

**HURON SCHOOL DISTRICT #2-2  
HURON, SOUTH DAKOTA**



**COMPREHENSIVE PLAN  
FOR SPECIAL EDUCATION**

**Adopted: July 9, 2018**

The Huron School District #2-2 does not discriminate on the basis of race, national origin, sex, disability, age, or religion in admission or access to or treatment or employment in its programs and activities. Any person having inquiries concerning the District's compliance with Title VI, Title IX, Section 504, or the Americans With Disabilities Act (ADA) is directed to contact Lori Wehlander, Director of Special Services, 150 5<sup>th</sup> St. SW, Huron, SD 57350, telephone number: (605) 353-6997, who has been designated by the Huron School District School Board to coordinate the District's efforts to comply with the regulations implementing these sections, or the U.S. Department of Education, Office for Civil Rights, One Petticoat Lane, 1010 Walnut Street, 3<sup>rd</sup> Floor, Ste. 320, Kansas City, Missouri 64106, telephone number: (816) 268-0550; TDD number: (800) 877-8339; E-mail: [OCR.KansasCity@ed.gov](mailto:OCR.KansasCity@ed.gov); or fax number: (816) 286-0599.

## South Dakota Comprehensive Plan/Program Narrative

### **Sec. 300.201 Consistency with State policies.**

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

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

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

The Huron School District has formally adopted the following policies and procedures as the district's comprehensive plan for special education. These policies and procedures were approved by the school board on July 9, 2018. As indicated by the signature below, the authorizing official acknowledges the district will meet all requirements of the Individuals with Disabilities Education Act and Article 24:05 through the implementation of these policies and procedures and furthermore, provides assurances that it meets each of the conditions in 34 CFR 300.201 through 300.213.

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

Terry Nebelsick, Superintendent

150 5<sup>th</sup> St. SW, Huron, SD 57350

605-353-6990

\*This page must be signed by the school district official listed above and returned to SD DOE

## South Dakota LEA Comprehensive Plan: Program Narrative

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

It is the goal of the Huron School District provide full educational opportunity to all children with disabilities residing in the district(s) between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in 300.530(d); 24:05:26 and 24:05:26.01, ARSD. Specific reference in the narrative to include:

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

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

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

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

One exception to the age range of FAPE is the special education student turning 21 during the school year who would continue to have free school privileges during the duration of that school year. Another exception is that children younger than age 3 who qualify for prolonged assistance will receive special education and related services, despite not yet being age 3.

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

The Huron School District may apply whatever Federal, State, local, and private funds are available to meet its obligations for the provision of FAPE and must ensure that FAPE is provided at no cost to parents and without delay – even if the sources of funding are still being determined. However, this does not relieve any insurer or similar third party from its responsibility to pay for otherwise valid obligations.

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

When necessary, the Huron School District will provide FAPE to students with disabilities through a public or private residential program at no cost to the parents.

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

When necessary for FAPE, the Huron School District will provide assistive technology to students with disabilities and the evaluation for such at no cost to the parents. This may include assistive technology to be used at home, when that is determined to be essential for FAPE on a case-by-case basis.

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

When necessary for FAPE, the Huron School District will provide extended school year services to students with disabilities at no cost to the parents.

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

To the maximum extent possible, the Huron School District will ensure that students with disabilities are allowed to participate with non-disabled peers during nonacademic services such as extracurricular activities, meals and recess. If supplementary aids and services are necessary to achieve this integration, the school district will provide them to the maximum extent possible.

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

To the maximum extent possible, the Huron School District will allow students with disabilities to participate in physical education classes with non-disabled peers unless a student requires specially designed physical education in the child's IEP.

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

To the maximum extent possible, the Huron School District will ensure that students with disabilities have access to the same program options as students without disabilities, such as art music, consumer education, and vocational education.

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

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

### District Narrative:

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

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

### District Narrative:

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

- Use of the term developmental delay; ARSD 24:05:24.01:09

The Huron School District recognizes a student three, four, or five years old may be identified as a student with a disability if the student has one of the major disabilities or if the student experiences a severe delay in development and needs special education and related services. A student with a severe delay in development functions at a developmental level two or more standard deviations below the mean in any one area of development specified in this section or 1.5 standard deviations below the mean in two or more areas of development. The areas of development are cognitive development, physical development, communication development, social or emotional development, and adaptive development.

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

The Huron School District ensures that children who may be suspected having a disability, and in need of special education, even though they are advancing from grade to grade are subject to child find requirements.

- Children who are highly mobile, including migrant children, 300.111(c)(2).

The Huron School District ensures that children, who reside within the Huron School District and are highly mobile, including migrant children, are subject to child find requirements.

### **Huron School District Policy Statement**

The Huron School District has in effect policies and procedures to ensure that all children with disabilities who reside within the boundaries of the district and who may be in need of special education and related services are located, identified, and evaluated according to all relevant regulations. This includes those students who may be homeless or wards of the state, as well as children with disabilities who may attend private schools within the jurisdiction of the district and children receiving alternative instruction under SDCL 13-27-3 within the legal boundaries of the district. Child find includes our ongoing efforts to identify pre-school and school age students with disabilities through our referral and evaluation procedures, as well as our periodic screening of preschoolers who may be experiencing developmental delays.

### **Implementing a Child Identification System in the Huron School District**

- The Director of Special Services is responsible for coordination, implementation, and documentation of the system for the District.
- The Huron School District shall provide an ongoing referral and evaluation process that is broad enough to reach all potential consumer groups. The Director of Special Services or designee shall publish in the local newspaper, pamphlets, posters displayed throughout the district, annual district-wide mailing, or the district web page public awareness information describing the District's child identification efforts to locate disabled children birth through twenty-one on an annual basis.
- Notices are printed in the Huron Daily Plainsman newspaper or district website: [www.huron.k12.sd.us](http://www.huron.k12.sd.us).
- The Director of Special Services shall notify all private schools, including religious schools, and children receiving alternative instruction under SDCL 13-27-3.

### **Huron School District Procedures for Collection, Maintaining, and Reporting Child Identification Data:**

Upon conclusion of group screening activities, which will include children not currently enrolled in public school education program – the District shall:

- Ensure that the individual designated to conduct the screening activity be responsible for collecting the information and providing a summary report indicating the results of the screening to the district.
- Report the results of the screening activities to each child's parent(s) or guardian(s).
- Review the results of the screening instruments to determine whether a specific child should be more closely evaluated or diagnosed.
- If a child is suspected through the screening activity to be in need of special education services, a referral will be made to conduct a multi-disciplinary evaluation to determine eligibility for special education and special education and related services – provided parental notification and consent is obtained.
- Ensure that the screening information gathered will not be used to label children or used exclusively to develop individual education programs.

### **Huron School District Referral Procedures:**

Referral defined. A statement to the effect that a referral includes any written request, which brings a student to the attention of a school district administrator (building principal, superintendent, or Director of Special Services) as a student who may be in need of special education. A referral made by a parent may be submitted verbally, but it must be documented in writing by the district. Referrals for 3-21 age students submitted late in the school year or in the summer will be acted upon when school resumes. Other sources of referrals include the following:

- Referral through screening;
- Referral by classroom teacher;
- Referral by other district personnel;
- Referral by other public or private agencies; and
- Referral by private schools, including religious schools.

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

The Huron School District ensures that each identified student with a disability has a current IEP in place that meets the requirements of Section 636(d) of the IDEA, and that has been developed in accordance with the requirements at 34 CFR sections 300.320 through 324. All identified students with disabilities in the Huron School District will have a current IEP in place

at the beginning of the school year, and for eligible preschool students, by their third birthday. Each eligible student's IEP will be reviewed periodically, but not less than annually, to review progress and determine whether annual goals are being met.

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

The Huron School District will ensure that each student's individualized education program shall include:

- (1) A statement of the student's present levels of academic achievement and functional performance, including:
  - (a) How the student's disability affects the student's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students); or
  - (b) For preschool student, as appropriate, how the disability affects the student's participation in appropriate activities;
- (2) A statement of measurable annual goals, including academic and functional goals, designed to:
  - (a) Meet the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum; and
  - (b) Meet each of the student's other educational needs that result from the student's disability;For students with disabilities who take alternate assessments aligned to alternate achievement standards, each student's IEP shall provide a description of benchmarks or short-term objectives;
- (3) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student:
  - (a) To advance appropriately toward attaining the annual goals;
  - (b) To be involved and make progress in the general education curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and
  - (c) To be educated and participate with other students with disabilities and nondisabled students in the activities described in this section;
- (4) An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in activities described in this section;
- (5) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and district-wide assessments consistent with § 24:05:14:14. If the IEP team determines that the student shall take an alternate assessment instead of a particular regular state or district-wide assessment of student achievement, a statement of why:
  - (a) The student cannot participate in the regular assessment; and
  - (b) The particular alternate assessment selected is appropriate for the student;
- (6) The projected date for the beginning of the services and modification described in this section and the anticipated frequency, location, and duration of those services and modifications;
- (7) A description of how the student's progress toward the annual goals described in this section will be measured and when periodic reports on the progress the student is making toward meeting the annual goals will be provided;
- (8) Beginning not later than the first IEP to be in effect when the student turns 16, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP shall include:
  - (a) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training or education, employment, and, if appropriate, independent living skills; and
  - (b) The transition services (including courses of study) needed to assist the student in reaching those goals; and
- (9) Beginning not later than one year before a student reaches the age of majority under state law, the student's individualized education program must include a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act, if any, that will transfer to the student on reaching the age of majority consistent with § 24:05:30:16.01.

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

On or before a student turns 16 years of age, the Huron School District will ensure that each student's individualized education program shall include:

Transition services that are a coordinated set of activities for a student with a disability, designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based on the individual student's needs, taking into account the student's strengths, preferences and interests, and may include instruction, related services, community experiences, the

development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

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

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

Beginning not later than one year before a student reaches the age of majority under state law, the Huron School District ensures that each student's individualized education program will include a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act, if any, that will transfer to the student on reaching the age of majority consistent with § 24:05:30:16.01.

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

The Huron School District ensures that the IEP team for each student with disabilities includes the following members:

- (1) The parents of the student;
- (2) Not less than one regular education teacher of the student if the student is, or may be, participating in the regular education environment;
- (3) Not less than one special education teacher of the student or, if appropriate, at least one special education provider of the student;
- (4) A representative of the school district who:
  - (a) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
  - (b) Is knowledgeable about the general education curriculum; and
  - (c) Is knowledgeable about the availability of resources of the school district;
- (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in subdivisions 2 to 6, inclusive, of this section;
- (6) At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student including related services personnel as appropriate;
- (7) If appropriate, the student; and
- (8) If appropriate, Transition services participants as described in §§ 24:05:25:16.01 and 24:05:25:16.02.

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

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

The Huron School District ensures that one or both parents of the child are present at each IEP team meeting or are afforded the opportunity to participate. The district shall notify parents of the meeting early enough to ensure that they will have an opportunity to attend, scheduling the meeting at a mutually agreed-upon time and place. The notice to the parents shall state the purpose, time, and location of the IEP team meeting and who will be in attendance and inform the parents of the provisions relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child, including information related to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the IDEA.

If a purpose of the IEP team meeting is the consideration of postsecondary goals and transition services for a student, the notice must also address the provisions of § 24:05:25:16.01.

If parents cannot attend, the district shall use other methods to ensure participation, including individual or conference telephone calls consistent with § 24:05:27:08.04.

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

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

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

The Huron School District ensures in developing, reviewing, and revising each student's individualized education program, the team shall consider the strengths of the student and the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, the academic, developmental, and functional needs of the student. The individualized education program team also shall:

- (1) In the case of a student whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports and other strategies to address that behavior;
- (2) In the case of a student with limited English proficiency, consider the language needs of the student as these needs relate to the student's individualized education program;
- (3) In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the student;
- (4) Consider the communication needs of the student and, in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and
- (5) Consider whether the student requires assistive technology devices and services.
- (6) The regular education teacher of a student with a disability, as a member of the individualized education program team, must, to the extent appropriate, participate in the development, review, and revision of the student's individualized education program, including the determination of appropriate positive behavioral interventions and supports and other strategies for the student and the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student consistent with subdivision 24:05:27:01.03(3).

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

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

For children with hearing impairments, including deafness, in need of special education that wear hearing aids in school, the district ensures the IEP team shall include a monitoring plan in the individual educational program to ensure the proper functioning of these corrective devices.

#### **Huron School District Policy Statement**

The Huron School District has established and implements procedures for placement of eligible students in special education programs, including general procedures, placement committee membership functions, and parent participation as outlined in the Individuals with Disabilities Education Act (IDEA) 2004, and the Administrative Rules of South Dakota.

The Huron School District shall initiate and conduct IEP team meetings to periodically review each child's individual educational program and, if appropriate, revise its provisions. An IEP team meeting must be held for this purpose annually. The review shall be conducted to determine whether the annual goals for the student are being achieved. The individualized education program shall be revised, as appropriate, to address: any lack of expected progress toward the annual goals and in the general curriculum, if appropriate; the results of any reevaluation conducted; information about the student provided to, or by, the parents; the student's anticipated needs; or other matters.

**A. IEP Team** - The Huron School District will ensure that the IEP team for each student with disabilities includes the following members:

- (1) The **parents** of the student;
- (2) Not less than **one regular education teacher** of the student if the student is, or may be, participating in the regular education environment;
- (3) Not less than **one special education teacher** of the student or, if appropriate, at least one special education provider of the student;

(4) A **representative of the school district** who:

- (a) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
- (b) Is knowledgeable about the general education curriculum; and
- (c) Is knowledgeable about the availability of resources of the school district;

(5) An **individual who can interpret the instructional implications of evaluation** results, who may be a member of the team described in subdivisions 2 to 6, inclusive, of this section

(6) At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student including related services personnel as appropriate

(7) If appropriate, the student; and

(8) If appropriate, Transition services participants as described in §§ 24:05:25:16.01 and 24:05:25:16.02.

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

**B. Development, review, and revision of individualized education program.** In developing, reviewing and revising each student's individualized education program, the team shall consider the strengths of the student and the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, the academic, developmental, and functional needs of the student.

The individualized education program team also shall:

(1) In the case of a student whose behavior impedes his or her learning or that of others, consider, the use of positive behavioral interventions, and supports and other strategies to address that behavior.

(2) In the case of a student with limited English proficiency, consider the language needs of the student as these needs relate to the student's individualized education program;

(3) In the case of a student who is blind or visually impaired, provide for instruction in braille and the use of braille unless the team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in braille or the use of braille), that instruction in braille or the use of braille is not appropriate for the student;

(4) Consider the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and

(5) Consider whether the student requires assistive technology devices and services.

The regular education teacher of a student with a disability, as a member of the individualized education program team, must, to the extent appropriate, participate in the development, review, and revision of the student's individualized education program, including the determination of appropriate positive behavioral interventions and supports and other strategies for the student and the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student.

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

**C. Content of individualized education program.** Each student's individualized education program shall include:

- (1) A statement of the student's present levels of academic achievement and functional performance, including:

- (a) How the student's disability affects the student's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students); or
  - (b) For preschool student, as appropriate, how the disability affects the student's participation in appropriate activities;
- (2) A statement of measurable annual goals, including academic and functional goals, designed to:
- (a) Meet the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum; and
  - (b) Meet each of the student's other educational needs that result from the student's disability;

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

- (3) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided for the student:
- (a) To advance appropriately toward attaining the annual goals;
  - (b) To be involved and progress in the general education curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and
  - (c) To be educated and participate with other students with disabilities and nondisabled students in the activities described in this section;

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

- (5) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and district-wide assessments consistent with district policies and procedures. If the IEP team determines that the student shall take an alternate assessment instead of a particular regular state or district-wide assessment of student achievement, a statement of why:
- (a) The student cannot participate in the regular assessment; and
  - (b) The alternate assessment is appropriate for the student; and/or
  - (c) If district level assessment is not appropriate.

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

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

- (8) Beginning not later than the first IEP to be in effect when the student turns 16, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP shall include:
- (a) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, if appropriate, independent living skills; and
  - (b) The transition services (including courses of study) needed to assist the student in reaching those goals; and

- (9) Beginning not later than one year before a student reaches the age of majority under state law, the student's individualized education program must include a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act, if any, that will transfer to the student on reaching the age of majority consistent with district policies and procedures.

**D. Access to IEP.** The school district shall ensure that the child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and other service provider who is responsible for its implementation. Each teacher and provider described above is informed of:

- (1) His or her specific responsibilities related to implementing the child's IEP; and
- (2) The specific accommodations, modifications, and supports that must be provided the child in accordance with the IEP.
- (3) The information will be disseminated by SPED case manager to all staff responsible for implementation at the Initial/Annual IEP meeting, beginning of each school year and beginning of new semester or trimester depending on building level schedule. Case manager will maintain documentation to show this has been completed.
- (4) All staff will receive FERPA training at the beginning of each school year and when appropriate.

**E. IEP team attendance.** A member of the IEP team described in item 1 of this section, (1)-(5), inclusive, is not required to attend an IEP team meeting, in whole or in part, if the parent of a student with a disability and the school district agree in writing that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting. A member of the IEP team may be excused from attending, in whole or in part, an IEP team meeting that involves a modification to or discussion of the member's area of the curriculum or related services, if:

- (1) The parent and school district consent in writing to the excusal; and
- (2) The member submits, to the parent and the IEP team, input into the development of the IEP before the meeting.

**F. Initial IEP team meeting for infants and toddlers.** If a student was previously served under part C, an invitation to the initial IEP team meeting shall, at the request of the parent, be sent to the part C service coordinator or other representatives of the part C system to assist with the smooth transition of services.

**G. IEP team meeting date.** Initial IEP team meetings must be held consistent with pre-placement evaluation timelines. IEP team meetings following reevaluations must be held consistent with district policies and procedures. As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with an IEP.

**H. IEP team to determine related services.** In developing a child's individual educational program, the members of the IEP team, shall determine if any developmental, corrective, or other support services, including transportation, are required to assist a child to benefit from special education. These services must be written into the individual educational program as related services.

**I. Determination of related services.** In deciding whether a particular developmental, corrective, or other supportive service is a related service, the members of the IEP team shall review the results of the individual evaluation used to determine the child's need for special education. Based on the specific special education services to be provided, the Team shall determine whether or not related services are required in order to assist the child to benefit from the special education program.

**J. Parental consent for services.** A school district that is responsible for making a free appropriate public education available to a student with a disability under this article shall obtain informed consent from the parent of the student before initially providing special education and related services to the student.

The district shall make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child. To meet the reasonable efforts requirement, the district shall document its attempts to obtain parental consent using the procedures in § 24:05:25:17.

If the parent of the student fails to respond or refuses to consent to services, the school district may not use the procedures in chapter 24:05:30, including the mediation procedures or the due process procedures, in order to obtain agreement or a ruling that the services may be provided to the child.

**K. Parental refusal to consent -- School district obligations.** If the parent of a student refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide such consent:

- (1) The school district is not considered to be in violation of the requirement to make available free appropriate public education to the student for the failure to provide the student with the special education and related services for which the school district requests such consent; and
- (2) The school district is not required to convene an IEP meeting or develop an IEP under this chapter for the student for the special education and related services for which the school district requests such consent.

**L. Parental withdrawal of consent for services.** If, at any time subsequent to the initial provision of special education and related services, the parent of a student revokes consent in writing for the continued provision of special education and related services, the school district:

- (1) May not continue to provide special education and related services to the student, but shall provide prior written notice in accordance with chapter 24:05:30 before ceasing the provision of special education and related services;
- (2) May not use the procedures in chapter 24:05:30, including the mediation procedures or the due process procedures, in order to obtain agreement or a ruling that the services may be provided to the student;
- (3) Is not considered to be in violation of the requirement to make FAPE available to the student because of the failure to provide the student with further special education and related services; and
- (4) Is not required to convene an IEP team meeting or develop an IEP under this chapter for the student for further provision of special education and related services.

**M. Hearing aid.** For children with hearing impairments, including deafness, in need of special education who wear hearing aids in school, the IEP team shall include a monitoring plan in the individual educational program to ensure the proper functioning of these corrective devices.

**N. External components of surgically implanted medical devices.** Each Huron School District shall ensure that the external components of surgically implanted medical devices are functioning properly.

For a child with a surgically implanted medical device who is receiving special education and related services under article 24:05, a school district is not responsible for the post-surgical maintenance, programming, or replacement of the medical device that has been surgically implanted or of an external component of the surgically implanted medical device.

**O. Medical services.** Medical services, as a related service, may only be authorized by an IEP team for diagnostic or evaluation purposes. Medical services means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

**P. Transportation.** If transportation is required for the child to benefit from the special education program, transportation shall be written in the individual educational program and provided at no cost to the parent. A district may not require that a parent provide transportation; however, if both parties agree that the parent will provide the transportation, it shall be noted on the individual educational program and the parent shall be reimbursed by the district in accordance with state law.

**Q. Yearly review and revision of individual educational programs.** Huron School District shall initiate and conduct an IEP team meeting to periodically review each child's individual educational program and, if appropriate revise its provisions. An IEP team meeting must be held for this purpose annually.

The review shall be conducted to determine whether the annual goals for the student are being achieved. The individualized education program shall be revised, as appropriate, to address: any lack of expected progress toward the annual goals and in the general curriculum, if appropriate; the results of any reevaluation conducted; information about the student provided to, or by, the parents; the student's anticipated needs; or other matters.

**R. Agreement to change IEP.** In making changes to a student's IEP after the annual IEP meeting for a school year, the parent of a student with a disability and the school district may agree not to convene an IEP meeting for the purposes of making the changes, and instead may develop a written document to amend or modify the student's current IEP. If changes are made to the student's IEP in accordance with this section, the district shall ensure that the student's IEP team is informed of the changes.

**S. Amendments to IEP.** Changes to the IEP may be made either by the entire IEP team at an IEP team meeting or, as provided in § 24:05:27:08.01, by amending the IEP (that can be documented in a Prior Written Notice) rather than by redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the IEP or PWN with the amendments documented. A change to an IEP for a student with disabilities does not give rise to the due process requirements of article 24:07, unless the superintendent recommends long-term suspension or expulsion for the student.

**T. Consolidation of IEP team meetings.** To the extent possible, the school district shall encourage the consolidation of reevaluation meetings for the student and other IEP team meetings for the student.

**U. Alternative means of meeting participation.** When conducting IEP team meetings pursuant to district policies and procedures, and carrying out administrative matters under procedural safeguards (such as scheduling, exchange of witness lists, and status conferences), the parent of a student with a disability and a school district may agree to use alternative means of meeting participation, such as video conferences and conference calls.

**V. Individual educational program for the students placed in out of district private schools or facilities** (i.e. Lifescape, Abbott House, SDSBVI, etc.). Before the Huron School District places or refers a child in need of special education or special education and related services to a private school, facility, or a contracting district, the Huron School District shall initiate and conduct an IEP team meeting to develop an individual educational program for the child in accordance with district procedures.

The Huron School District will ensure that a representative of the private school or facility attends the IEP team meeting if appropriate. If the representative of the private school or facility cannot attend the IEP team meeting, the district shall use other methods to ensure participation, including individual or conference telephone calls.

After a child in need of special education or special education and related services enters a private school or facility, any meetings to review and revise the child's individual educational program may be initiated and conducted by the private school or facility at the discretion of the district.

If the private school or facility initiates and conducts these meeting, the district shall ensure that the parents and a district representative are involved in any decision about the child's individual educational program and agree to any proposed changes in the program before those changes are implemented.

Even if a private school or facility implements a child's individual educational program, responsibility for compliance with this section remains with the school district and the department of education.

#### **W. Graduation:**

##### **IDEA requirements**

The Individuals with Disability Education Improvement Act (IDEA 2004) addresses graduation as follows:

- The obligation to make a free and appropriate public education (FAPE) available to all children with disabilities does not apply with respect to children with disabilities who have graduated from high school with a **signed regular high school diploma**.
- Graduation from high school with a signed regular high school diploma constitutes a change in placement, requiring written prior notice.
- The term **signed regular high school diploma** does not include an alternative degree that is not fully aligned with the State's academic standards, such as a certificate or a general educational development credential (GED).
- An evaluation is not required before the termination of a child's eligibility due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State law.

The federal government has traditionally given states the authority to develop specific educational programs, including curriculum and graduation requirements. The South Dakota State Board of Education, through administrative rules, has set minimum requirements that students must complete in order to earn a high school diploma; local education agencies (LEAs) may set additional requirements. These requirements apply to all South Dakota students, regardless of disability or English language acquisition status.

**24:43:11:01. Number of required credits for graduation from high school --Personal learning plan required**

- A. Student must earn a minimum of 24 credits
- B. Guidelines to waive graduation requirements
- C. Required to have a personal learning plan

**X. Amending Graduation Requirements.** South Dakota State Special Education Rules ARSD 24:05:27:12, allows the IEP team to modify specific units of credits toward the graduation requirements. Amendments may include modifications and/or substitutions according to state rules made to accommodate the needs of the individual student; the nature and extent of any amendments must be documented in the IEP. While the SD DOE does not define “modifications and/or substitutions” IEP teams might wish to consider the following guidelines:

- Documentation of any amendments should be cumulative in a nature so that the IEP team is able to accurately discuss the student’s progress toward earning a diploma.
- Amendment of graduation requirements through course substitutions allowed by state rules should be made in similar content areas whenever possible in order to provide the student a well-rounded education. For example, the team may choose to substitute a Basic Math class for Algebra I. This would be more educationally sound than substituting Ceramics for Algebra I. As always, the team, including the parents, will make the final determination regarding any amendment of graduation requirements.
- When making amendments, the team should consider unintended consequences for the student’s post-school activities. Substituting functional courses for math requirements, for example, may require the student to take remedial math courses in higher education (at regular tuition prices, with no credit earned). In addition, exempting a student from world language classes may negatively affect college admission.

When amending graduation requirements, the IEP team should consider the effect on the student’s progress toward achieving his/her measurable post-secondary goals.

**Y. Agency responsibility for transition services.** If a participating agency, other than the school district, fails to provide transition services contained in the IEP of a student with a disability, the school district responsible for the student’s education shall reconvene an IEP team meeting for the purpose of identifying alternative strategies to meet the transition objectives set out in the student’s IEP.

Nothing in this section relieves a participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities that meet the eligibility criteria of that agency.

**Z. Transition services.** Transition services are a coordinated set of activities for a student with a disability, designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student’s movement from school to post school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based on the individual student’s needs, taking into account the student’s strengths, preferences and interests, and shall include instruction, related services, community experiences, the development of employment and other post school adult living objectives, and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

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

**AA. IEPs for student transfers within state.** If a student with a disability transfers school districts within the same academic year, enrolls in a new school, and had an IEP that was in effect in the state, the school district shall provide the student with a free appropriate public education. This includes providing services comparable to those described in the previously held IEP, in consultation with the parents, until the school district adopts the previously held IEP or develops, adopts, and implements a new IEP that is consistent with federal and state law.

**BB. IEPs for student transfers from another state.** If a student with a disability, who had an IEP that was in effect in a previous school district in another state, transfers to a school district in South Dakota, and enrolls in a new school within the same school

year, the new school district, in consultation with the parents, shall provide the child with FAPE, including services comparable to those described in the student's IEP from the previous school district, until the new school district:

- (1) Conducts an evaluation pursuant to district policies and procedures, if determined to be necessary by the new school district; and
- (2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in this chapter.

**CC. Transmittal of records for student transfers.** To facilitate the transition for a transfer student within state and from another state:

- (1) The new school in which the student enrolls shall take reasonable steps to promptly obtain the student's records, including the IEP and supporting documents and any other records relating to the provision of special education and related services to the student, from the previous school in which the student was enrolled, pursuant to § 99.31(a)(2) of the federal Family Educational Rights and Privacy Act as amended to July 1, 2005; and
- (2) The previous school in which the student was enrolled shall take reasonable steps to promptly respond to the request from the new school.

**DD. Related services provided at no cost.** Consistent with district policies and procedures for determining the need for related services, the district shall provide related services at no cost to the parent. Related services may include transportation; speech-language pathology; audiological services; interpreting services; psychological services; physical and occupational therapy; recreation, including therapeutic recreation; early identification and assessment of disabilities in children; counseling services; including rehabilitation counseling; orientation and mobility services; medical services for diagnostic or evaluation purposes; school nurse and school health services designed to enable a student with a disability to receive a free appropriate public education as described in the IEP of the student; social work services in schools; and parental counseling and training. Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g. mapping), maintenance of that device, or the replacement of the device.

**EE. Rehabilitative counseling services.** Rehabilitation counseling services are services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to students with disabilities by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended to January 1, 2007.

**FF. Services applicable to surgically implanted device.** Nothing in this section:

- (1) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services listed in this chapter that are determined by the IEP team to be necessary for the child to receive FAPE;
- (2) Limits the responsibility of a school district to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or
- (3) Prevents the routine checking of an external component of a surgically- implanted device to make sure it is functioning properly, as required in this chapter.

**GG. Employment of Braille teacher.** If an IEP team determines that a student's instruction in reading and writing must be accomplished through the use of braille, the district shall seek out the services of a certified braille teacher. By July 1, 1993, all individuals employed, as a braille teacher must be certified pursuant to state requirements.

**HH. Assistive technology device.** The term assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of children with disabilities.

**II. Assistive technology service.** The term assistive technology service means any service that directly assist a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes:

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

**JJ. Universal design.** Universal design is a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly usable without requiring assistive technologies and products and services that are made usable with assistive technologies.

**KK. Availability of assistive technology.** Each school district shall ensure that assistive technology devices or assistive technology services, or both, are made available to a child with a disability if they are required as a part of the child's special education or related services or as supplementary aids and services.

On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the student's placement committee determines that the child needs access to those devices in order to receive FAPE.

**LL. Transition to preschool program.** Each local school district shall develop policies and procedures for the transition of children participating in the early intervention program under Part C of the Individuals with Disabilities Education Act (IDEA) who are eligible for participation in preschool programs under Part B of IDEA.

Each district's policies and procedures must include the following:

- (1) A description of how the families will be included in the transitional plans;
- (2) Procedures to be used by the district for notifying the local network in which the child resides of the need for transitional planning;
- (3) Procedures for convening, with the approval of the family, a conference between the network, family, and district;
- (4) A requirement for convening the conference at least 90 days, and at the discretion of all parties, not more than 9 months before the child is eligible for the preschool program under Part B of Individual with Disabilities Education Act; and
- (5) Procedures for reviewing a child's program options for the period beginning with the day a child turns three and running through the remainder of the school year including the development and implementation of an individual education program consistent with article 24:05.

Each affected district shall participate in transition planning conferences arranged by the IDEA, Part C, program.

In the case of a child with a disability, aged three, previously eligible for Part C of IDEA, the IEP team must consider the child's IFSP that contains the IFSP content, including the natural environments statement, described in article 24:14, Early Childhood.

**MM. Occupational therapy defined.** Occupational therapy, as a related service, includes:

- (1) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;
- (2) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and
- (3) Preventing, through early intervention, initial or further impairment or loss of function.

**Criteria for occupational therapy.** A student may be identified as in need of occupational therapy as a related service if:

- (1) The student has a disability and requires special education;
- (2) The student needs occupational therapy to benefit from special education; and
- (3) The student demonstrates performance on a standardized assessment instrument that falls at least 1.5 standard deviations below the mean in one or more of the following areas: fine motor skills, sensory integration, and visual motor skills.

**NN. Physical therapy defined.** Physical therapy, as a related service, includes gross motor development; mobility; use of adaptive equipment; and consultation and training in handling, positioning, and transferring students with physical impairments.

**Criteria for physical therapy.** A student may be identified as in need of physical therapy as a related service if:

- (1) The student has a disability and requires special education;
- (2) The student needs physical therapy to benefit from special education; and
- (3) The student demonstrates a delay of at least 1.5 standard deviations below the mean on a standardized motor assessment instrument.

**OO. Incarcerated students in adult prisons.** The following requirements do not apply to students with disabilities who are convicted as adults under state law and incarcerated in adult prisons:

- (1) Participation of students with disabilities in general assessment; and
- (2) Transition planning and services with respect to the student whose eligibility under this article will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

**PP. Modifications to IEPs for students in adult prisons.** The IEP team may modify the student's individualized education program or placement if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. However, these modifications do not apply with respect to:

- (1) The development, review, and revision of individualized education programs as described in district policies and procedures;
- (2) Content of the individualized education program with the exception of general assessment and transition as noted above; and
- (3) The least restrictive environment provisions relating to being educated with nondisabled students and removal from the regular education environment.

**QQ. Purchase of instructional materials.** A school district that chooses to coordinate with the National Instructional Materials Access Center (NIMAC), when purchasing print instructional materials, must acquire those instructional materials in the same

manner, and subject to the same conditions as the department. Nothing in this section requires a school district to coordinate with the NIMAC.

If a school district chooses not to coordinate with the NIMAC, the district shall provide an assurance to the department that the district will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

Nothing in this section relieves a district of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats but are not included under the definition of blind or other persons with print disabilities who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner.

#### **Huron School District Procedures:**

##### **Development, Review, and Revision of IEPs.**

1. The Director of Special Services/designee will be responsible to ensure that the proper procedures are followed in the development, review, and revision of each IEP. This would include completing and delivering parental prior notices and other correspondence relating to development, review, or revision of IEP's, adhering to time lines, composition of the IEP team, and properly completing each section of the IEP.
2. The IEP team will ensure that all appropriate special education issues are addressed and documented on the IEP. The district's Comprehensive Plan along with the IEP Technical Assistance Guide, available from Special Education Programs, will be used as references in the development, review, and revision of each IEP.
3. All decisions of the IEP team will be made jointly by the parents and school personnel through the IEP process and specified on the child's IEP. The IEP will be in effect before special education and related services are provided to a child and will be implemented as soon as possible following a placement committee meeting.
4. The special educator will ensure that the parent receives a copy of the completed IEP. The district will ensure the general educators and other service providers are made aware of the sections of the IEP they are responsible for implementing in the child's program.

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

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

- A continuum of alternative placements; 300-115; ARSD 24:05:28:02
  1. Regular educational programs with modification;
  2. Resource rooms;
  3. Self-contained programs;
  4. Separate day school programs;
  5. Residential school programs;
  6. Home and hospital programs;
  7. Other settings.

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

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

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

The IEP team will ensure the following:

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

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

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

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

The school district through its IEP team and individual education program procedures, will ensure that children placed in public or private institutions or other care facilities are educated with children who are not disabled to the maximum extent appropriate.

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

The district will provide ongoing training to all staff and paraprofessionals to assist all in the provision of services to students with disabilities.

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

The district will submit data to the state for the purpose of monitoring educational placements for students with disabilities on an annual basis.

#### **Huron School District Policy Statement**

The Huron School District has established and implements procedures for educating children with disabilities in the least restrictive environment which ensures that children in need of special education or special education and related services including preschool children are provided special education and services to meet their individual needs which are coordinated with the regular educational program whenever appropriate, by adopting the Administrative Rules of South Dakota.

Removal from the regular educational classroom will occur only when the nature or severity of the child's needs is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

#### **Huron School District Procedures:** Least Restrictive Environment, including Preschool Programs.

1. At least annually, the IEP Team will discuss the pertinent factors to ensure the child is placed in the least restrictive environment.
2. At least annually, the IEP Team will determine the placement of the child within the continuum of alternative placements and will determine the need for related services.
3. At least annually, the IEP Team will discuss the nonacademic and extracurricular services to ensure these program options are available to the child.

4. At least annually, the IEP Team will discuss how the child placed in a public or private institution or other care facility will be educated with children who are not disabled to the maximum extent.
5. At least annually, the IEP Team will determine the need for physical education services, specially designed if necessary, for the child in need of special education or special education and related services.
6. At least annually the IEP Team will determine the needs of the eligible preschool child, ages three through five, and develop the IEP program to ensure the child receives a free appropriate public education.

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

### **Huron School District procedures:**

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

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

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

The Huron School District posts a copy of the procedural safeguards document on its website ([www.huron.k12.sd.us](http://www.huron.k12.sd.us)) in English, Spanish and Karen to afford access to the public.

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

The Huron School District ensures the parents of a child in need of special education or special education and related services shall be afforded an opportunity to inspect and review all education records concerning the identification, evaluation, and educational placement of the child and the provisions of a free appropriate public education to the child.

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

The Huron School District ensures a parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the district subject to the conditions in this section.

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

If a parent requests an independent educational evaluation, the district may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the district may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.

The Huron School District will provide to the parents, upon written request for an IEE, evaluator, geographical boundaries to obtain the IEE and cost. The district will allow parent to demonstrate unique circumstances to justify deviating from IEE criteria.

If the parent requests an independent educational evaluation at public expense, the district must, without unnecessary delay, either file a due process complaint to request a hearing under this chapter to show that its evaluation is appropriate, or ensure that an independent educational evaluation is provided at public expense unless the district demonstrates in a hearing that the

evaluation obtained by the parent did not meet district criteria. If the district files a due process complaint to request a hearing under this chapter and the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

A parent is entitled to only one independent educational evaluation at public expense each time the district conducts an evaluation with which the parent disagrees.

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

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

For the purposes of this section, the term, independent education evaluation, means an evaluation conducted by a qualified examiner who is not employed by the district responsible for the education of the child in question. For purposes of this section, the term, public expense, means that the district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent consistent with §§ 24:05:14:01 to 24:05:14:01.05, inclusive.

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

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

The Huron School District ensures prior written notice must be given to the parents five days before the district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child. The five-day notice requirement may be waived by the parents.

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

The Huron School District ensures a copy of the procedural safeguards is available to the parents of a child with a disability, and must be given to the parents only one time a school year, except that a copy must also be given to the parent:

- (1) Upon initial referral or parental request for evaluation;
- (2) Upon request by a parent;
- (3) In accordance with the discipline procedures in chapters 24:05:26 and 24:05:26.01; and
- (4) Upon receipt of the first state complaint under chapter 24:05:15 and first due process complaint under this chapter in a school year.

The Huron School District makes available a current copy of the procedural safeguards notice on its website.

The Huron School District ensures the procedural safeguards notice includes a full explanation of all of the procedural safeguards available under this article and the state complaint procedures relating to:

- (1) Independent educational evaluation;
- (2) Prior written notice;
- (3) Parental consent;
- (4) Access to educational records;
- (5) Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:
  - (a) The time period in which to file a complaint;
  - (b) The opportunity for the district to resolve the complaint; and
  - (c) The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;
- (6) The child's placement during pendency of any due process complaint;
- (7) Procedures for students who are subject to placement in an interim alternative educational setting;

- (8) Requirements for unilateral placement by parents of children in private schools at public expense;
- (9) The availability of mediation;
- (10) Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
- (11) Civil actions, including the time period in which to file those actions; and
- (12) Attorneys' fees.

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

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

The Huron School District ensures a parent of a child with a disability may elect to receive notices required by this chapter by an electronic mail communication.

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

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

(1) The district shall ensure that mediation is viewed as voluntary and freely agreed to by both parties and is in no way used to deny or delay an aggrieved party's right to a hearing on a parent's due process complaint, or to deny any other rights afforded under this article; and

(2) The mediation conference is an intervening, informal process conducted in a non-adversarial atmosphere that is scheduled in a timely manner and held in a location that is convenient to the parties in the dispute.

The state shall bear the cost of the mediation process, including the costs of meetings.

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

A parent or the Huron School District may file a due process complaint on any matters relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child.

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

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

(1) Shall include a representative of the district who has decision-making authority on behalf of the district; and

(2) May not include an attorney of the district unless an attorney accompanies the parent.

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

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

The resolution meeting need not be held if:

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

If the Huron School District has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur.

Except as provided in § 24:05:30:08.14, the timeline for issuing a final decision in a due process hearing begins at the expiration of the 30-day period.

Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding the above two paragraphs, the failure of the parent filing a due process complaint to participate in the resolution meeting delays the timelines for the resolution process and due process hearing until the meeting is held.

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

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

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

Any party to a hearing, under this chapter or chapter's 24:05:26 and 24:05:26.01, has the right to:

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

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

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

A parent or the district, if aggrieved by the decision of the hearing officer under this chapter or chapters 24:05:26 and 24:05:26.01, may bring a civil action with respect to a due process complaint notice requesting a due process hearing under the Individuals with Disabilities Education Act, 20 U.S.C. § 1415(i)(2). A civil action may be filed in either state or federal court without regard to the amount in controversy. The party bringing the action has 90 days from the date of a hearing officer's decision to file a civil action. In any action brought under this section, the court:

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

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

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

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

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

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

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

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

1. The identification of staff members at the district or building level responsible for referring students in need of a surrogate parent;
2. The provision of in-service training on the criteria in this section for determining whether a child needs a surrogate parent; and
3. The establishment of a referral system within the district for the appointment of a surrogate parent. If a child is a ward of the state, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, if the surrogate meets the requirements of this section.
  - a. The district superintendent or designee shall appoint surrogate parents.
  - b. The district shall ensure that a person selected as a surrogate has no personal or professional interest that conflicts with the interest of the child the surrogate represents and has knowledge and skills that ensure adequate representation of the child. The district is responsible for the training and certification of surrogate parents and shall maintain a list of persons who may serve as surrogate parents.
  - c. A person assigned as a surrogate may not be an employee of the department, district, or any other agency that is involved in the education or care of the child.
  - d. If a child is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents, without regard to the nonemployee provision above, until a surrogate parent can be appointed who meets all of the requirements of this section.
  - e. A person who otherwise qualifies to be a surrogate under the provisions of this section is not an employee of the agency solely because the person is paid by the agency to serve as a surrogate parent.
  - f. The surrogate parent may represent the student in all matters relating to the identification, evaluation, educational placement, and provision of FAPE to the students.

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

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

- (1) The school district shall provide any notice required by this article to both the individual and the parents;
- (2) All other rights accorded to parents under this article transfer to the child; and
- (3) All rights accorded to parents under this article transfer to children who are incarcerated in an adult or juvenile, state, or local correctional institution.

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

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

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

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

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

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

Students under the age of 18 can be issued a citation for truancy and will have to appear in court. Prior to issuing a citation the parents are informed by the school office. Administration will meet with the student and parents when possible to inform them of the consequences of truancy and discuss ideas to improve attendance. The Huron School District with regards to truancy concerns of students on Individual Education Plans (IEP) or 504 Accommodation Plans will address absences and tardies with the student's team before truancy is referred to State's Attorney.

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

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

- Right of appeal of the determination of setting; 300.532; ARSD 24:05:26:09.05

The parent of a child with a disability who disagrees with any decision regarding:

1. Placement under these procedures, or
2. The manifestation determination may request a hearing by filing a due process complaint consistent with this document.

The district that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others may request a hearing by filing a due process complaint consistent with this document.

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

A removal of a child with a disability from the child's current educational placement is a change of placement if:

1. The removal is for more than 10 school days in a row; or
2. The child has been subjected to a series of removals that constitute a pattern because:
  - a. The series of removals total more than 10 school days in a school year;
  - b. The child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
  - c. Of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

The Huron School District determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

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

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

1. The parent of the student has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the student, that the student is in need of special education and related services;
2. The parent of the student has requested an evaluation of the student pursuant to this article; or

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

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

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

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

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

Nothing in Part B of the Individuals with Disabilities Education Act prohibits a school district from reporting a crime committed by a student with a disability to appropriate authorities or to prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student with a disability.

The district reporting a crime committed by a student with a disability shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to which it reports the crime. A school district reporting a crime under this chapter may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act, as amended to January 8, 2009.

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

For purposes of removal of a student with a disability from the student's current educational placement under this chapter, a change of placement occurs if:

1. The removal is for more than ten consecutive school days; or
2. The student is subjected to a series of removals that constitute a pattern because:
  - a. They cumulate to more than ten school days in a school year;
  - b. Of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another; and
  - c. The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals.

The Huron School District determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceeding

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

### **Huron School District Referral, Evaluation, Consent, Eligibility, and Placement Procedures.**

The Huron School District has established and implements procedures for the referral, evaluation, consent and placement of children with disabilities.

Referrals for evaluation for public and private schools, including religious schools, school-age children shall be directed to the building principal of the child's home attendance center.

#### **A. Huron School District Procedures for Completing and Routing Referrals for Evaluation**

School personnel referring children for evaluation shall:

1. Review the child's records and consult with appropriate staff (case study) to collect pertinent information
2. Confer with the principal/designee
3. Complete accurately and in detail all sections of the referral form and forward it to the building principal
4. Discuss the reasons for referral
5. Discuss areas that need to be assessed

Parent(s)/guardian(s) of children who initiate referrals shall be offered assistance by the principal/designee in completing the referral form. Upon receipt of a referral form, the principal/designee shall:

1. Review the referral and make a determination to:
  - Notify parents(s)/guardian(s) to arrange for informed parental consent and confer on which areas to be assessed for initial evaluation.
  - If the child is currently on an IEP, hold a committee meeting to determine if additional evaluation is needed.
  - Referrals for 3-21 age students submitted late in the school year or in the summer will be acted upon when school resumes.
2. If a child's parent(s)/guardian(s) and school official disagree at any time during the referral for evaluation/assessment process, procedures outlined in the Procedural Safeguard section of this plan will be followed.
3. If a child's parent(s)/guardian(s) consent to the evaluation/assessment, the principal/designee shall:
  - Secure qualified evaluators to conduct the evaluation/assessment
  - Place a copy of the referral and consent for evaluation forms in the child's cumulative file.

The Huron School District will ensure that all children with disabilities are evaluated in accordance with 34 C.F.R. §§300.300 through 300.311:

#### **B. Huron School District procedures after Referral**

Upon receiving a referral the committee shall conduct an informal review or may proceed with the evaluation process within 25 school days of receipt of parent permission to evaluate. An informal review includes a conference, if appropriate and necessary, either in person or by telephone, with the person making the referral and a review of the student's school record.

#### **C. Huron School District procedures after Informal Review**

If after an informal review arising from a parental referral, the committee determines that no evaluation is necessary, the committee will inform the parents of the decision and the reasons for the decision. The committee shall also inform the parents of their due process rights. If after informal review, the district determines that further evaluation is necessary, a multi-disciplinary evaluation will be requested with the consent of the parents.

#### **D. Huron School District Documentation of Referral if not evaluated**

All referrals of students that do not result in evaluation will be documented by the committee and placed in the student's cumulative file. Documentation shall consist of a short written summary statement attached to the referral form citing the

reasons why the child was not evaluated. These files are housed in the principal's office. The principal is responsible for their maintenance.

#### **E. Huron School District Evaluation, Consent, and Placement Procedures.**

Huron School District procedures address the following:

a. Nondiscriminatory practices. Assessments and other evaluation materials used for the purpose of evaluation and placement of children with disabilities must be selected and administered so as not be racially or culturally discriminatory.

b. Parental consent for initial evaluation. Any school district proposing to conduct an initial evaluation to determine whether a child qualifies as a child with a disability shall, after providing notice consistent with district policies and procedures for procedural safeguards, obtain informed consent from the parent of the child before conducting the evaluation.

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

\* The school district shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability. To meet the reasonable efforts requirement in this section, the district shall document its attempts to obtain parental consent using procedures such as detailed records and dates of telephone calls, correspondence, and home or place of employment visits.

#### **F. The term consent means:**

(1) The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language, or other mode of communication;

(2) The parent understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought, and the consent describes that activity and lists the records, if any, that will be released and to whom;

(3) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time;

(4) If the parent revokes consent, that revocation is not retroactive, it does not negate an action that has occurred after the consent was given and before the consent was revoked; and

(5) If the parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the local education agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.

**G. Consent for ward of the state.** For initial evaluations only, if the child is a ward of the state and is not residing with the child's parent, the school district is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if:

(1) Despite reasonable efforts to do so, the district cannot discover the whereabouts of the parent of the child;

(2) The rights of the parents of the child have been terminated in accordance with state law; or

(3) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

To meet the reasonable efforts requirement in this section, the Huron School District shall document its attempts to obtain parental consent using procedures such as detailed records and dates of telephone calls, correspondence, and home or place of employment visits.

**H. Use of procedural safeguards to obtain parental consent.** If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under this section, or the parent fails to respond to a request to provide consent, the district may, but is not required to, pursue the initial evaluation of the child by using the procedural safeguards in article 24:05, including the mediation procedures or the due process procedures, if appropriate, except to the extent inconsistent with state law relating to such parental consent.

The Huron School District does not violate its obligation under child find in article 24:05 and the requirements in this chapter regarding parental consent, evaluation, and reevaluation if the district declines to pursue the evaluation.

**I. Other consent requirements include the following:**

(1) Parental consent is not required before:

(a) Reviewing existing data as part of an evaluation or a reevaluation; or

(b) Administering a test or other evaluation that is administered to all children unless, before administration of the that test or evaluation, consent is required of parents of all children;

(2) Huron School District will not use a parent's refusal to consent to one service or activity under this section to deny the parent or child any other service, benefit, or activity of the school district, except as required by article 24:05;

(3) If a parent of a child who is receiving alternative instruction under SDCL 13-27-3 or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or if the parent fails to respond to a request to provide consent, the school district may not use the consent override procedures described in district policies for procedural safeguards, including mediation and due process hearing procedures. The school district is not required to consider the child as eligible for services under district policy for children voluntarily enrolled in nonpublic schools.

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

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

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

**K. Evaluation defined.** Evaluation means the procedures used in accordance with district policies to determine whether a child is a child with a disability and to determine the nature and extent of the special education and related services that the child needs.

Exception to initial evaluation timeline. The timeline for conducting initial evaluations does not apply to a school district if:

(1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or

(2) A child enrolls in a school of another school district after the relevant timeline for conducting an initial evaluation has begun, and before a determination by the child's previous school district as to whether the child is a child with a disability.

The exception in this section applies only if the subsequent school district is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent school district agree to a specific time when the evaluation will be completed.

- Screening for instructional purposes. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation is not considered to be an evaluation for eligibility for special education and related services.
- Evaluation procedures -- Notice. The school district shall provide notice to the parents of a child with a disability, in accordance with article 24:05, that describes any evaluation procedures the district proposes to conduct.
- Evaluation procedures -- General. School districts shall ensure, at a minimum, that evaluation procedures include the following:
  - (1) Assessments and other evaluation materials are provided and administered in the child's native language or by another mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer. In addition, assessments and other evaluation materials:
    - (a) Are used for the purposes for which the assessments or measures are valid and reliable; and
    - (b) Are administered by trained and knowledgeable personnel in conformance with the instructions provided by their producer;
  - (2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient;
  - (3) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment accurately reflects the child's aptitude or achievement level or whatever other factors the assessment purports to measure, rather than the child's impaired sensory, manual, or speaking skills except where those skills are the factors which the assessment purports to measure;
  - (4) No single measure or assessment is used as the sole criterion for determining eligibility or an appropriate educational program for a child;
  - (5) A variety of assessment tools and strategies are used to gather relevant functional, developmental, and academic information about the child, including information provided by the parents that may assist in determining:
    - (a) Whether the child is a child with a disability; and
    - (b) The content of the child's IEP, including information related to enabling the child:
      - (i) To be involved in and progress in the general education curriculum; or
      - (ii) For a preschool child, to participate in appropriate activities;
  - (6) Technically sound instruments, assessment tools, and strategies are used that:
    - (a) May assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors; and
    - (b) Provide relevant information that directly assists persons in determining the educational needs of the child;
  - (7) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities and
  - (8) The evaluation is sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified.

(9) Assessments of children with disabilities who transfer from one school district to another school district in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with district policies and procedures for evaluation, to ensure prompt completion of full evaluations.

**L. Braille assessment factors.** The following age-appropriate factors must be considered when conducting a reading and writing assessment of the student to determine whether or not braille instruction must begin or continue:

- Reading readiness;
- Functional reading skills including reading level, print size, reading rate, comprehension, and stamina;
- Functional writing skills;
- Prognosis of eye condition for change in visual status;
- Functional communication skills and primary language of communication;
- Functional visual abilities; and
- Tactile discrimination.

**M. Determination of needed evaluation data.** As part of an initial evaluation, if appropriate, and as part of any reevaluation, the individual education program team required by district policy and other qualified professionals, as appropriate, with knowledge and skills necessary to interpret evaluation data, shall:

- (1) Review existing evaluation data on the child, including:
  - (a) Evaluations and information provided by the parents of the child;
  - (b) Current classroom-based local or state assessments and observations; and
  - (c) Observations by teachers and related services providers; and
- (2) Based on the above review and input from the student's parents, identify what additional data, if any, are needed to determine:
  - (a) Whether the student has a particular category of disability as described in article 24:05;
  - (b) The present levels of academic achievement and related developmental needs of the student; and
  - (c) Whether the student needs special education and related services.

The school district shall administer assessments and any other evaluation materials as may be needed to produce the data required to make the determinations listed in subdivision (2) of this section. If no additional data are needed to make the determinations in subdivision (2) of this section, the school district shall notify the student's parents of this fact and the reasons for this decision. The group described in this section may conduct its review without a meeting.

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

**O. Eligibility and placement procedures.** In interpreting evaluation data for the purpose of determining eligibility and determining the educational needs of the child in making placement decisions, including decisions regarding preschool children, each school district shall do the following:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
2. Ensure that information obtained from all of these sources is documented and carefully considered;
3. Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options;
4. Ensure that the placement decision is made in conformity with the least restrictive environment rules in district policy; and

5. Ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

If a determination is made that a child is disabled and needs special education and related services, an individual education program must be developed for the child in accordance with least restrictive environment requirements.

**P. Documentation of eligibility for specific learning disabilities.** For a child suspected of having a specific learning disability, the documentation of the determination of eligibility shall contain a statement of:

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

Group members to certify report in writing. Each group member shall certify in writing whether the report reflects his conclusion. If it does not reflect a group member's conclusion, the group member must submit a separate statement presenting his conclusions.

#### **Huron School District Policy Statement**

The Huron School District has established and implements procedures for referral, consent, evaluating or re-evaluating students suspected of having a disability and who may be in need of special education and related services, including nondiscriminatory practices, pre-placement evaluation, general evaluation procedures, re-evaluation, evaluation for specific learning disabilities, and short-term evaluation programs, by adopting the Administrative Rules of South Dakota.

#### **Referral, Evaluation, Consent and Placement of Children with Disabilities.**

1. HSD utilizes the referral document and informal review information to determine suspected areas of disability or reasons why an evaluation is not needed.
2. Based upon the skill areas affected, the eligibility guide will be used to determine category(s) of disability to be assessed.
3. Parents will be contacted to gain their input into the evaluation process and the areas to be assessed.
4. Parental Prior Notice/Consent Form will be completed and sent to parents.
5. Upon receipt of the signed **Parental Prior Notice/Consent Form**, the date that permission was received by the district will be documented on the form.
6. HSD will secure an evaluation team to conduct a comprehensive evaluation in all areas of suspected disability that matches with the types of evaluations checked on the **Parental Prior Notice/Consent Form**. In addition to completing evaluations that will help the team determine eligibility, they will also gather skills based assessment data and developmental information about the child relating to progress in the general curriculum.
7. Within **25 school days** of receipt of the signed **Parental Prior Notice/Consent Form**, the evaluation will be completed unless other timelines are agreed to.
8. Upon completion of all evaluations, the data will be analyzed compiled into a written report(s). The report(s) will be disseminated to team members prior to the meeting, which will be held within **30 calendar days** from the end of the allowable evaluation period.
9. The district and parents will decide upon a mutually agreeable meeting date. The district will mail to the parent a completed **Meeting Notice** informing them of the meeting date, time, place, persons invited to attend the meeting, and other required prior notice content information.
10. At the meeting, the team will review the evaluation report(s), determine eligibility for special education and special education and related services, and, if appropriate, develop an IEP and then determine placement in the appropriate least restrictive environment.
11. The Huron School District is responsible for making a free appropriate public education available to a student with a disability, and shall obtain informed consent from the parent of the student before initially providing special education and related services to the student. **Initial Consent for Services** is required before providing any services.
12. A **Parental Prior Written Notice** which meets the requirements of 24:05:30:05 must be given to the parents five days before the district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child. The five-day notice requirement may be waived by parents.

The notice must include the following:

- (1) A description of the action proposed or refused by the district, an explanation of why the district proposes or refuses to take the action, and a description of any other options the IEP team considered and the reasons why those options were rejected;
- (2) A description of each evaluation procedure, assessment, record, or report that the district uses as a basis for the proposal or refusal;
- (3) A description of any other factors which are relevant to the district's proposal or refusal;
- (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this article 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
- (5) Sources for parents to contact to obtain assistance in understanding the provisions of this article.

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

The Huron School District will ensure compliance with all regulations regarding the confidentiality of records and information, as noted in 34 C.F.R. §§300.610 through 300.626.

**Huron School District Policy Statement:**

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

The Huron School District annually notifies parents of students currently in attendance at the agency or institution of their rights under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) and this section. The notice informs the parent or eligible student that the parent or eligible student has a right to do the following:

1. Inspect and review the student's education records;
2. Seek amendment of the student's education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;
3. Consent to disclosure of personally identifiable information contained in the student's educational records, except to the extent that the Act and the regulations in this section authorize disclosure without consent;
4. File with the U.S. department of education a complaint concerning alleged failures by the agency or institution to comply with the requirements of the Act and this section;

The notice shall also include the procedures for exercising the right to inspect and review education records, the procedures for requesting the amendment of records and, if the educational agency or institution has a policy of disclosing education records, a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

The Huron School District will provide this notice by any means that are likely to inform the parents and eligible students of their rights and that will effectively notify parents of students who have a primary or home language other than English, and parents or eligible students who are disabled.

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

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

1. The right to response from the district to reasonable requests for explanations and interpretations of the records;
2. The right to request that the district provide copies of the records containing the information if failure to provide these copies would effectively prevent the parent from exercising the right to inspect and review the records; and
3. The right to have a representative of the parent inspect and review the records. The district may presume that the parent has authority to inspect and review records relating to his child unless the agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, divorce, or custody.

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

The Huron School District shall keep a record of parties obtaining access to education records collected, maintained, or used under this section, except access by parents and authorized employees of the district, including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records. A parent or eligible student may inspect this record on request.

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

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

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

The Huron School District shall provide parents on request a list of the types and locations of education records collected, maintained, or used by the district.

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

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

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

A parent who believes that information in education records collected, maintained, or used under these rules is inaccurate or misleading or violates the privacy or other rights of the student may request the Huron School District to amend the information.

The Huron School District shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the district decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing.

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

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

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

At a minimum, the district's hearing procedures must include the following elements:

- a. The hearing must be held within 30 days after the district received the request, and the parent of the student or eligible student shall be given notice of the date, place, and time 5 days in advance of the hearing;
- b. The hearing may be conducted by any party, including an official of the district, who does not have a direct interest in the outcome of the hearing;
- c. The parent of the student or eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised and may be assisted or be represented by individuals of his choice at his own expense, including an attorney;
- d. The district shall make its decision in writing within 30 days after the conclusion of the hearing; and
- e. The decision of the district shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

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

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

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

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

Parental consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies collecting or using the information under article 24:05 or used for any purpose other than meeting a requirement under this chapter, unless the information is contained in education records and the disclosure is authorized

without parental consent under FERPA. The district may not release information from education records to participating agencies without parental consent except as follows:

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

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

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

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

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

The Huron School District shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. One official in the district shall assume responsibility for ensuring the confidentiality of any personally identifiable information. All persons collecting or using personally identifiable information must receive training or instruction regarding the provisions of this section concerning personally identifiable information. The district shall maintain for public inspection a current listing of the names and positions of those employees within the district who may have access to personally identifiable information on student in need of special education or special education and related services.

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

The Huron School District shall inform parents when personally identifiable information collected, maintained, or used under this section is no longer needed to provide educational services to the student. The information no longer needed must be destroyed at the request of the parents. However, a permanent record of the student's name, address, and phone number, the student's grades, attendance record, classes attended, and grade level completed may be maintained without time limit.

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

All of the parental rights in this section are extended to the child upon reaching the age of 18 unless the child has been declared incompetent by the courts, consistent with the transfer of student rights at age of majority, including taking into consideration the type or severity of a child's disability.

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

The department of education, special education programs, is the entity responsible for ensuring the district complies with the requirements on confidentiality of information through on-site monitoring, approval of comprehensive plans, and complaint resolution. Sanctions for noncompliance include the disapproval of local special education programs and the withholding of state and federal funds.

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

The Huron School District shall cooperate in the U.S. Secretary of Education's efforts under section 1308 of the ESEA to ensure the linkage of records pertaining to migratory children with disabilities for the purpose of electronically exchanging, among the states, health and educational information regarding those children.

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

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

The State Part C coordinator contacts the district to alert them of the child turning 3. Several months before a B-3 child turns 3, the district will initiate evaluation procedures to determine potential eligibility for Part B and they will hold an eligibility meeting at least 90 days, but not more than 9 months prior to the child turning 3. This evaluation planning includes contact and input from the child's family. When the child turns 3, the district will begin monitoring progress through quarterly progress notes.

### **Huron School District Policy Statement:**

The Huron School District will work closely with the local (Birth to Three) service coordinator for the service area to ensure a smooth transition of children participating in the early intervention program under Part C of the IDEA who are eligible for participating in preschool programs under Part B of IDEA. The following steps will occur.

1. At least 90 days prior to the child's third birthday, the district will meet with the local service coordinator and the child's family to discuss and begin necessary steps in the transition plan. Note: In most cases the local service coordinator will make arrangements for this meeting, however, if not, the district will make the necessary arrangements.
2. The district will provide the family with information on the eligibility and evaluation requirements under Part B of IDEA, including the parents' and district's rights regarding procedural safeguards.
3. In addition, the district will review with the family a child's program options, for the period commencing on the day a child turns three and through the remainder of the school year regarding transition planning, including development of an individual education program.
4. All requirements under IDEA 2004 will be implemented in the process for determining eligibility for a child moving from the Part C program to the Part B program.

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

The Huron School District ensures compliance with 34 CFR 300.129 through 300.148, governing private school placements within the boundaries of the district. Through consultation with private school representatives, the district ensures that it will locate, identify and evaluate all children with disabilities who are enrolled by their parents in a private school within the district's boundaries. For eligible students with disabilities enrolled in private schools by their parents, a service plan may be developed in accordance with 300.132, up to the proportionate dollar value, and records maintained documenting the number of students evaluated and served in these settings.

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

The district understands that parentally-placed private school children with disabilities are defined as children with disabilities whose parents have unilaterally enrolled them in private schools (including religious schools) that meet the state definition of elementary or secondary schools.

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

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

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

- Provision of services for parentally-placed private school children with disabilities; 300.132; ARSD 24:05:32:03.01
- Expenditures for parentally-placed private school children with disabilities; 300.133; ARSD 24:05:32:01:02

To meet the requirements of this chapter, each school district must spend the following amounts on providing special education and related services including direct services to parentally placed private school children with disabilities:

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

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

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

In calculating the proportionate amount of federal funds to be provided for parentally-placed private school children with disabilities, the district, after timely and meaningful consultation with representative of private schools, shall conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending private schools located in the district.

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

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

When deciding how to spend federal funds designated for children with disabilities parentally-placed in private schools, the district will consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities.

- Written affirmation by private school officials of meaningful consultation; 300.135; ARSD 24:05:32:01:06

Following the consultation, the school district will seek to acquire written affirmation by private school officials of the meaningful consultation that took place. If the private school does not provide written affirmation, the school district will forward documentation of the consultation process to the department.

- Compliance; rights of private school officials to submit a state complaint; 300.136; ARSD 24:05:32:01:07

The district understands that private school officials have the right to submit a state complaint about consultation or other related matters. If this occurs, the school district will forward its relevant documentation to the department.

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

The district determines the services for parentally placed private school students with disabilities through the general process agreed through consultation with the private school officials and representative parents. Then specific services are written through the services plan created for each child.

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

The district agrees to provide the same quality of personnel and services for private school students as would have been provided for public school students. Additionally, the services, material, and equipment must be secular, neutral, and non-ideological. However, the amount of services may be less than what would have been received had the student been enrolled in the public school district.

No parentally placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. Decisions about the services that will be provided to eligible private school children with disabilities under this chapter must be made in accordance with district policies and procedures for written affirmation and service plans. The school district shall make the final decisions with respect to the services to be provided to eligible parentally placed private school children.

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

Location of services and transportation. Services provided to eligible parentally placed private school children may be provided on the premises of a child's private school, including a religious school, to the extent consistent with state law. Services for High School students will be provided at the Huron High School. If necessary for the child to benefit from or participate in the services provided under this chapter, a private school child with a disability must be provided transportation:

- (1) From the child's school or the child's home to a site other than the private school; and
- (2) From the service site to the private school, or to the child's home, depending on the timing of the services.

Districts are not required to provide transportation from the child's home to the private school. The cost of transportation described in this section may be included in calculating whether the district has met the requirement of this chapter.

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

The district understands that even though due process complaints and hearings would not occur related to the provision of special education services for parentally placed private school students with disabilities, they could occur related to Child Find.

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

The district understands that it may use funds to make personnel available for the provision of special education and related services in private schools.

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

The district understands that it is not allowed to use the funds to create separate classes to segregate children with disabilities separately.

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

The district understands that it is still responsible to account for property, equipment, and supplies placed in private schools for parentally placed private school students with disabilities. Such inventory will be removed from the private school when it is no longer needed there.

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

The district understands that it is still responsible for Child Find for students placed in private schools by public agencies, but the state is responsible for the costs of special education and related services.

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

The district understands that if a student with a disability is placed in a private school because the school district could not provide FAPE, then the school district may be responsible for the costs of the education.

### **Huron School District Policy Statement**

The Huron School District has established and implements procedures for the placement of children with disabilities in private schools, including out-of-state placements, by adopting the Administrative Rules of South Dakota.

### **Voluntary Enrollment in Nonpublic Schools**

Each school district shall establish and implement procedures for the provision of special education and related services to eligible children voluntarily enrolled in nonpublic schools.

1. Child Find. Each district shall establish a child find process to locate, identify, and evaluate all private school children with disabilities, including religious elementary and secondary school children and children receiving alternative instruction under SDCL 13-27-3 in schools located in the school district served by the district. The activities undertaken to carry out the responsibility for private school children with disabilities must be similar to activities undertaken for children with disabilities in public schools. The Child Find process shall be designed to ensure:

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

The child find process shall be completed in a time period comparable to that for students attending public schools in the district consistent with article 24:05.

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

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

2. Expenditures. To meet the requirements of this chapter, each school district must spend the following amounts on providing special education and related services including direct services to parentally placed private school children with disabilities:

- (1) For children aged 3 to 21, inclusive, an amount that is the same proportion of the school district's total subgrant under Part B of the Individuals with Disabilities Education Act as the number of private school children with disabilities aged 3 to 21, inclusive, who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the district is to the total number of children with disabilities in its jurisdiction aged 3 to 21, inclusive; and
- (2) For children aged 3 to 5, inclusive, an amount that is the same proportion of the school district's total subgrant under Section 619, Preschool, of the Individuals with Disabilities Education Act as the number of private school children with disabilities aged 3 to 5, inclusive, who are enrolled by their parents in private, including religious, elementary

schools located in the school district served by the district is to the total number of children with disabilities in its jurisdiction aged 3 to 5, inclusive.

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

In calculating the proportionate amount of federal funds to be provided for parentally-placed private school children with disabilities, the district, after timely and meaningful consultation with representative of private schools, shall conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending private schools located in the district.

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

3. Child Count. Each school district shall:

- (1) After timely and meaningful consultation with representatives of parentally-placed private school children, determine the number of eligible children attending private schools located in the district; and
- (2) Ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year.

The child count must be used to determine the amount that the school district must spend on providing special education and related services to private school children with disabilities in the next subsequent fiscal year. Expenditures for child find activities described in this chapter, including individual evaluations, may not be considered in determining whether the school district or other public agency has met the requirements of this chapter. State and local educational agencies are not prohibited from providing services to private school children with disabilities in excess of those required by this section consistent with state law or local policy.

4. No individual right to special education and related services. No parentally placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. Decisions about the services that will be provided to eligible private school children with disabilities under this chapter must be made in accordance with district policies and procedures for written affirmation and service plans. The school district shall make the final decisions with respect to the services to be provided to eligible parentally placed private school children.

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

- (1) The child find process, including:
  - (a) How parentally-placed private school children suspected of having a disability can participate equitably; and
  - (b) How parents, teachers, and private school officials will be informed of the process;
- (2) The determination of the proportionate share of federal funds available to serve parentally placed private school children with disabilities under this chapter, including the determination of how the proportionate share of those funds was calculated;
- (3) The consultation process among the district, private school officials, and representatives of parents of parentally placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally placed children with disabilities identified through the child find process can meaningfully participate in special education and related services;

(4) How, where, and by whom special education and related services will be provided for parentally placed private school children with disabilities, including a discussion of:

- (a) The types of services, including direct services and alternate service delivery mechanisms;
- (b) How special education and related services will be apportioned if funds are sufficient to serve all parentally placed private school children; and
- (c) How and when those decisions will be made; and

(5) How, if the district disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the district will provide to the private school officials a written explanation of the reasons why the district chose not to provide services directly or through a contract.

6. Written affirmation. When timely and meaningful consultation, as required by this chapter, has occurred, the district shall obtain a written affirmation signed by the representatives of participating private schools.

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

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

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

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

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

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

9. Services provided. The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities are not required to meet the highly qualified special education teacher requirements of article 24:05. Private school children with disabilities may receive a different amount of services than children with disabilities in public schools. No private school child with a disability is entitled to any service or to any amount of a service the child would receive if enrolled in a public school. Each private school child with a disability who has been designated to receive services under this chapter, must have a services plan that describes the specific special education and related services that the district will provide to the child in light of the services that the district has determined, through the process described in this chapter, it will make available to private school children with disabilities. The services plan must to the extent appropriate:

- (1) Meet the IEP content requirements with respect to the services provided; and
- (2) Be developed, reviewed, and revised consistent with the IEP provisions in article 24:05.

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

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

10. Location of services and transportation. Services provided to eligible parentally placed private school children may be provided on the premises of a child's private school, including a religious school, to the extent consistent with state law. High School aged students will be provided services at Huron High School. If necessary for the child to benefit from or participate in the services provided under this chapter, a private school child with a disability must be provided transportation:

- (1) From the child's school or the child's home to a site other than the private school; and
- (2) From the service site to the private school, or to the child's home, depending on the timing of the services.

Districts are not required to provide transportation from the child's home to the private school. The cost of transportation described in this section may be included in calculating whether the district has met the requirement of this chapter.

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

12. Proscribed use of funds. A school district may not use section 619 Preschool or Part B funds for classes that are organized separately on the basis of school enrollment or religion of the students if the classes are at the same site and the classes include students enrolled in public schools and students enrolled in private schools.

13. Proscribed use of funds for benefit of private school. A school district may not use Section 619 Preschool or Part B funds to finance the existing level of instruction in a private school or to otherwise benefit the private school.

The school district shall use funds provided under Part B of the Individuals with Disabilities Education Act to meet the special education and related services needs of students enrolled in private schools, but not for:

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

14. Personnel use authorized. A school district may use Section 619 Preschool and Part B funds make public personnel available in other than public facilities to the extent necessary to provide services designed for students enrolled in a private school if those services are not normally provided by the private school.

15. Use of private school employees authorized. A school district may use Section 619 Preschool or Part B funds to pay for the services of an employee of a private school if the employee performs the services outside of his regular hours of duty and the employee performs the services under public supervision and control.

16. School district to maintain control of property, equipment and supplies. A school district shall control and administer the funds used to provide special education and related services under this chapter, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in Part B of the IDEA.

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

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

17. Equipment and supplies to be removed from private schools upon cessation of need.

The school district shall remove equipment and supplies from a private school if the equipment and supplies are no longer needed for the purposes of the program authorized under Part B of the IDEA or if removal is necessary to avoid unauthorized use of the equipment or supplies for other than Part B program purposes.

18. Use of program funds for repairs, minor remodeling, or private construction proscribed. A school district shall ensure that Section 619 Preschool or Part B funds are not used for repairs, minor remodeling, or construction of private school facilities.

#### **Huron School District Policy Statement**

The District shall provide students enrolled in private schools with a genuine opportunity for equitable participation in accordance with the requirements in this section and the Individuals with Disabilities Education Act, Part B.

Responsibility of the Division. The Division is responsible for ensuring the participation of eligible private school children in the program assisted or carried out under these rules by providing them with special education and related services.

The Division shall ensure that a services plan is developed and implemented for each private school child with a disability who has been designated to receive special education and related services under this chapter.

#### **Huron School District Procedures**

1. The Huron School District will locate, identify, and evaluate all private school children with disabilities, including religious-school children, and children receiving alternative instruction under SDCL 13-37-1.1 residing in the jurisdiction of the district. The activities undertaken to carry out this responsibility for private school children with disabilities must be comparable to activities undertaken for children with disabilities in public schools.
2. The Huron School District will consult with appropriate representatives of private school children with disabilities.
3. The Huron School District will ensure that a service plan is developed and implemented for each private school child with a disability who has been designated to receive special education and related services.
4. The Huron School District will consult with representatives of private school children in deciding how to conduct the annual count of the number of private school children with disabilities.
5. The child count must be used to determine the amount that the district must spend on providing special education and related services to private school children with disabilities in the next subsequent fiscal year.
6. The Huron School District will consult with representatives of private school children with disabilities in light of the funding, the number of private school children with disabilities, the needs of private school children with disabilities and their location decide –
  - a. Which children will receive services
  - b. What services will be provided
  - c. How and where the services will be provided (High School aged students will be provided services at Huron High School), transportation; and
  - d. How the services provided will be evaluated.
7. If federal funds are received, the services provided to private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in public schools.
8. Private school children with disabilities may receive a different amount of services than children with disabilities in public schools.
9. No private school child with a disability is entitled to any service or to any amount of service the child would receive if enrolled in a public school.

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

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

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

The district shall establish, maintain, and implement procedural safeguards which meet the requirements of the chapter ARSD 24:05:30.

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

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

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

An organization or individual may file a written, signed complaint with the state director of special education. The party filing the complaint shall forward a copy of the complaint to the school district serving the child at the same time the party files the complaint with the department.

If the complaint is against a school district, the following steps shall be taken:

- (1) The state director of special education shall appoint a complaint investigation coordinator from the department's special education programs. The coordinator and any consultants may conduct an independent on-site investigation if it determines that one is necessary;
- (2) The complainant may submit additional information, either orally or in writing, about the allegations in the complaint;
- (3) The school district may respond to the complaint, including, at a minimum:
  - (a) At the discretion of the school district, a proposal to resolve the complaint; and
  - (b) An opportunity for a parent who has filed a complaint and the school district to voluntarily engage in mediation consistent with this article;
- (4) The complaint coordinator and any consultants shall make a recommendation to the state director of special education;
- (5) After reviewing all relevant information, the state director of special education shall make an independent determination as to whether the complaint is valid, what corrective action is necessary to resolve the complaint, and the time limit during which corrective action is to be completed. The state director of special education shall submit a written report of the final decision to all parties involved;
- (6) The written report shall address each allegation in the complaint, contain findings of fact and conclusions, and include reasons for the final decision;
- (7) If the complaint is valid, the state director of special education shall find the school district out of compliance with federal and state statutes and rules;
- (8) If corrective action is not completed within the time limit set, including technical assistance and negotiations, the department shall withhold all federal funds applicable to the program until compliance with applicable federal and state statutes and rules is demonstrated by the school district;

(9) When the school district demonstrates completion of required correction action, the department's Office of Finance and Management shall be notified by the state director of special education, and all moneys withheld shall be paid to the school district; and

(10) Documentation supporting the corrective actions taken by a school district shall be maintained by the department's special education programs and incorporated into the state's monitoring process.

All complaints must be resolved within 60 days after receipt of the complaint by the state director of special education except as stated in this section. The time limit of 60 days may be extended only under exceptional circumstances as determined by the state director of special education, such as the need for additional time to provide necessary information. Under these circumstances, an extension of time may not exceed 30 days in any one instance.

In addition, the 60-day time limit may be extended, if the parent, individual, or organization and the school district involved in the complaint agree to engage in mediation in order to attempt to resolve the issues specified in the complaint.

The South Dakota Department of Education, Special Education Programs, shall inform parents and other interested individuals, including parent training centers, protection and advocacy agencies, independent living centers, and other appropriate entities about the state's complaint procedures by taking the following actions:

- (1) Conducting parent surveys through the state's monitoring process;
- (2) Providing copies of the state's procedures to parent and advocacy groups across the state;
- (3) Notifying local school districts through statewide memoranda;
- (4) Presenting state procedures at statewide conferences; and
- (5) Disseminating copies to parent training and information centers, independent living centers, protection and advocacy agencies, and other appropriate entities.

If a written complaint is received that is also the subject of a due process hearing under this article or contains multiple issues, of which one or more are part of that hearing, the department shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described in this chapter.

If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties the hearing decision is binding on that issue and the department shall inform the complainant to that effect. The department must resolve a complaint alleging a school district's failure to implement a due process decision.

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

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

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

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

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

(5) Must obtain written parental consent consistent with § 24:05:29:13 before accessing a student's or parent's public benefits or insurance for the first time specifying:

- (a) Personally identifiable information, as defined in § 24:05:29:02(12), that may be disclosed (e.g., records or information about the services that may be provided to a particular student);
- (b) The purpose of the disclosure (e.g., billing for services under this article);
- (c) That disclosure will be made to the state Medicaid agency; and
- (d) That the parent understands and agrees that the public agency may access the parents or student's public benefits or insurance to pay for services under this article.

Before accessing a student's or parent's public benefits or insurance for the first time, and annually thereafter, the district will provide written notification consistent with § 24:05:30:06 to the student's parents that includes a statement:

(1) Of the parental consent and no cost requirements in § 24:05:14:01.03;

(2) That parents have the right under FERPA, as defined in § 24:05:29:02(1), and Part B of the IDEA to withdraw their consent to disclosure of their student's personally identifiable information to the state Medicaid agency at any time; and

(3) That the withdrawal of consent or refusal to provide consent under FERPA and Part B of the IDEA to disclose personally identifiable information to the state Medicaid agency does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to the parents.

- Restrictions and requirements on accessing private benefits; 300.154(e); ARSD 24:05:14:01.03

With regard to services required to provide FAPE to an eligible student under this article, the district may access a parent's private insurance proceeds only if the parent provides informed consent consistent with this article. Each time the district proposes to access the parent's private insurance proceeds, it will:

(1) Obtain parent consent in accordance with this article; and

(2) Inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

- Use of Part B funds for services when parent consent is unable to be obtained; 300.154(f); ARSD 24:05:14:01.06

If the district is unable to obtain parental consent to use the parent's private insurance, or public benefits or insurance if the parent would incur a cost for a specified service required under this article, to ensure FAPE, the district may use funds obtained through Part B of IDEA to pay for the service.

To avoid financial cost to parents who otherwise would consent to use private insurance, or public benefits or insurance if the parent would incur a cost, the district may use funds obtained through Part B of IDEA to pay the cost the parents otherwise would have to pay to use the parent's benefits or insurance (e.g., the deductible or co-pay amounts).

Proceeds from public benefits or insurance or private insurance may not be treated as program income for purposes of 34 C.F.R. § 80.25.

If the district spends reimbursements from federal funds (e.g., Medicaid) for services under this article, those funds are not considered "state or local" funds for purposes of the maintenance of effort provisions in this article.

#### **Huron School District Policy Statement**

The Huron School District ensures its procedures for the use of public benefits or insurance/private insurance are in accordance with ARSD 24:05:14:01.03.

#### **Huron School District Procedure for Medical Billing**

The District will:

- 1) Collect data
- 2) Route to business manager or Director of Special Services
- 3) File directly or work with a vendor to file with the Department of Social Services, Office of Medical Services

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

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

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

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

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

The Huron School District will ensure that staff qualifications will be reviewed and appropriate licensure/certification is in place prior to the commencement of contracted payments. (Teacher 411) and new staff will meet requirements

- Paraprofessionals and assistants; ARSD 24:05:16:16:01

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

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

#### **Huron School District Policy Statement**

The Huron School District has developed procedures for the implementation and use of the comprehensive system of personnel development established by the Administrative Rules of South Dakota. The District has established and implements procedures for the employment of special education personnel who have the special education endorsement as required in state rules, including child evaluators.

The Huron School District ensures only certified, licensed, or otherwise highly qualified personnel, including child evaluators and early childhood teachers will be employed by the school district to provide special education and related services. The district will follow the same procedure for other certified staff, making sure staff work only in those areas where they are properly endorsed or plan to be properly endorsed is in place.

#### **Huron School District Procedures**

1. The district procedures to ensure all personnel necessary to carry out Part B of IDEA are appropriately and adequately prepared and district policies and procedures are consistent with the requirements of the chapter of personnel development and qualifications and the ESEA shall address the following:

- A) Numbers and type of new personnel needed, including early intervention, early childhood, and leadership personnel;
- B) Content areas in which in-service training is needed;
- C) Identify groups and number of individuals requiring training;
- D) Proposals for how the necessary training shall be provided;
- E) The anticipated schedule for in-service training;
- F) The projected human and fiscal resources which shall be employed to administer such training;
- G) The need for technical or other assistance which may be required of the division;
- H) Plans for utilizing the needs assessment data in the preparation of the district's Part B flow-through application and the subsequent year's staff development plan; and
- I) Paraprofessional training will be provided for staff each year for orientation and job specific.

2. The district procedures to recruit, hire, train and retain highly qualified personnel including, paraprofessional, to provide special education and related services under this article to children with disabilities include:

- A) Advertisements that specifically identify each position are placed on district website, in local newspapers, college placement offices and/or ASBSD website.
- B) Analysis of transcripts, certification and work experience.
- C) Determination of professional development needs based on district data analysis and job specific needs for certified staff.
- D) Paraprofessional training for orientation and job specific duties will be provided each year.
- E) Methods to retain highly qualified staff are discussed and reviewed each year in Board meetings and Administrative meetings.

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

The Huron School District will ensure the implementation of state established performance goals and indicators for students with disabilities within their jurisdiction.

- Student information management system (SIMS) and State Performance Plan (SPP) data

1) Who is responsible for data entry and their specific responsibilities?

The office staff of the Director of Special Services and building secretaries are assigned to enter enrollment data and special education data. Data is entered on a regular basis.

2) What is the process for reviewing data entered on a regular basis for accuracy and reliability?

The Huron School District reviews data at minimum monthly. This is accomplished by maintaining running records of State Performance Plan data, generating SD December Child Count reports, and review of IEP data. A review of district data for accuracy will occur on a monthly basis.

3) What is the process for making corrections and responding to the SEP data verification form?

The Director of Special Services contacts the appropriate State Program to make data corrections and are responsible for SEP data verifications.

4) What is the process for generating data reports for use in identifying potential issues and related training and technical assistance needs?

The Huron School District uses a variety of processes such as staff needs assessments, parent and staff surveys, review of test scores and/or department meetings to determine systemic district issues and training.

5) Who reviews the data and looks at improving program performance?

District administrators, Director of Special Services, and Special Education staff collect, review and analyze data to identify strategies necessary for improving program performance.

6) Who is responsible for correcting and tracking progress on noncompliance issues?

District Administrators and Director of Special Services are responsible for correcting low performance and noncompliance issues. The district will comply with all requests by the SEA for data submission that is instrumental in monitoring the performance of the student population with respect to state established performance goals and indicators, and will submit such data on a timely basis.

The Huron School District implements state established performance goals and indicators described above for students with disabilities in the district.

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

The school district will ensure that all children with disabilities are included in all general state and district wide assessment programs, including those assessments described under section 1111 of the Elementary and Secondary Education Act (ESEA), with appropriate accommodations and alternate assessments where necessary, and as indicated in their respective individual education programs (IEP).

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

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

##### **Huron School District Policy Statement**

The Huron School District ensures all children with disabilities shall be included in all general state and district-wide assessment programs, including assessments described in the ESEA, with appropriate accommodations and alternate assessments if necessary and as indicated in their respective IEPs.

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

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

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

##### **Huron School District Policy Statement**

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

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

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

##### **Huron School District Policy Statement**

The Huron School District makes all public records available upon request during normal business hours.

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

The district supports the work of the State Advisory Panel to provide policy guidance to the SEA with respect to special education and related services for children with disabilities.

### **Huron School District Policy Statement**

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

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

The district will ensure the following specific provisions have consistent policies for implementation at the local level.

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

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

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

- (1) The development and implementation of individualized education programs;
- (2) The use of positive behavioral interventions and supports; and
- (3) Procedural safeguards to ensure that these policies, procedures, and practices comply with the Individuals with Disabilities Education Act, Part B.

### **Huron School District Procedures**

The Huron School District will submit data on suspension and/or expulsion with students with disabilities on an annual basis. If significant discrepancies are occurring, the district may be required to revise its policies, procedures, and practices relating to the development and implementation of IEP's, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that such policies, and practices comply with federal and state statute, rules, and regulations.

The Huron School District ensures that it will adhere to the student due process rules according to ARSD 24:07:01 (general provisions); 24:05:06 (suspension); and 24:05:26.01 (expulsion).

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

The information required in the districts comprehensive plan coupled with statements of expenditures, descriptions of the annual use of IDEA, Part B funds, and certification of federal assurances establish a district's eligibility for funds under the Individuals with Disabilities Education Act, Part B.

### **Huron School District Policy Statement**

The Huron School District ensures Part B funds are used consistent with federal and state statutes, rules and regulations; in accordance with the district's approved annual application of federal funds.

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

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

In implementing NIMAS, the department shall coordinate with the National Instructional Materials Accessibility Center (NIMAC), and the department:

(1) As part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, shall enter into a written contract with the publisher of the print instructional materials to:

(a) Require the publisher to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instructional materials using the NIMAS; or

(b) Purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats;

(2) Shall provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

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

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

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

(1) The identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in chapter 24:05:24.01;

(2) The placement in particular educational settings of these children; and

(3) The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

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

#### **Huron School District Procedure**

The Huron School District will submit annual child count data on the identification of students with disabilities. In the case of a determination of inappropriate over identification or significant disproportionality with respect to the identification of children with disabilities, or the placement in particular settings of these children, the department shall provide for the review of and, if appropriate, revision of the policies, procedures, and practices used in the identification for placement to ensure compliance with the requirements of Part B of the Individuals with Disabilities Education Act; require any district identified under this section to reserve the maximum amount of funds allowable to provide comprehensive coordinated early intervening services to children in the district, particularly, not exclusively, children in those groups that were significantly over identified under this section; and require the district to publically report on the revision of policies, practices, and procedures described under this section.