reasonably convenient to the parents and child involved.</p>
<p><b>14 DE Admin Code § 926.13.6</b></p>	<p><b><u>Due Process Hearing Decisions</u></b></p> <p>Delaware’s mechanism for publishing findings is to place legal notice annually in newspapers of sufficient circulation in each of the three (3) Delaware counties that the information may be obtained through the DDOE, and to also place the findings and decision on the DDOE website.</p>
<p><b>14 DE Admin Code § 926.15.2</b></p>	<p><b><u>Timeliness and Convenience of Due Process Hearings and Reviews</u></b></p> <p>A due process hearing panel may, for good cause, grant specific extensions of time at the request of either party, provided that a final decision and copy thereof is mailed to each party within fifteen (15) days of the date of the hearing or, where applicable, within fifteen (15) days of the completion of post-hearing argument. In granting extensions, the panel shall ensure that a party’s right to redress is in no way diminished or unnecessarily delayed.</p>
<p><b>14 DE Admin Code § 926.19.0</b> <b>14 Del. C. § 3132</b></p>	<p><b><u>Educational Surrogate Parents</u></b></p> <p>Educational surrogate parents are appointed by the DDOE through the process outlined in state regulations.</p>
<p><b>14 DE Admin Code § 926.20.1</b></p>	<p><b><u>Transfer of Parental Rights at Age of Majority</u></b></p> <p>Age of majority: To assure that children with disabilities who have reached age 18 have an identified decision-maker, which may be the child with a disability, the IEP team shall discuss the potential need</p>

for an educational representative during the transfer of rights at age of majority review, and annually thereafter. In determining the need for an educational representative, the IEP team shall consider:

- A child with a disability without a court-appointment guardian of the person shall be presumed to have capacity and be accorded the rights of a parent upon attainment of age 18.
- The public agency shall notify both the child and the parents that all rights accorded to parents under the 14 Del. C. §3132 (b) transfer to the child.
- A child with a disability with capacity may authorize an adult agent to exercise rights through execution of a power of attorney or a standard voluntary grant of authority form published by the Department of Education.
- The determination of capacity shall be made by the IEP team during an IEP meeting and shall confirm to the following standards:
- In cases where capacity is uncertain, a school psychologist familiar with the child must attend the initial meeting. For purposes of this section, the term “familiar with the child” means the school psychologist has conducted a recent in-person evaluation of the child which conforms to evaluation procedures established by the Department of Education. In subsequent annual IEP meeting reviews, the participation of a school psychologist is discretionary if it is clear there has been no change in the child’s capacity.
- The child with a disability and parent, as defined in 14 Del.C. §3101 (7), must be invited to participate in the meeting regardless of whether the child has already attained the age of 18.
- The IEP team may consider information from sources apart from school personnel and may authorize evaluation if necessary to inform its deliberations.
- If information is ambiguous, any benefit of the doubt shall be exercised in favor of a finding of capacity.
- If the IEP team determines that the child lacks capacity, the IEP team shall appoint an individual to serve as an educational representative in the following descending order of priority:
  - Willing and available biological or adoptive parent;
  - Willing and available adult relative.
- If such an individual is not identified, the IEP team shall promptly facilitate a referral to the Department of Education for appointment of an educational surrogate parent. An appointed educational representative shall have the same authority as a parent under 14 Del.C. §3101 (7).
- If a child with a disability or parent disagrees with the capacity determination, either may contest the determination by pursuing dispute resolution options described in the procedural safeguards in this regulation or in 14 Del.C. Ch 31.
- The capacity determination is limited to the exercise of rights under 14 Del.C. Ch. 31 or this regulation and shall not affect exercise of rights in any other context. In furtherance of this limitation, any order statute notwithstanding, the capacity determination shall not be admissible as evidence of competency or capacity in any non-educational judicial or administrative proceeding.

<p><b>14 DE Admin Code § 926.30.8</b></p>	<p><b><u>Notification of Discipline Policies</u></b></p> <p>Public agencies must ensure that the parents, guardian, or Relative Caregiver of each child with disabilities receives written notice of the rules and regulations applicable to such children with respect to discipline, suspension, expulsion, and exclusion as a treatment procedure at the beginning of each school year or upon entry into a special education program during the school year.</p>
<p><b>14 DE Admin Code § 926.36.1.3</b></p>	<p><b><u>Change of Placement Because of Disciplinary Removals</u></b></p> <p>A change of placement occurs if a child has been subjected to a series of in-school removals totaling more than 10 school days and it deprives the child from meeting the goals set out in the IEP, progressing in the general curriculum though in another setting, and receiving those services and modifications described in the IEP; or, if the child has been subjected to a series of removals from transportation and it results in the child’s absence from school for more than 10 school days.</p>
<p><b>14 DE Admin Code § 927.2.2.1</b></p>	<p><b><u>State and Local Performance Plans and Public Reports</u></b></p> <p>LEAs are required to use the targets established in the State’s performance plan, and the priority areas described in the regulations, to analyze and report on its performance to the DDOE. The LEA’s report shall be submitted in the manner and format required by the DDOE.</p>
<p><b>14 DE Admin Code § 927.3.1</b></p>	<p><b><u>DDOE’s Review and Determination Regarding LEA Performance</u></b></p> <p>The DDOE will annually review the performance of LEAs on the targets in the State’s performance plan. The DDOE’s review may include such other data, indicators and monitoring information as it determines appropriate to fully review an LEA’s performance under, and in compliance, with the regulations.</p>
<p><b>14 DE Admin Code § 927.4.1.2</b></p>	<p><b><u>Enforcement of Determination Findings</u></b></p> <p>If the DDOE determines, for two consecutive years, that an LEA needs assistance in implementing the requirements of Part B of the IDEA and Delaware’s regulations, the DDOE may, in addition to the actions outlined in federal law and regulations, direct the use of LEA sub grants under Section 611(f) of the IDEA on the area or areas in which the LEA needs assistance.</p>
<p><b>14 DE Admin Code § 927.4.2.2</b></p>	<p><b><u>Enforcement of Determination Findings</u></b></p> <p>If the DDOE determines, for three or more consecutive years, that an LEA needs intervention in implementing the requirements of Part B of the IDEA and Delaware’s regulations, the DDOE may, in addition to the actions outlined in federal law and regulations, require the LEA to enter into a compliance agreement with the DDOE if the DDOE has reason to believe that the LEA cannot correct the problem within one year, withhold not less than twenty nor more than fifty percent of the LEA’s sub grant under section 611(f) of the IDEA for each year of the determination until the DDOE determines that the LEA has sufficiently addressed the areas in which the LEA needs intervention, and/or seek to recover funds in any manner available under state or federal law after providing written notice and an opportunity for a hearing.</p>

<p><b>14 DE Admin Code § 927.4.3</b></p>	<p><b><u>Enforcement of Determination Findings</u></b></p> <p>If the DDOE determines that an LEA needs substantial intervention in implementing the requirements of Part B of the IDEA and Delaware’s regulations, the DDOE may, in addition to the actions outlined in federal law and regulations, seek to recover funds in any manner available under state or federal law after providing written notice and an opportunity for a hearing, refer the case to any other appropriate state or federal agency and/or refer the matter for any other appropriate enforcement action.</p>
<p><b>14 DE Admin Code § 928.5.4</b></p>	<p><b><u>Federal Sub Grants to LEAs</u></b></p> <p>Each LEA seeking a sub grant must complete and submit an application to the DDOE within the timeframes established by the DDOE, in written or electronic form as required by the DDOE, and include any certifications or assurances required by the DDOE. The application must also be consolidated with the LEA’s application for other federal programs to the extent permitted by DDOE procedures.</p>
<p><b>14 DE Admin Code § 928.5.5.1</b></p>	<p><b><u>Federal Sub Grants to LEAs</u></b></p> <p>The DDOE must review each timely sub grant application, notify the LEA whether its application is approved or not approved, and advise the LEA of any conditions which must be met in order for the application to be approved.</p>
<p><b>14 DE Admin Code § 928.5.5.6</b></p>	<p><b><u>Federal Sub Grants to LEAs</u></b></p> <p>Except as otherwise provided, hearings shall be conducted in accordance with the DDOE’s “Hearing Procedures and Rules.”</p>
<p><b>14 DE Admin Code § 928.5.5.7.2</b></p>	<p><b><u>Federal Sub Grants to LEAs</u></b></p> <p>A copy of the LEA’s federal notice of appeal must be filed with the DDOE when filed with the United States Secretary of Education.</p>
<p><b>14 DE Admin Code § 928.18.1 - 18.2</b></p>	<p><b><u>Facilities, Equipment, and Materials</u></b></p> <p>All instructional or treatment programs for children with disabilities must provide appropriate materials and equipment for implementation of individualized education programs. All facilities which house programs for children with disabilities must meet state and federal standards with regard to space, health, fire, safety, and barrier free regulations.</p>
<p><b>14 DE Admin Code § 929.3.0</b></p>	<p><b><u>Students in Need of Unique Educational Alternatives</u></b></p> <p>The State may provide unique educational alternative support for children with disabilities who have needs that cannot be addressed through existing resources and programs of the State, including, residential placements and private day programs. State statutes and regulations establish how and when such support may be provided to public agencies.</p>



<p><b>14 Del. C. § 3101(5)(e) &amp; (f)</b></p>	<p><b><u>FAPE</u></b></p> <p>FAPE is designed as specially designed instruction including classroom instruction, instruction in physical education, home instruction and instruction in hospitals and institutions, and related services as defined by the DDOE rules and regulations approved by the State Board of Education and as may be required to assist a child with a disability to benefit from education that:</p> <ul style="list-style-type: none"> <li>(a) Is provided at public expense, under public supervision and direction and without charge in the public school system;</li> <li>(b) Meets the standards of the DDOE;</li> <li>(c) Includes elementary, secondary or vocational education in the State;</li> <li>(d) Is individualized to meet the unique needs of the child with a disability;</li> <li>(e) Provides significant learning to the child with a disability; and</li> <li>(f) Confers meaningful educational benefit on the child with a disability that is gauged to the child with a disability's potential.</li> </ul>
<p>14 Del.C. §122 (b)</p>	<p><b><u>State Assessment System</u></b> - 14 DE Admin. Code 101</p> <p>Purpose: The purpose of this regulation is to outline the procedures, criteria and responsibilities related to the state assessment system required pursuant to 14 Del.C. §151.</p> <p>Purpose and Definitions  Delaware System of Student Assessments (DeSSA)  General and End of Course Assessments  Alternate Assessment - In addition, the creation of a Portfolio Alternate Assessment was added which outline procedures for participation, procedures for design and evaluation of Portfolio Alternate Assessment, Alternate Assessment review.  Levels of Performance</p>
<p><b>14 DE Admin Code § 925.6.17.1 and 925.6.7.2</b></p>	<p><b><u>Eligibility Criteria for Visual Impairment including Blindness</u></b></p> <p>Visual impairment including blindness means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness. This eligibility determination requires a thorough and rigorous evaluation with a data-based media assessment which is based on a range of learning modalities and includes a functional visual assessment.</p>
<p><b>14 DE Admin Code § 121</b></p>	<p><b><u>Certificate of Eligibility</u></b></p> <p>“Certificate of Eligibility” means a credential which may be issued to teachers of students with disabilities if the employing district or charter school establishes that the proposed recipient meets the requirements of 1221(2) of this title.</p> <p>(2) A certificate of eligibility, if the employing district or charter school establishes that all of the following apply:</p> <ul style="list-style-type: none"> <li>a. The proposed recipient is participating in a state-approved, appropriate alternative route for teacher licensure and certification program for teachers of students with disabilities.</li> </ul>

	<p>b. The proposed recipient of the certificate of eligibility is competent,</p> <p>c. The employing district or charter school is committed to support and assist the proposed recipient in achieving the skills and knowledge necessary to meet certification requirements.</p>
<p><b>14 DE Admin Code § 152</b></p>	<p><b><u>Diploma of Alternate Achievement Standards</u></b></p> <p>§ 152 State high school diploma requirements [For application of this section, see 81 Del. Laws, c. 229, § 2]</p> <p>(d) The Department shall award a State of Delaware — Diploma of Alternate Achievement Standards to a student who has met the requirements of the student's Individualized Education Program but will not complete the high school graduation course credit requirements established by the State, district, or charter school for a regular "State of Delaware High School Diploma" under subsection (a) of this section.</p>
<p><b>14 DE Admin Code § 1332</b></p>	<p><b><u>Statewide Program for Services for Students with Autism Spectrum Disorder (ASD).</u></b></p> <p>(a) The Department shall provide training and technical assistance across all public schools within this State on behalf of students with an educational classification of autism spectrum disorder ("ASD"). Educational programming provided under this chapter must have high-quality instruction based on research and evidence-based practice.</p> <p>(b) The Department, with the approval of the State Board of Education, shall designate a school district or other entity to administer the statewide program ("program") for students with an educational classification of ASD. If no district or other entity is willing to administer the statewide program, the Department must act in that role.</p> <p>(c) The entity administering the program must employ a statewide director ("Director") for a period of 12 months each year. The Director must be hired in consultation with the Peer Review Committee and have the following qualifications and expertise with ASD:</p> <ol style="list-style-type: none"> <li>(1) A doctorate degree in psychology, exceptional children, or applied behavior analysis ("ABA").</li> <li>(2) At least 5 years of experience working with individuals with ASD.</li> <li>(3) Graduate-level training in evidence-based practices in curriculum, instruction, and behavioral support such as ABA instructional strategies.</li> <li>(4) Experience planning or leading skill development in communication and social skill training programs for individuals with ASD.</li> <li>(5) Experience as a consultant to teams and an understanding of basic principles related to performance management.</li> <li>(6) Successful experience leading the development and implementation of an autism services program.</li> <li>(7) Successful experience leading the development and implementation of a structured professional development program and a performance management plan.</li> <li>(8) Successful direction and management of similar autism projects.</li> </ol>

(9) Other qualifications for certification as required by the Department, with the approval of the State Board of Education.

(d) The Department shall pay the Director a salary in an amount for which the Director qualifies under § 1305(a), (b), and (d) of this title plus an amount for administrative responsibility determined in accordance with § 1321(c) of this title. The Director's salary, including "years of experience," shall be determined in accordance with rules and regulations adopted by the Department with the approval of the State Board of Education.

(e) The program shall provide training and technical assistance for all public schools. The training and technical assistance under this subsection is a 3-year pilot program that ends on June 30, 2021, unless extended by an act of the General Assembly.

(1) The program must provide training and technical assistance by doing all of the following:

a. Identifying those practices specifically relevant to the education of students with an educational classification of ASD that are established as evidence-based through the best available outcome research or by expert consensus.

b. Promoting utilization of these practices by leading training and technical assistance activities specifically relevant to students with an educational classification of ASD,

c. Assisting with implementation of all aspects of training and technical assistance in all public schools, for students from birth to age 21 with an educational classification of ASD.

d. Supervising or managing contracts for training specialists employed under paragraph (e)(2) of this section.

e. Consulting and working collaboratively with the Department on all aspects of education programs related to ASD.

f. Serving as the primary liaison between the Department and other state agencies, committees, and programs on questions regarding programs for students with an educational classification of ASD.

(2) The program must have training specialists as follows:

a. At least 1 training specialist per 100 students with an educational classification of ASD. The total number of positions must be determined annually through the September 30 count of students with an educational classification of ASD. The program must be phased in with a minimum of 2 training specialists in Fiscal Year 2019, 2 training specialists added in Fiscal Year 2020, and additional training specialists added each fiscal year until the number of training specialists required under this paragraph (e)(2)a. is met or the pilot program ends under this subsection.

b. "Training specialists" must include qualified speech-language pathologists, behavior analysts, and other personnel with expertise in evidence-based instruction for people with ASD, in classroom, community, and home-based consultation.

c. Training specialists must serve eligible students within all public schools.

d. A training specialist must have a master's degree and 3 years of experience of demonstrated consultative experience with students with ASD.

e. The duties of a training specialist include providing training and technical assistance for staff working with students with an educational classification of ASD, including classroom consultation; plan development and performance feedback; parent training; and providing training for regular education staff on ASD and evidence-based strategies for inclusion practices.

(3) The program may, after approval by the Department, purchase specialized services instead of hiring staff to provide the education and training required under this section.

a. The dollar value of each full-time equivalent, when purchasing services to be provided by an outside contractor, is the number of dollars set in the state-supported salary schedule for a teacher holding a master's degree with 10 years of experience and employed for 12 months.

b. The calculation of this funding is for the current school year.

c. The State Board of Education may review any objection to the Department's decision.

(4) State appropriations must be phased in over several years, starting in Fiscal Year 2019 and in equal increments each subsequent fiscal year until fully funded or the pilot program ends under this subsection.

(5) Additional funding may be provided through any of the following:

a. Units and funds appropriated by the General Assembly.

b. Units and funds allocated by the Department.

c. Pass through funds and direct grants.

d. Tuition funds from public school districts as established by the rules and regulations of the Department, according to Chapter 6 of this title.

e. Fees for service for support where other funding is inadequate.

f. Other funds as available, including funds in excess of standard match funding under this title.

(f) The Department, with the approval of the State Board of Education, shall adopt such rules and regulations to establish and provide for the following committees:

(1) Parent Advisory Committees ("PAC").

(2) Peer Review Committee ("PRC") which, at the request of the Department, may also review educational procedures and programming for students with an educational classification of ASD and related disabilities.

(3) Statewide Monitoring Review Board ("SMRB"), composed of no less than 7 members, including 2 nonvoting public representatives nominated annually by the PAC. A public representative may not have a child with an educational classification of ASD enrolled in a Delaware public school program.

a. The SMRB shall review, at least annually, the education and provision of related services provided to students with an educational classification of ASD throughout all public schools to ensure the application of evidence-based practice and opportunities for meaningful and measurable progress and inclusion, as appropriate, are afforded to all such students.

b. The SMRB shall make findings and recommendations based on its review to

	<p>include data measuring these specific recommendations and suggestions for corrective action to ensure consistent quality and equity of services throughout this State.</p> <p>c. The SMRB shall submit its findings and recommendations, at least annually, to the Department and the Education Committees of the General Assembly. The SMRB's report must be available on each school district or school website.</p> <p>d. The SMRB shall resolve disputes within or between public schools and the Director. This paragraph (f)(3)d. does not diminish the procedural safeguards guaranteed to children with an educational classification of ASD, their parents or guardians, or public schools or agencies.</p> <p>e. If a public school is found to be out of compliance with the specific recommendations in this paragraph (f)(3), the Department and the Director must allow the public school the opportunity for technical assistance and progressive implementation of a corrective action plan for improvement agreed upon by the school and the Director.</p>
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# SECTION V.B.

## SIGNIFICANT DISPROPORTIONALITY REPORTING FORM

### Introduction:

In accordance with 34 CFR § 300.647 (b)(7), States are required to report to the Secretary risk ratio thresholds, minimum cell sizes, minimum n-sizes, standards for measuring reasonable progress, if appropriate, and rationales for each. In general, these rationales must contain justifications for the choices made, including all relevant data and research relied upon to make an informed choice and how the State included stakeholders in that process. Additionally, pursuant to the authority established in Section 618(a)(3) of the IDEA, the Secretary is also requiring States to report the number of years of data used by your State in making annual determinations of significant disproportionality.

### Section A: Minimum N-Sizes

<p>1. Has the State:</p> <p>a. established a minimum n-size of 30 or less in each of the 14 categories of analysis described in § 300.647(b)(3) and (4) <b>and</b></p> <p>b. verified that the State does not expect to have a comparison group in any of the categories of analysis that meets the minimum n-size?</p>	<p>Yes      No</p>
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If you answered **YES** to question 1, stop. Go to Page 14, enter the name, title and click "Submit".

<p>2. Does your State use a presumptively reasonable minimum n-size of 30 or less for each of the 14 categories of analysis described in § 300.647(b)(3) and (4)?</p>	<p>Yes      No</p>
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If you answered **YES** to question 2 please answer question 2a:

<p>2a. Does your State use the same minimum n-size for all categories of analysis?</p>	<p>Yes      No</p>
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If you answered **YES** to question 2a:

- Fill in *Table 1* below by providing the minimum n-size and rationale.

If you answered **NO** to question 2a:

- Fill in *Table 2* below by providing the minimum n-sizes and rationales for each category of analysis.

If you answered **NO** to question 2 please read below and answer question 2b:

#### **Minimum N-Size Detailed Rationale(s) Required**

In addition to the justification described in the Introduction, the rationale(s) must include a detailed explanation of why the numbers chosen are reasonable and how they ensure that the State is appropriately analyzing and identifying LEAs with significant disparities based on race and ethnicity in the identification, placement, or discipline of children with disabilities, as required by § 300.647(b)(7).

<p>2b. Does your State use the same minimum n-size for all categories of analysis?</p>	<p>Yes      No</p>
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If you answered **YES** to question 2b:

- Fill in *Table 1* below by providing the minimum n-size and *detailed* rationale.

If you answered **NO** to question 2b:

- Fill in *Table 2* below by providing the minimum n-sizes and *detailed* rationales for each category of analysis over 30.

Table 1: Minimum N-Size — Same Minimum N-Size for all Categories of Analysis

Category of Analysis	Minimum N-Size	Rationale <i>(detailed rationale required if minimum n-size is more than 30)</i>
All categories of analysis		

Table 2: Minimum N-Size — Multiple Minimum N-Sizes

Category of Analysis	Minimum N-Size	Rationale <i>(detailed rationale required if minimum n-size is more than 30)</i>
All disabilities		
Autism		
Emotional disturbance		
Intellectual disability		

<b>Category of Analysis</b>	<b>Minimum N-Size</b>	<b>Rationale</b> <i>(detailed rationale required if minimum n-size is more than 30)</i>
Other health impairments		
Specific learning disability		
Speech and language impairments		
Inside a regular classroom less than 40% of day		
Inside separate schools and residential facilities		
Total disciplinary removals		
Out of school suspensions <10 days		



Category of Analysis	Minimum N-Size	Rationale <i>(detailed rationale required if minimum n-size is more than 30)</i>
Out of school suspensions >10 days		
In school suspensions <10 days		
In school suspensions >10 days		

## Section B: Minimum Cell Sizes

3. Does your State use a presumptively reasonable minimum cell size of 10 or less for each of the 14 categories of analysis described in § 300.647(b)(3) and (4)?	Yes	No
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If you answered **YES** to question 3 please answer question 3a:

3a. Does your State only use one minimum cell size of 10 or less for all categories of analysis?	Yes	No
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If you answered **YES** to question 3a:

- Fill in *Table 3* below by providing the minimum cell size and rationale.

If you answered **NO** to question 3a:

- Fill in *Table 4* below by providing the minimum cell sizes and rationales for each category of analysis.

If you answered **NO** to question 3 please read below and answer question 3b:

**Minimum Cell Size Detailed Rationale(s) Required**

In addition to the justification described in the Introduction, the rationales must include a detailed explanation of why the numbers chosen are reasonable and how they ensure that the State is appropriately analyzing and identifying LEAs with significant disparities, based on race and ethnicity, in the identification, placement, or discipline of children with disabilities, as required by § 300.647(b)(7).

3b. Does your State use the same minimum cell size for all categories of analysis?	Yes	No
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If you answered **YES** to question 3b:

- Fill in *Table 3* below by providing the minimum cell size and *detailed* rationale.

If you answered **NO** to question 3b:

- Fill in *Table 4* below by providing the minimum cell size and *detailed* rationales for each category of analysis over 10.

**Table 3: Minimum Cell Size — Same Minimum Cell Size for all Categories of Analysis**

Category of Analysis	Minimum Cell Size	Rationale <i>(detailed rationale required if minimum cell size is more than 10)</i>
All categories of analysis		

**Table 4: Minimum Cell Size — Multiple Minimum Cell Sizes**

Category of Analysis	Minimum Cell Size	Rationale <i>(detailed rationale required if minimum cell size is more than 10)</i>
All disabilities		
Autism		

<b>Category of Analysis</b>	<b>Minimum Cell Size</b>	<b>Rationale</b> <i>(detailed rationale required if minimum cell size is more than 10)</i>
Emotional disturbance		
Intellectual disability		
Other health impairments		
Specific learning disability		
Speech and language impairments		
Inside a regular classroom less than 40% of day		
Inside separate schools and residential facilities		

Category of Analysis	Minimum Cell Size	Rationale <i>(detailed rationale required if minimum cell size is more than 10)</i>
Total disciplinary removals		
Out of school suspensions <10 days		
Out of school suspensions >10 days		
In school suspensions <10 days		
In school suspensions >10 days		

### Section C: Risk Ratio Thresholds

4. Does your State use one risk ratio threshold for each of the 14 categories of analysis described in § 300.647(b)(3) and (4)?	Yes      No
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If you answered **YES** to question 4:

- Fill in *Table 5* below by providing the risk ratio threshold and rationale.

If you answered **NO** to question 4:

- Fill in *Table 6* below by providing the risk ratio thresholds and rationales for each category of analysis.

Table 5: Risk Ratios — Same Risk Ratio Threshold for all Categories of Analysis

Category of Analysis	Risk Ratio Threshold	Rationale
All categories of analysis		

Table 6: Risk Ratios — Multiple Risk Ratio Thresholds

Category of Analysis	Risk Ratio Threshold	Rationale
All disabilities		
Autism		
Emotional disturbance		
Intellectual disability		

Category of Analysis	Risk Ratio Threshold	Rationale
<b>Other health impairments</b>		
<b>Specific learning disability</b>		
<b>Speech and language impairments</b>		
<b>Inside a regular classroom less than 40% of day</b>		
<b>Inside separate schools and residential facilities</b>		
<b>Total disciplinary removals</b>		
<b>Out of school suspensions &lt;10 days</b>		

Category of Analysis	Risk Ratio Threshold	Rationale
Out of school suspensions >10 days		
In school suspensions <10 days		
In school suspensions >10 days		

## Section D: Reasonable Progress

5. Does your state utilize the reasonable progress flexibility?	Yes	No
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If you answered **NO** to question 5, proceed to question 6.

5a. Does your state utilize the same reasonable progress flexibility for each of the 14 categories of analysis described in § 300.647(b)(3) and (4)?	Yes	No
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If you answered **YES** to question 5a:

- Fill in *Table 7* below by providing the State's standard for measuring reasonable progress and rationale.

If you answered **NO** to question 5a:

- Fill in *Table 8* below by providing the State's standards for reasonable progress and the rationale for each category of analysis.

Table 7: Reasonable Progress — Same Standard for all Categories of Analysis

Category of Analysis	Standard	Rationale
All categories of analysis		

Table 8: Reasonable Progress — Multiple Standards

Category of Analysis	Standard	Rationale
All disabilities		
Autism		
Emotional disturbance		
Intellectual disability		
Other health impairments		



Category of Analysis	Standard	Rationale
Specific learning disability		
Speech and language impairments		
Inside a regular classroom less than 40% of day		
Inside separate schools and residential facilities		
Total disciplinary removals		
Out of school suspensions <10 days		
Out of school suspensions >10 days		

Category of Analysis	Standard	Rationale
In school suspensions <10 days		
In school suspensions >10 days		

### Section E: Number of Years of Data

6. Does your state use the same number of years of data in making annual determinations of significant disproportionality for each of the 14 categories of analysis described in § 300.647(b)(3) and (4)?	Yes	No
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If you answered **YES** to question 6:

- Fill in *Table 9* below by providing the number of years of data the State uses in making annual determinations of significant disproportionality.

If you answered **NO** to question 6:

- Fill in *Table 10* below by providing the number of years of data the State uses in making annual determinations of significant disproportionality for each category of analysis.

**Table 9: Years of Data — Same Number of Years Used for all Categories of Analysis**

Category of Analysis	Number of Years of Data Used
All categories of analysis	

Table 10: Years of Data — Multiple Number of Years of Data Used

Category of Analysis	Number of Years of Data Used
All disabilities	
Autism	
Emotional disturbance	
Intellectual disability	
Other health impairments	
Specific learning disability	
Speech and language impairments	
Inside a regular classroom less than 40% of day	
Inside separate schools and residential facilities	
Total disciplinary removals	
Out of school suspensions <10 days	
Out of school suspensions >10 days	
In school suspensions <10 days	
In school suspensions >10 days	

Name of Individual Preparing the Form:

Title of Individual Preparing the Form:

Date: