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WALATOWA HIGH CHARTER SCHOOL

Handbook of Special Education Procedures

Table of Contents

SUBPART A—GENERAL 9 § 300.1 Purposes. 9

§ 300.2 Applicability of this part to State and local agencies. 10

Definitions Used in This Part 19 § 300.4 Act. 20 §

300.5 Assistive technology device. 21 § 300.6

Assistive technology service. 21 § 300.7 Charter

school. 22 § 300.8 Child with a disability. 22 § 300.9 Consent. 12

§ 300.11 Day; business day; school day. 39

§ 300.12 Educational service agency. 40 § 300.13

Elementary school. 40 § 300.14 Equipment. 41 §

300.15 Evaluation. 41 § 300.16 Excess costs. 41

§ 300.17 Free appropriate public education. 42

§ 300.19 Homeless children. 44 § 300.20 Include.

45 § 300.21 Indian and Indian tribe. 45

§ 300.22 Individualized education program. 46

§ 300.23 Individualized education program team. 46

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§ 300.24 Individualized family service plan. 47

§ 300.25 Infant or toddler with a disability. 48

§ 300.26 Institution of higher

education. 49 § 300.27 Limited English proficient.

50 § 300.28 Local educational agency. 51 § 300.29

Native language. 52 NMAC. 53 NMSA 1978. 53 §

300.30 Parent. 54

§ 300.31 Parent training and

information center. 55 § 300.32 Personally identifiable. 55

§ 300.33 Public agency. 55 § 300.34 Related

services. 57 § 300.36 Secondary school. 64 §

300.37 Services plan. 65 § 300.38 Secretary. 65 §

300.39 Special education. 65 § 300.40 State. 70 §

300.41 State educational agency. 70

§ 300.42 Supplementary aids and services. 71 §

300.43 Transition services. 71 § 300.44 Universal

design. 72 § 300.45 Ward of the State. 73

SUBPART B—STATE ELIGIBILITY 75 §

300.100

Eligibility for assistance. 76 FAPE Requirements 76

§ 300.101 Free appropriate public education (FAPE). 76

§ 300.102 Limitation—exception to FAPE for certain ages. 79

Other FAPE Requirements 81

§ 300.103 FAPE—methods and

payments. 81 § 300.104 Residential placement 83

§ 300.105 Assistive technology. 84

§ 300.106 Extended school year

services. 85 § 300.107 Nonacademic services. 87 §

300.108 Physical education. 87

§ 300.109 Full educational opportunity goal (FEOG). 89

§ 300.110 Program options. 89 § 300.111 Child find. 90

§ 300.112 Individualized education programs (IEP). 97

§ 300.113 Routine checking of hearing aids and external components of

surgically implanted medical devices. 97 Least Restrictive Environment (LRE) 98 § 300.114 LRE requirements. 98

§ 300.115 Continuum of alternative placements. 100

§ 300.116 Placements. 101 § 300.117 Nonacademic settings. 104

§ 300.118 Children in public or private institutions. 104

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§ 300.119 Technical assistance and training activities. 105

§ 300.120 Monitoring activities. 105 Additional

Eligibility Requirements 105 § 300.121 Procedural safeguards. 105 § 300.122 Evaluation. 106

§ 300.123 Confidentiality of personally identifiable information. 107

§ 300.124 Transition of children from the

Part C program to preschool

programs. 107 Children in Private Schools 111

§ 300.129 State responsibility regarding children in

private schools. 111

Children With Disabilities Enrolled by Their Parents in Private Schools 112

§ 300.130 Definition of parentally placed private school children with disabilities. 112

§ 300.131 Child find for parentally placed private school children with disabilities. 112

§ 300.132 Provision of services for parentally-placed private school children with disabilities—basic

requirement. 114 § 300.133 Expenditures. 115 §

300.134 Consultation. 118 § 300.135 Written affirmation. 120 § 300.136 Compliance. 120

§ 300.137 Equitable services

determined. 121 § 300.138 Equitable services provided. 122

§ 300.139 Location of services and transportation. 124

§ 300.140 Due process complaints and State complaints. 125

§ 300.141 Requirement that funds not benefit a private school. 126

§ 300.142 Use of personnel. 126 § 300.143 Separate classes prohibited. 127

§ 300.144 Property, equipment, and supplies. 127

Children With Disabilities in Private Schools Placed or Referred by Public Agencies 129

§ 300.145 Applicability of §§ 300.146 through 300.147. 129

§ 300.146 Responsibility of SEA. 129 § 300.147 Implementation by SEA. 131

Children With Disabilities Enrolled by Their Parents in Private Schools When FAPE Is at Issue 132

§ 300.148 Placement of children by parents when FAPE is at issue. 132

SEA Responsibility for General

Supervision and Implementation of Procedural Safeguards 134

§ 300.149 SEA responsibility for

general supervision. 134

§ 300.150 SEA implementation of procedural safeguards. 136

Conflict Resolution at the Lowest Possible Level. 136

State Complaint Procedures 140

§ 300.151 Adoption of State complaint procedures. 140

§ 300.152 Minimum State complaint procedures. 141 § 300.153 Filing a complaint. 146

§ 300.154 Methods of ensuring services. 148 Additional Eligibility Requirements 155

§ 300.155 Hearings relating to LEA eligibility. 155

§ 300.156 Personnel qualifications. 155

300.169 Duties. 172

Other Provisions Required for State Eligibility 173 § 300.170 Suspension and expulsion rates. 173

§ 300.171 Annual description of use of Part B funds. 173

§ 300.172 Access to instructional materials. 174 § 300.173 Overidentification and disproportionality. 177

§ 300.174 Prohibition on mandatory medication. 178

§ 300.175 SEA as provider of FAPE or direct services. 178

§ 300.176 Exception for prior State plans. 178 § 300.177 States' sovereign immunity. 179 Department Procedures 179

§ 300.178 Determination by the Secretary that a State is eligible to receive a grant. 179

§ 300.179 Notice and hearing before determining that a State is not eligible to receive a grant. 179

§ 300.180 Hearing official or panel. 179 § 300.181 Hearing procedures. 179

§ 300.182 Initial decision; final decision. 179 § 300.183 Filing requirements. 180 § 300.184 Judicial review. 180 § 300.185 [Reserved] 180 By-pass for Children in Private Schools 180 § 300.191 Provisions for services under a by-pass. 180

§ 300.192 Notice of intent to implement a by-pass. 181

§ 300.193 Request to show cause. 181 § 300.194 Show cause hearing. 181 § 300.195 Decision. 181 § 300.196 Filing requirements. 181 § 300.197 Judicial review. 181 § 300.198 Continuation of a by-pass. 182 State Administration 182 § 300.199 State administration. 182

SUBPART C—LOCAL

EDUCATIONAL AGENCY

ELIGIBILITY 182 § 300.200 Condition of assistance. 182

§ 300.201 Consistency with State policies. 184

§ 300.202 Use of amounts. 185 § 300.203

Maintenance of effort. 186

§ 300.204 Exception to maintenance of effort. 188

§ 300.205 Adjustment to local fiscal efforts in certain fiscal years. 189

§ 300.206 Schoolwide programs under title I of the ESEA. 190

§ 300.207 Personnel development. 191 § 300.208 Permissive use of funds. 192

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§ 300.157 Performance goals and indicators. 158

§§ 300.158–300.159 [Reserved] 160

§ 300.160 Participation in assessments. 160 § 300.161 [Reserved] 164

§ 300.162 Supplementation of State, local, and other Federal funds. 164

§ 300.163 Maintenance of State financial support. 165

§ 300.164 Waiver of requirement regarding supplementing and not supplanting with Part B funds. 166 § 300.165 Public participation. 169 § 300.166 Rule of construction. 170 State Advisory Panel 170 § 300.167 State advisory panel. 170 § 300.168 Membership. 170 §

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§ 300.209 Treatment of charter schools and their students. 193

§ 300.210 Purchase of instructional materials. 195 § 300.211 Information for SEA. 196 § 300.212 Public information. 196

§ 300.213 Records regarding migratory children with disabilities. 196

§§ 300.214–300.219 [Reserved] 197

§ 300.220 Exception for prior local plans. 197

§ 300.221 Notification of LEA or State agency in case of ineligibility. 198

§ 300.222 LEA and State agency compliance. 198

§ 300.223 Joint establishment of eligibility. 199

§ 300.224 Requirements for establishing eligibility. 200 § 300.225 [Reserved]

201 § 300.226 Early intervening services. 201 § 300.227 Direct services by the SEA. 203 § 300.228 State agency eligibility. 204 § 300.229 Disciplinary information. 204 § 300.230 SEA flexibility. 205	SUBPART E—PROCEDURAL SAFEGUARDS 270	§ 300.520 Transfer of parental rights at age of majority. 318
SUBPART D—EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS 207	DUE PROCESS PROCEDURES FOR PARENTS AND CHILDREN 270	§§ 300.521–300.529 [Reserved] 319 DISCIPLINE PROCEDURES 319
Parental Consent 207 § 300.300 Parental consent. 207 Evaluations and Reevaluations 212 § 300.301 Initial evaluations. 212	§ 300.500 Responsibility of SEA and other public agencies. 270	§ 300.530 Authority of school personnel. 319 § 300.531 Determination of setting. 326 § 300.532 Appeal. 327 § 300.533 Placement during appeals. 330
§ 300.302 Screening for instructional purposes is not evaluation. 215	§ 300.501 Opportunity to examine	§ 300.534 Protections for children not determined eligible for special education and related services. 331
§ 300.303 Reevaluations. 215 § 300.304 Evaluation procedures. 216		§ 300.535 Referral to and action by law enforcement and judicial authorities. 333
§ 300.305 Additional requirements for evaluations and reevaluations. 219		§ 300.536 Change of placement because of disciplinary removals. 335
§ 300.306 Determination of eligibility. 222		§ 300.537 State enforcement mechanisms. 335 §§ 300.538–300.599 [Reserved] 336
Additional Procedures for Identifying Children With Specific Learning Disabilities 224	<i>Copyright 2021: Walsh Gallegos Treviño Kyle & Robinson P.C.</i> records; parent participation in meetings. 271	EDUCATIONAL SERVICES FOR GIFTED CHILDREN 336
§ 300.307 Specific learning disabilities. 224 § 300.308 Additional group members. 226	§ 300.502 Independent educational evaluation. 272	Subpart F—Monitoring, Enforcement, Confidentiality, and Program Information 342
§ 300.309 Determining the existence of a specific learning disability. 227	§ 300.503 Prior notice by the public agency; content of notice. 277	Monitoring, Technical Assistance, and Enforcement 342
§ 300.310 Observation. 231	§ 300.504 Procedural safeguards notice. 281 § 300.505 Electronic mail. 283 § 300.506 Mediation. 283 Due Process Hearings in General. 286	§ 300.600 State monitoring and enforcement. 342
§ 300.311 Specific documentation for the eligibility determination. 232	§ 300.507 Filing a due process complaint. 287 § 300.508 Due process complaint. 289 § 300.509 Model forms. 292 § 300.510 Resolution process. 293 Due Process Prehearing Procedures. 297	§ 300.601 State performance plans and data collection. 342
INDIVIDUALIZED EDUCATION PROGRAMS 234	§ 300.511 Impartial due process hearing. 299 § 300.512 Hearing rights. 303 § 300.513 Hearing decisions. 306	§ 300.602 State use of targets and reporting. 342
§ 300.320 Definition of individualized education program. 234	§ 300.514 Finality of decision; appeal; impartial review. 307	§ 300.603 Secretary’s review and determination regarding State performance. 342 § 300.604 Enforcement. 342 § 300.605 Withholding funds. 343 § 300.606 Public attention. 343
§ 300.321 IEP Team. 248 § 300.322 Parent participation. 254 § 300.323 When IEPs must be in effect. 256 Development of IEP 260	§ 300.515 Timelines and convenience of hearings and reviews. 309	§ 300.607 Divided State agency responsibility. 343 § 300.608 State enforcement. 343 § 300.609 Rule of construction. 343 Confidentiality of Information 343 § 300.610 Confidentiality. 343 § 300.611 Definitions. 346 § 300.612 Notice to parents. 347 § 300.613 Access rights. 348
§ 300.324 Development, review, and revision of IEP. 260	§ 300.516 Civil action. 310 § 300.517 Attorneys’ fees. 311	
§ 300.325 Private school placements by public agencies. 268	§ 300.518 Child’s status during proceedings. 315 § 300.519 Surrogate parents. 316	
§ 300.326 [Reserved] 269 § 300.327 Educational placements. 269		
§ 300.328 Alternative means of meeting participation. 270		

§ 300.614 Record of access. 349

§ 300.643 Annual report of children served—certification. 361

§ 300.713 Plan for coordination of services. 80 § 300.714 Establishment of advisory board. 80 § 300.715 Annual reports. 80 § 300.716 Applicable regulations. 80 Definitions that Apply to this Subpart 80

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§ 300.615 Records on more than one child. 349

§ 300.645 Annual report of children served—other responsibilities of the SEA. 362

§ 300.717 Definitions applicable to allotments, grants, and use of funds. 80

§ 300.616 List of types and locations of information. 350

§ 300.646 Disproportionality. 363

Acquisition of Equipment and Construction or Alteration of Facilities 80

§ 300.617 Fees. 350

Subpart G— Authorization, Allotment, Use of Funds, and Authorization of Appropriations 366

§ 300.718 Acquisition of equipment and construction or alteration of facilities. 80

§ 300.618 Amendment of records at parent’s request. 350

Allotments, Grants, and Use of Funds 366 § 300.700 Grants to States. 366

Subpart H—Preschool Grants for Children with Disabilities 80

§ 300.619 Opportunity for a hearing. 351 § 300.620 Result of hearing. 352 § 300.621 Hearing procedures. 353 § 300.622 Consent. 353 § 300.623 Safeguards. 354 § 300.624 Destruction of information. 354 § 300.625 Children’s rights. 358 § 300.626 Enforcement. 358

§ 300.701 Outlying areas, freely associated States, and the Secretary of the Interior. 368

§ 300.800 In general. 80 § 300.801–300.802 [Reserved] 80 § 300.803 Definition of State. 80 § 300.804 Eligibility. 80 § 300.805 [Reserved] 80

§ 300.627 Department use of personally identifiable information. 358

§ 300.702 Technical assistance. 368 § 300.703 Allocations to States. 368 § 300.704 State-level activities. 368 § 300.705 Subgrants to LEAs. 379 § 300.706 [Reserved] 80 Secretary of the Interior 80 § 300.707 Use of amounts by Secretary of the Interior. 80

§ 300.806 Eligibility for financial assistance. 80 § 300.807 Allocations to States. 80

Reports—Program Information 359

§ 300.640 Annual report of children served—report requirement. 359

§ 300.708 Submission of information. 80 § 300.709 Public participation. 80

§ 300.808 Increase in funds. 80 § 300.809 Limitations. 387 § 300.810 Decrease in funds. 387 § 300.811 [Reserved] 387

§ 300.641 Annual report of children served—information required in the report. 359

§ 300.710 Use of funds under Part B of the Act. 80 § 300.711 Early intervening services. 80

§ 300.812 Reservation for State activities. 387 § 300.813 State administration. 387 § 300.814 Other State-level activities. 387 § 300.815 Subgrants to LEAs. 387 § 300.816 Allocations to LEAs. 388 § 300.817 Reallocation of LEA funds. 388

§ 300.642 Data reporting. 360

§ 300.712 Payments for education and services for Indian children with disabilities aged three through five. 80

§ 300.818 Part C of the Act inapplicable. 80

SUBPART A—GENERAL

PURPOSES AND APPLICABILITY

6.31.2.14 NMAC. RULES OF CONSTRUCTION:

A. U.S. department of education interpretations. The U.S.

department of education's (USDE) interpretations of the provisions of 34 CFR Part 300 as set forth in its Analysis of Comments and Changes to Part 300 at 71 Federal Register 46547-46753 (August 14, 2006), and other interpretations that are published or

announced by the USDE in the federal register are recognized as the federal government's official positions regarding the requirements of IDEA. Such interpretations shall be followed by the department to the extent that they do not conflict with express provisions of IDEA or case law from the federal courts.

B. Uniform Statute and Rule Construction Act. The Uniform Statute and Rule Construction Act, Sections 12-2A-1 through

12-2A-20 §applies to the interpretation of 6.31.2 NMAC except to the extent that these rules incorporate permissible variations under the New Mexico version of the Uniform Statute and Rule Construction Act. References in 6.31.2 NMAC to state or federal laws, rules are intended to incorporate future amendments unless a provision in these rules is irreconcilable with a future amendment under the standards of the Uniform Statute and Rule Construction Act.

C. Conflicts with state or federal laws or rules.. If any state law, or a state rule adopted by the department or a federal law or regulation grants greater rights to an individual or public agency than these rules provide, the provision(s) granting greater rights shall control to the extent necessary to avoid a conflict. WALATOWA HIGH CHARTER SCHOOL Board Policy along with this Handbook of Procedures constitute the Policies and Procedures of WALATOWA HIGH CHARTER SCHOOL which are designed to be consistent with the State policies and procedures developed pursuant to the IDEA.

The NMPED also provides guidance to local educational agencies in implementing the IDEA. To the extent that the NMPED's guidance is consistent with the IDEA and does not impose a requirement that is not otherwise imposed by the IDEA without the

specific notice required under 34 C.F.R. §300.299(a)(2), WALATOWA HIGH CHARTER SCHOOL will follow the guidance of the NMPED.

WALATOWA HIGH CHARTER SCHOOL Special Education Handbook of Procedures is not be for the purpose of creating a requirement that is not otherwise imposed by the IDEA (and its implementing federal regulations, state statutes and rules) and shall not be construed to create a higher standard. This Handbook of Procedures developed by the Superintendent or at the Superintendent's direction shall be posted on WALATOWA HIGH CHARTER SCHOOL's website. WALATOWA HIGH CHARTER SCHOOL Special Education Handbook of Procedures should be interpreted consistent with the IDEA.

WALATOWA HIGH CHARTER SCHOOL Special Education Handbook of Procedures is reviewed and updated, as needed, on at least an annual basis. WALATOWA HIGH CHARTER SCHOOL will make timely changes to policies and procedures in response to IDEA amendments, regulatory or rule changes, changes to State policy, or new legal interpretation as are necessary to bring WALATOWA HIGH CHARTER SCHOOL into compliance with the requirements of IDEA.

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Federal Regulations New Mexico Rules Procedures

§ 300.1 Purposes.	
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The purposes of this part are—

6.31.2.2 NMAC. SCOPE: The requirements of these rules are binding on each New Mexico public agency that has direct or delegated authority to

(a) To ensure that all children with disabilities have available to them a public agency is receiving funds under the Individuals with Disabilities free appropriate public Education Improvement Act of 2004 and regardless of whether it provides education that emphasizes special special education and related services directly, by contract or through education and related services other arrangements such as referrals by the public agency to private designed to meet their unique schools or facilities. Each public agency is responsible for ensuring that needs and prepare them for further all rights and protections under these rules are afforded to children education, referred to or placed in private schools or facilities including residential employment, and independent treatment centers, day treatment centers, hospitals, or mental health living; institutions by that public agency.

(b) To ensure that the rights of children

6.31.2.6 NMAC. OBJECTIVE: The following rule is promulgated to with disabilities and their parents assist New Mexico public agencies in appropriately identifying and are protected;

providing educational services for children with disabilities and gifted

(c) To assist States, localities, children. The purposes of this rule are to ensure that all children with educational service agencies, and disabilities have available a free appropriate public education which Federal agencies to provide for the includes special education and related services to meet their unique needs; education of all children with to ensure that the rights of children with disabilities and gifted children disabilities; and and their parents are protected; to assist public agencies to provide for the education of all children with disabilities and gifted children; and to

(d) To assess and ensure the evaluate and ensure the effectiveness of efforts to educate those children. effectiveness of efforts to educate children with disabilities.

(Authority: 20 U.S.C. 1400(d))

WALATOWA HIGH CHARTER SCHOOL maintains systems to ensure that all children with disabilities residing in the District, including children with disabilities attending non-public schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and provided a free appropriate public education (FAPE).

WALATOWA HIGH CHARTER SCHOOL maintains systems to ensure that children with disabilities and their parents are afforded the procedural safeguards required under the IDEA (and its implementing federal regulations, state statutes and rules) including with respect to the confidentiality of records and personally identifiable information.

<p>§ 300.2 Applicability of this part to State and local agencies.</p>	
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(a) *States*. This part applies to each
6.31.2.11 NMAC. EDUCATIONAL SERVICES FOR

State that *receives* payments under
CHILDREN WITH DISABILITIES:
Part B of the Act, as *defined* in §
J. Children in state-supported educational programs.
300.4.

(b) *Public agencies within the State*.

(1) Children placed or referred by other public agencies.

The provisions of this part—

(a) Applicability. The rules in this Paragraph (1) of

(1) Apply to all political
Subsection J of 6.31.2.11 NMAC apply to
subdivisions of the State that
children with disabilities who are being
are involved in the education
considered for placement in a state-supported
of children

educational program or facility by another
with disabilities, including:
public agency as a means of providing special
education and related services.

(i) The State educational agency (SEA).

(b) Responsibility. Each public agency shall ensure that a

(ii) Local educational agencies (LEAs),
child with a disability who is being
educational service agencies (ESAs), and
considered for placement in a state-supported
public charter schools that are not
educational program by another public agency
otherwise included as LEAs or ESAs and
has all the rights of a related services:
are not a school of an LEA or ESA.

(i) in conformance with an IEP;

(iii) Other State agencies and schools (such as
Departments of Mental Health and

(ii) at no cost to the child's parents; and

Welfare and State schools for children
(iii) at a school or facility that is accredited by
with deafness or children with blindness).

the department or licensed by the New

(iv) State and local juvenile and adult
Mexico department of health.

correctional facilities; and

(c) Service delivery. With informed parent consent pursuant

(2) Are binding on each public

to 34 CFR Sec. 300.300 and

agency in the State that provides

In New Mexico, there are two state-supported
educational programs that were created for the
express purpose of meeting the needs of students
with disabilities in the State.

The **New Mexico School for the Blind and Visually
Impaired** (NMSD VI) is a specialized school which
provides residential, academic, support, early
childhood programs, summer camps and outreach
services to the blind and visually impaired students of
New Mexico. WHCS is an entirely special education
school. Today, the main campus is still located on the
original site in Alamogordo with an Early Childhood
Program and Outreach Program housed in
Albuquerque, New Mexico.

More information is available on the WHCS website.

With a long history of serving children and youth who
are deaf or hard of hearing, the **New Mexico School
for the Deaf** (WHCS) offers the following programs to
the state:

- Preschools and kindergartens - comprehensive and
stimulating learning environments for young
children
- Academics - grades 1 through 12, which
encompass traditional and elective subjects with
a special emphasis on language and literacy
development
- Student Life - a wide range of residential,
educational and recreational after-school
activities, such as athletics, clubs and life skills
development
- Step*Hi - statewide, family-centered, early
intervention services for babies, toddlers and
young children
- Outreach - statewide information and educational
support to public schools serving children and youth
who are deaf or hard of hearing

<p>Subsection F of 6.31.2.13 NMAC, and pursuant special education and related to the procedures in 34 CFR Sec. 300.304 and services to children with disabilities, Subsection D of 6.31.2.10 NMAC, the state regardless of whether that agency is receiving supported program may conduct such additional funds under Part B of the Act. evaluations and gather such additional information as it considers necessary to assist (c) <i>Private schools and facilities</i>. Each the IEP team in making the placement decision. public agency in the State is The referring public agency and the receiving responsible for ensuring that the state-supported educational program shall be rights and protections under Part jointly responsible for developing IEPs and B of the Act are given to children ensuring that the child receives a free with disabilities— appropriate public education.</p> <p>(1) Referred to or placed in private schools and facilities by that public agency; or</p> <p>(2) Placed in private schools by their parents under the provisions of §300.148.</p>	
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<p>(Authority: 20 U.S.C. 1412) (d) Joint IEPs and interagency agreements. Responsibility for services for children placed in or referred to state-supported educational programs shall be defined by a jointly agreed upon IEP or other written agreement between the referring public agency and the state supported program.</p> <p>(e) Annual review. At least annually, the referring public agency, the state-supported educational program and the parent shall jointly review the child's IEP and revise it as the joint IEP team deems appropriate.</p> <p>(2) Children enrolled in state-supported educational programs by parents or other public authorities. A state-supported educational program that accepts a child with a disability at the request of a parent or upon the request or order of a noneducational public authority, and without inviting the public agency that has primary responsibility for serving the child to participate in the IEP process, assumes all responsibility for ensuring the provision of FAPE. The child's LEA or another public agency with educational jurisdiction may agree to share the responsibility pursuant to a joint IEP or other written agreement between the state-supported program, the other agency and, if appropriate, the parent.</p> <p>K. Children at the New Mexico School for the Deaf (WHCS).</p> <p>(1) WHCS is a state educational agency established to provide educational services to persons who are 21 years of age or younger on the first day of school, who are deaf or hard of hearing, and who may have one or more other disabilities. The school serves as a special school on the continuum of placement options. The school serves students who require specialized or intensive educational services or services related to hearing impairment or deafness. WHCS provides a variety of services to the students and WHCSs around the</p>	<p>■ Summer Program - a place where WHCS and non WHCS students who are deaf or hard of hearing, and in grades 3 – 12, come together in fun, adventurous, academic and non-academic ways</p> <p>More information is available on the WHCS website. New Mexico School for the Deaf</p>
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Federal Regulations New Mexico Rules Procedures

state, including outreach, consultation, and training services. WHCS also provide comprehensive services on a day or residential basis. The comprehensive day and residential programs are not intended to serve students whose needs are appropriately addressed in a group home or hospital setting or in a residential treatment facility.

(2) To be eligible to receive free services from WHCS, a student shall be deaf or hearing impaired as determined by an audiological evaluation and be a resident of New Mexico.

(3) The student's resident WHCS shall conduct child find, pursuant to 34 CFR Sec. 300.111 and Subsection A of 6.31.2.10 NMAC.

(4) In addition to the requirements of identification, evaluations, and eligibility determinations of students with disabilities pursuant to 6.31.2.10 NMAC and 34 CFR Secs. 300.100 through 300.230 and 300.300 through 300.328, if a student's resident WHCS finds, has reason to know, or receives documentation that a student is deaf, has a hearing impairment, or is deafblind, the following criteria shall apply

(a) the resident WHCS shall convene the initial IEP team meeting;

(b) the IEP team shall include members specified in Paragraph (11) of Subsection B of 6.31.2.7 NMAC, including staff from the WHCS if invited by the parent or the resident school district pursuant 34 CFR Sec. 300.321(a)(6);

(c) the resident WHCS shall provide the parents of the student with information on the continuum of alternative placements, including the alternative placements listed in the definition of special education under 34 CFR Sec. 300.39 (instruction in regular classrooms, special classes, special schools, home instruction, and instruction in hospitals and

institutions); and supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with regular class placement;

(d) in addition to the requirements of Subsection B of 6.31.2.11 NMAC, the IEP team shall be tasked with:

(i) determining if the student has a hearing disability, which impacts the student's ability to access education, ability to develop language or communication, social emotional development, and/or overall development; and

(ii) determining the student's placement in the least restrictive environment, in compliance with 34 CFR Secs. 300.114 through 300.120 and Subsection C of 6.31.2.11 NMAC, which for the student may be an environment specifically designed for deaf and hard of hearing children, and whether this is the most appropriate setting in providing educational services and supports to meet the student's IEP.

(e) the student's placement, whether in the resident WHCS, WHCS, or other educational entity, is the entity that shall have full responsibility for FAPE and all services defined in the student's IEP unless the resident school district and WHCS agree to share services, responsibilities, and costs pursuant to 34 CFR Sec. 300.103; and

(f) the composition of the IEP team after a student's placement and service determinations shall:

(i) include a representative from the resident WHCS at the request of the parent, WHCS, or the resident WHCS if the final placement for the student is at WHCS; and

(ii) include a representative from WHCS at the

request of the parent, the resident school district, or WHCS if the final placement for the student is at the resident WHCS or other educational entity.

L. Children at the New Mexico school for the blind and visually impaired (WHCS).

(1) WHCS is a state educational agency established to provide educational services for students who are 21 years of age or younger on the first day of school and who have a diagnosed visual impairment and who may have one or more other disabilities. The school serves as a special school on the continuum of placement options. The school serves students who require specialized or intensive educational services or services related to the visual impairment or blindness and those who need extensive training related to the expanded core curriculum for blind and visually impaired students. WHCS provides a variety of services to the students and WHCSs around the state, including outreach, consultation, and training services. WHCS also provides comprehensive services on a day or residential basis. The comprehensive day and residential programs are not intended to serve students whose needs are appropriately addressed in a group home or hospital setting or in a residential treatment facility.

(2) To be eligible to receive free services from the WHCS, a student shall have a visual impairment or blindness as determined by a medical eye exam and be a resident of New Mexico.

(3) The student's resident WHCS shall conduct child find, pursuant to 34 CFR Sec. 300.111 and Subsection A of 6.31.2.10 NMAC.

(4) In addition to the requirements of identification, evaluations, and eligibility determinations of students with disabilities pursuant to 6.31.2.10 NMAC and 34 CFR Secs. 300.100 through

300.230 and 300.300 through 300.328, if a student's resident WHCS finds, has reason to know, or receives documentation that a student is blind, has a visual impairment, or is deafblind, the following criteria shall apply:

(a) the resident WHCS shall convene the initial IEP team meeting;

(b) the IEP team shall include members specified in Paragraph (11) of Subsection B of 6.31.2.7 NMAC, including staff from WHCS if invited by the parent or the resident school district pursuant 34 CFR Sec. 300.321(a)(6);

(c) the resident WHCS shall provide the parents of the student with information on the continuum of alternative placements, including the alternative placements listed in the definition of special education under 34 CFR Sec. 300.39 (instruction in regular classrooms, special classes, special schools, home instruction, and instruction in hospitals and institutions); and supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with regular class placement;

(d) in addition to the requirements of Subsection B of 6.31.2.11 NMAC, the IEP team shall be tasked with:

(i) determining if the student has a visual disability, which impacts the student's ability to access education, ability to develop language or communication, social emotional development, and/or overall development; and

(ii) determining the student's placement in the least restrictive environment, in compliance with 34 CFR Secs. 300.114 through 300.120 and Subsection C of 6.31.2.11 NMAC, which for the student may be an environment specifically

	<p>designed for blind or visually impaired children, and whether this is the most appropriate setting in providing educational services and supports to meet the student's IEP.</p> <p>(e) the student's placement, whether in the resident WHCS, WHCS VI, or other educational entity, is the entity that shall have full responsibility for FAPE and all services defined in the student's IEP unless the resident WHCS and WHCS agree to share services, responsibilities, and costs pursuant to 34 CFR Sec. 300.103; and</p> <p>(f) the composition of the IEP team after a student's placement and service determinations shall:</p> <p>(i) include a representative from the resident WHCS at the request of the parent, WHCS VI, or the resident WHCS if the final placement for the student is at WHCS; and</p> <p>(ii) include a representative from WHCS at the request of the parent, the resident WHCS, or WHCS if the final placement for the student is at the resident WHCS or other educational entity. M. Children in detention and correctional facilities.</p> <p>(1) If a child with a disability is placed in a juvenile or adult detention or correctional facility, the facility shall provide the child with FAPE after the facility learns that the child had been eligible for special education and related services in the last educational placement prior to incarceration or otherwise determines that the child is eligible.</p> <p>(5) A state-supported educational program that serves a juvenile or adult detention or correctional facility shall be responsible for ensuring that FAPE is</p>	
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	<p>provided to eligible children in that facility.</p> <p>(6) The local WHCS in which a detention or correctional facility is located (that is not served by a state-supported educational program) shall be responsible for ensuring that FAPE is made available to eligible children in that facility. A child's LEA of residence or another public agency with educational jurisdiction may agree to share the responsibility pursuant to a written agreement between or among the public agencies involved.</p> <p>N. Children in private schools or facilities. ..(6) If not otherwise governed by this rule, the department will determine which WHCS is responsible for the cost of educating a qualified student in need of special education who has been placed in a private school or facility outside the qualified student's resident WHCS in accordance with the following procedures.</p> <p>(a) The receiving WHCS shall notify the SED of the department in writing no later than thirty (30) days after the receiving school district receives notice of the placement. The notice, as described on the department's website, shall include: name of student, date of birth of student, date of placement, information regarding the qualified student's resident school district, documentation of placement, including student's IEP, cost of placement, and any other information deemed relevant by the SED . The receiving WHCS shall provide a copy of the notice to the WHCS identified as the student's resident WHCS.</p> <p>(b) The WHCS identified as the student's resident WHCS may provide any additional information it deems relevant. Such additional information shall be provided no</p>	
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<p>later than 15 days after the resident school district receives its copy of the notice described in Subparagraph (a) of this paragraph.</p> <p>(c) No later than 60 days after its receipt of the notice described in Subparagraph (a) of this paragraph, the SED will issue its determination as to which WHCS is responsible for the cost of educating the student, together with the amount of any reasonable reimbursement owed to the receiving WHCS. The SED may extend the 60 day timeline for good cause.</p>	
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Definitions Used in This Part	
<p>6.31.2.7 NMAC DEFINITIONS:</p> <p>A. Terms defined by federal laws and rules. All terms defined in the following federal laws and rules and any other federally defined terms that are incorporated there by reference are incorporated here for purposes of these rules.</p> <p>(1) The federal Individuals with Disabilities Education Improvement Act of 2004 (IDEA), 20 USC Sec. 1400 et seq..</p> <p>(2) The IDEA rules, 34 CFR Parts 300 and 301 \.</p> <p>(3) Pursuant to the paperwork reduction provisions of IDEA 20 USC Sec. 1408, all definitions, with the exception of those found in Subsection B of 6.31.2.7 NMAC, contained in IDEA Parts 300 and 301 at 34 CFR Secs. 300.1 through 300.45, will be adopted by reference.</p> <p>NMSA 1978, § 22-5-4.12. Use of restraint and seclusion; techniques; requirements</p> <p>...</p> <p>I. For the purposes of this section:</p>	<p>WALATOWA HIGH CHARTER SCHOOL utilizes the definitions in the IDEA, its implementing federal regulations, state statutes and rules. WALATOWA HIGH CHARTER SCHOOL, by reference in these procedures, and through staff development (as appropriate), shall ensure that personnel are knowledgeable regarding these definitions, and the standards and criteria established through these definitions.</p>

<p>(1) "first responder" means a person based outside of a school who functions within the emergency medical services system and who is dispatched to a school to provide initial emergency aid;</p> <p>(2) "mechanical restraint" means the use of any device or material attached or adjacent to the student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove, but "mechanical restraint" does not include mechanical supports or protective devices; 6.11.2.7 NMAC (P)(2020);</p> <p>(3) "physical restraint" means the use of physical force without the use of any device or material that restricts the free movement of all or a portion of a student's body, but "physical restraint" does not include physical escort; 6.11.2.7 NMAC (R)(2020);</p> <p>(4) "restraint" when not otherwise modified means mechanical or physical restraint; 6.11.2.7 NMAC (V)(2020)); and</p> <p>(5) "seclusion" means the involuntary confinement of a student alone in a room from which egress is prevented. "Seclusion" does not mean the use of a voluntary behavior management technique, including a timeout location, as part of a student's education plan, individual safety plan, behavioral plan or individualized education program that involves the student's separation from a larger group for purposes of calming." (6.11.2.7.NMAC (X)(2020))</p>	
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§ 300.4 Act.	
<p><i>Act</i> means the Individuals with</p> <p>6.31.2.7.NMAC DEFINITIONS: B. The following terms shall have the</p> <p>Disabilities Education Act, as</p> <p>following meanings for purposes of these rules. ... (12) “Individuals with</p> <p>amended.</p> <p>Disabilities</p>	

C.Federal Regulations New Mexico Rules Procedures

<p>(Authority: 20 U.S.C. 1400(a)) Education Improvement Act” or “IDEA” means the federal Individuals with</p> <p>Disabilities Education</p> <p>Improvement Act of 2004, 20 USC Secs. 1401 et seq., including</p> <p>future amendments. .</p>	
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§ 300.5 Assistive technology device.

Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.

(Authority: 20 U.S.C. 1401(1))

The definition of *assistive technology device* does not list specific devices, nor would it be practical or possible to include an exhaustive list of assistive technology devices. However, medical devices that are surgically implanted, including those used for breathing, nutrition, and other bodily functions, are excluded from the definition of an *assistive technology device* in section 602(1)(B) of the Act. The exclusion applicable to a medical device that is surgically implanted includes both the implanted component of the device, as well as its external components. (See 71 Fed. Reg. 46547 (August 14, 2006))

§ 300.6 Assistive technology service.

Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes—

- (a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
- (b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- (c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

Federal Regulations New Mexico Rules Procedures

<p>(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;</p> <p>(e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and</p> <p>(f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.</p> <p>(Authority: 20 U.S.C. 1401(2))</p>		
<p>“CFR”. (Not defined in federal regulations; see New Mexico Rules).</p>	<p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>B. The following terms shall have the following meanings for purposes of these rules.</p> <p>(1) “CFR” means the code of federal regulations, including future amendments.</p>	

<p>§ 300.7 Charter school.</p>		
<p><i>Charter school</i> has the meaning given the term in section 4310(2) of the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. 6301 <i>et seq.</i> (ESEA).</p>		

(Authority: 20 U.S.C. 7221i(2))		
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§ 300.8 Child with a disability.		
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(a) <i>General.</i>	6.31.2.7 NMAC. DEFINITIONS:	The NMPED has issued a guidance document titled, New Mexico Technical Evaluation and Assistance
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<p>(1) <i>Child with a disability</i> means a child evaluated in accordance with §§ 300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, another health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.</p> <p>(2) (i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§ 300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.</p> <p>(ii) If, consistent with § 300.39(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.</p> <p>(b) <i>Children aged three through nine experiencing developmental delays. Child with a disability</i> for children aged three through nine (or any subset of that age range, including ages three through five), may, subject to the conditions described in §300.111(b), include a child—</p> <p>(1) Who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic</p>	<p>B. The following terms shall have the following meanings for purposes of these rules.</p> <p>(2) “Child with a disability” means a child who meets all requirements of 34 CFR Sec. 300.8 and :</p> <p>(a) is age three through 21 or who will turn age three at any time during the school year;</p> <p>(b) has been evaluated in accordance with 34 CFR Secs. 300.304-300.311 and any additional requirements of these or other department rules and standards and as having one or more of the disabilities specified in 34 CFR Sec. 300.8 including an intellectual disability; a hearing impairment including deafness, a speech or language impairment; a visual impairment including blindness; emotional disturbance; orthopedic impairment; autism; traumatic brain injury; other health impairment; a specific learning disability; deaf-blindness; or being developmentally delayed as defined in paragraph (4) of Section B of 6.31.2.7 NMAC; (correct citation 6.31.2.7 (B)(3)) ; and who has not received a high school diploma; and 9c) at the discretion of each local educational agency and subject to the additional requirements of Paragraph (2) of Subsection F of 6.31.2.10 NMAC, may include a child age three through nine; who is evaluated as being developmentally delayed and who, because of that condition, needs special education and related services.</p> <p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>B. The following terms shall have the following meanings for purposes of these rules.</p> <p>...</p>	<p>Manual: Determining Eligibility for IDEA Part B Special Education Services (, December 2017), available through the NMPED website. For each eligibility category, the Initial Evaluation section in the NM TEAM (December 2017) outlines the assessments, observations, and data that WALATOWA HIGH CHARTER SCHOOL expects the evaluation team to gather throughout the initial evaluation process. This section includes: Highly Recommended Components and Potential Additional Components. The Highly Recommended Components are those components that WALATOWA HIGH CHARTER SCHOOL considers most critical for making an eligibility determination under a specific eligibility category. The Potential Additional Components are those that evaluation teams will most commonly identify as other areas of need for a particular child when considering a specific category. However, WALATOWA HIGH CHARTER SCHOOL reminds evaluation teams that these two lists are not all-inclusive. Each evaluation is unique and should reflect the specific child’s needs as identified by the evaluation team. In Addition, WALATOWA HIGH CHARTER SCHOOL reminds evaluation teams that in some cases, standardized measures may not provide the most accurate representation of a child’s abilities or there may not be an appropriate standardized measure for the area being assessed. In these cases, evaluation teams may find that it is necessary to use alternative methods to obtain the data that they need. WALATOWA HIGH CHARTER SCHOOL expects these decisions and their underlying rationale to be clearly documented. With rare exception, WALATOWA HIGH CHARTER SCHOOL expects the evaluation team to include all of the elements outlined under Highly Recommended Components and to also consider the Potential Additional Components, as appropriate for each individual child. WALATOWA HIGH CHARTER SCHOOL expects a team to document any deviation from these guidelines. (See NM TEAM, December 2017) The report prepared by the group of qualified professionals will address whether the child meets or, in the case of a reevaluation, continues to meet the specific</p>
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<p>instruments and procedures, in one or more of the following areas: Physical development, cognitive development, communication development, social or emotional development, or adaptive development; and</p> <p>(2) Who, by reason thereof, needs special education and related services.</p> <p>(c) Definitions of disability terms. The <i>terms</i> used in this definition of a child with a disability are defined as follows:</p> <p>(1) (i) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.</p> <p>(ii) Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in paragraph (c)(4) of this section.</p> <p>(iii) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in paragraph (c)(1)(i) of this section are satisfied.</p> <p>(2) <i>Deaf-blindness</i> means concomitant hearing and visual impairments, the</p>	<p>(3) "Developmentally delayed" means a child age three through nine or who will turn age three at any time during the school year: with documented delays in development which are at least two standard deviations below the mean on a standardized test instrument or 30 per cent below chronological age; and who in the professional judgment of the IEP team and one or more qualified evaluators needs special education and related services in at least one of the following areas: communication development, cognitive development, physical development, social or emotional development or adaptive development. Use of the developmentally delayed option by individual local educational agencies are subject to the further requirements of Paragraph 2 of Subsection F of 6.31.2.10 NMAC. Local educational agencies shall use appropriate diagnostic instruments and procedures to ensure that the child qualifies as a child with a developmental delay in accordance with the definition in this paragraph.</p> <p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>B. The following terms shall have the following meanings for purposes of these rules.</p> <p>(4) "Dual discrepancy" means the child does not achieve adequately for the child's age or to meet grade-level standards established in New Mexico standards for excellence 6.29.1 through 6.29.17 NMAC and</p> <p>(a) does not make sufficient progress to meet age or grade-level standards; or</p> <p>(b) exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, grade level standards or intellectual development. (5) "Dyslexia" means a condition of neurological origin that is characterized by difficulty with accurate or fluent word recognition and by poor spelling and</p>	<p>eligibility criteria for the disability or disabilities being evaluated and whether, by reason of the disability or disabilities, the child needs or continues to need special education and related services. Upon completion of the evaluation, the group of qualified professionals and the parent ("the Eligibility Determination Team") will determine whether the child is eligible for special education services under the IDEA. The NM TEAM (December 2017) contains Initial and Reevaluation Eligibility Determination Forms at the end of each disability category section to guide the Eligibility Determination Team in making an eligibility determination under each of the disability categories. WALATOWA HIGH CHARTER SCHOOL's Eligibility Determination Team will consider and utilize, as appropriate, the information within these forms including the series of questions. (See NM TEAM, December 2017)</p> <p>Developmental Delay WALATOWA HIGH CHARTER SCHOOL does use the term developmental delay (DD). An initial evaluation for DD may include (highly recommended): for preschool-aged children, reviewing existing screening data and/or any previously conducted evaluation data and for school aged children, reviewing and considering complete SAT file documentation and existing evaluation data; gathering and analyzing developmental/educational, medical, family, and social history, including an interview with the parent(s)/guardian(s); completing direct observations across multiple settings and times; administering and analyzing assessment of developmental skills in areas of suspected disability, including one or more of the following: motor skills assessment, assessment of cognitive abilities, speech/language/communication assessment, social/emotional assessment, adaptive behavior information, including the areas of conceptual, social, and practical skills; conducting an assessment of pre academic skills and/or academic achievement skills; completing multiple direct observations across both structured and unstructured settings and at various</p>
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<p>combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.</p> <p>(3) <i>Deafness</i> means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a child's educational performance.</p> <p>(4) (i) <i>Emotional disturbance</i> means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:</p> <p>(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.</p> <p>(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.</p> <p>(C) Inappropriate types of behavior or feelings under normal circumstances.</p> <p>(D) A general pervasive mood of unhappiness or depression.</p> <p>(E) A tendency to develop physical symptoms or fears associated with personal or school problems.</p> <p>(ii) Emotional disturbance includes schizophrenia. The term does not apply to children who are socially</p>	<p>decoding abilities, which characteristics typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction and may result in problems in reading comprehension and reduced reading experience that may impede the growth of vocabulary and background knowledge.</p> <p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>B. The following terms shall have the following meanings for purposes of these rules.</p> <p>... (20) (b) Speech-language pathology services shall meet the following standards to be considered special education:</p> <p>(i) the service is provided to a child who has received appropriate tier I universal screening under Subsection D of 6.29.1.9 NMAC[Correct citation 6.29.1.9 (E)] as it may be amended from time to time, before being properly evaluated under 34 CFR Secs. 300.301-300.306 and Subsection D of 6.31.2.10 NMAC;</p> <p>(ii) the IEP team that makes the eligibility determination finds that the child has a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance;</p> <p>(iii) the speech language pathology service consists of specially designed instruction that is provided to enable the child to have</p>	<p>times; and when an evaluation in any area is unable to be completed using standardized measures, using alternative methods of obtaining data to gather information about the child's present levels of performance. A child with a disability who only needs a related service and not special education is not eligible under IDEA, and is not eligible to receive related services. (See NM TEAM, December 2017) for potential additional components and reevaluation guidance.)</p> <p>WALATOWA HIGH CHARTER SCHOOL recognizes the NMPED guidance with the September 24, 2020 Memorandum: Clarification of special education and related services in New Mexico related to the eligibility category of Developmental Delay (DD), (2020) WALATOWA HIGH CHARTER SCHOOL, by reference in these procedures, and through staff development (as appropriate), shall inform appropriate personnel of this guidance document.</p> <p>Autism</p> <p>In New Mexico, an operational definition of autism has been developed using a medical model from the Diagnostic and Statistical Manual of Mental Disorders Fifth Edition (DSM-5), with Autism Spectrum Disorder classified under the autism eligibility category for purposes of determining eligibility under Individuals with Disabilities Education Act (IDEA). This broad DSM-5 category and criteria provides valuable descriptive information for evaluators as they attempt to address autism in school settings. However, it is not necessary for an EDT to determine that the child meets the DSM-5 criteria in order to be found eligible for special education and related services under the eligibility category of autism. In addition, WALATOWA HIGH CHARTER SCHOOL expects the evaluation team to be mindful of the fact that they are making an educational, not a medical, determination and that children must also demonstrate a need for special education services in order to be eligible for services under the eligibility</p>
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<p>maladjusted, unless it is determined that they have an emotional disturbance under paragraph (c)(4)(i) of this section.</p> <p>(5) <i>Hearing impairment</i> means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section.</p> <p>(6) <i>Intellectual disability</i> means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance</p> <p>(7) <i>Multiple disabilities</i> means concomitant impairments (such as mental retardation blindness or mental retardation orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf blindness.</p> <p>(8) <i>Orthopedic impairment</i> means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).</p> <p>(9) <i>Other health impairment</i> means having limited strength, vitality, or alertness, including a heightened alertness to</p>	<p>access to the general curriculum and meet the educational standards of the public agency that apply to all children; and (iv) the service is provided at no cost to the parents under a properly developed IEP that meets the requirements of Subsection B of 6.31.2.11 NMAC.</p> <p>NMSA 1978, § 22-13-32 (2019): INTERVENTION FOR STUDENTS DISPLAYING CHARACTERISTICS OF DYSLLEXIA.</p> <p>A. Within the course of the 2019-2020 and 2020-2021 school years and in each subsequent school year, all first grade students shall be screened for dyslexia.</p> <p>B. A student whose dyslexia screening demonstrates characteristics of dyslexia and who is having difficulty learning to read, write, spell, understand spoken language or express thoughts clearly shall receive appropriate classroom interventions or be referred to a student assistance team.</p> <p>C. In accordance with department response to intervention procedures, guidelines and policies, each school district or charter school shall provide timely, appropriate, systematic, scientific, evidence-based interventions prescribed by the student assistance team, with progress monitoring to determine the student's response or lack of response.</p> <p>D. A parent of a student referred to a student assistance team shall be informed of the parent's right to request an initial special education evaluation at any time during the WHCS's or charter school's implementation of the interventions prescribed by the student assistance team. If the WHCS or charter school agrees that the student may have a disability, the student assistance team shall refer the child for an evaluation. The student shall be evaluated within sixty days of receiving the parental consent for an initial evaluation. If the WHCS or charter school refuses the parent's request for an initial evaluation, the</p>	<p>category of autism under IDEA (2004). (See NM TEAM, December 2017)</p> <p>An initial evaluation for autism may include (highly recommended): for preschool-aged children, reviewing existing screening data and/or any previously conducted evaluation data and for school-aged children, reviewing and considering complete SAT file documentation and existing evaluation data; gathering and analyzing developmental/educational, medical, family, and social history, including an interview with the parent(s)/guardian(s); completing direct observations across multiple settings; conducting an assessment of cognitive abilities; completing a systematic review of individual academic achievement performance including formal and informal measures; administering an individual academic achievement assessment in the area(s) of suspected need and for which instruction and intervention have been documented; conducting an adaptive behavior assessment including information in the areas of conceptual, social and practical skills; conducting a speech/language/communication assessment; conducting a sensory processing and motor skills assessment; conducting a social/emotional assessment; gathering autism specific information through the use of an autism instrument; completing a transition assessment, including a vocational evaluation (as appropriate); and when an evaluation in any area is unable to be completed using standardized measures, using alternative methods of obtaining data to gather information about the child's present levels of performance. (See NM TEAM, December 2017 for potential additional components and reevaluation guidance.)</p> <p>Deaf-Blindness An initial evaluation for deaf-blindness may include (highly recommended): for preschool-aged children, reviewing existing screening data and/or any previously conducted evaluation data and for school-aged children, reviewing and considering complete SAT file documentation and existing evaluation data;</p>
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<p>environmental stimuli, that results in limited alertness with respect to the educational environment, that—</p> <p>(i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and</p> <p>(ii) Adversely affects a child's educational performance.</p> <p>(10) Specific learning disability—</p> <p>(i) <i>General.</i> Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.</p> <p>(ii) <i>Disorders not included.</i> Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.</p> <p>(11) <i>Speech or language impairment</i> means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice</p>	<p>WHCS or charter school shall provide written notice of the refusal to the parent, including notice of the parent's right to challenge the WHCS's or charter school's decision as provided in state and federal law and rules</p> <p>E. Within the course of the 2019-2020 and 2020-2021 school years, every WHCS and charter school shall develop and implement a literacy professional development plan that includes a detailed framework for structured literacy training by a licensed and accredited or credentialed teacher preparation provider for all elementary school teachers and for training in evidence-based reading intervention for reading interventionists and special education teachers working with students demonstrating characteristics of dyslexia or diagnosed with dyslexia. The plan shall continue to be implemented each school year and may be updated as necessary. The department shall provide lists of recommended teacher professional development materials and opportunities for teachers and school administrators regarding evidence-based reading instruction for students at risk for reading failure and displaying the characteristics of dyslexia.</p> <p>F. WHCSs and charter schools shall train school administrators and teachers who teach reading to implement appropriate evidence-based reading interventions. WHCSs and charter schools shall train special education teachers to provide structured literacy training for students who are identified with dyslexia as a specific learning disability and who are eligible for special education services.</p> <p>G. The department shall provide technical assistance for special education diagnosticians and other special education professionals regarding the formal special education evaluation of students suspected of having a specific learning disability, such as dyslexia.</p> <p>H. The department shall adopt rules, standards and guidelines necessary to implement this section.</p>	<p>family, and social history, including an interview with the parent(s)/guardian(s); obtaining a current, comprehensive audiological evaluation by a licensed audiologist to determine degree and type of hearing loss, including the assessment of hearing levels (both aided and unaided) and the functional use of hearing; obtaining an eye examination conducted by a licensed eye specialist, such as an ophthalmologist or an optometrist, to determine the presence of an eye condition; completing a functional vision evaluation coordinated by a licensed Teacher(s) of Students with Blindness/Visual Impairment; conducting a speech/language/communication assessment; obtaining a learning media assessment conducted by a licensed Teacher(s) of Students with Blindness/Visual Impairment; completing direct observations across multiple settings; completing a systematic review of individual academic achievement, including formal and informal measures; completing a transition assessment, including a functional vocational evaluation (as appropriate); and when an evaluation in any area is unable to be completed using standardized measures, using alternative methods of obtaining data to gather information about the child's present levels of performance. The eye examination written report (see NM TEAM, December 2017, Appendix B) must include the diagnosis of the eye condition, visual acuity, and recommendations in regard to using prescription lenses. (See NM TEAM, December 2017 for potential additional components and reevaluation guidance.)</p> <p>Hearing Impairment including Deafness An initial evaluation for hearing impairment including deafness may include (highly recommended): for preschool-aged children, reviewing existing screening data and/or any previously conducted evaluation data and for school-aged children, reviewing and considering complete SAT file documentation and existing evaluation data; gathering and analyzing developmental/educational, medical, family, and social history, including an interview with the parent(s)/guardian(s); obtaining a current, comprehensive audiological evaluation by a licensed</p>
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<p>impairment, that adversely affects a child's educational performance.</p> <p>(12) <i>Traumatic brain injury</i> means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.</p> <p>(13) <i>Visual impairment including blindness</i> means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.</p> <p>(Authority: 20 U.S.C. 1401(3); 1401(30))</p>		<p>audiologist to determine degree and type of hearing loss, including the assessment of hearing levels (aided and unaided) and the functional use of hearing; conducting a speech/language/communication assessment; completing a systematic review of individual academic achievement, including formal and informal measures; administering an individual academic achievement assessment in the area(s) of suspected need and for which instruction and intervention have been documented; completing multiple direct observations across both structured and unstructured settings and various times; conducting a transition assessment, including a vocational evaluation (as appropriate); and when an evaluation in any area is unable to be completed using standardized measures, using alternative methods of obtaining data to gather information about the child's present levels of performance. (See NM TEAM, December 2017 for potential additional components and reevaluation guidance.)</p> <p>Emotional Disturbance</p> <p>WALATOWA HIGH CHARTER SCHOOL expects that the initial eligibility determination under the category of emotional disturbance include the participation of a New Mexico licensed psychologist (clinical or school). (See NM TEAM, December 2017)</p> <p>With respect to the criterion that the student manifests one or more characteristics of emotional disturbance over a long period of time, "a long period of time" is a range of from two to nine months, assuming preliminary interventions have been implemented and proven ineffective during that period. (See OSEP Letter to Anonymous, 213 IDELR 247 (1989))</p> <p>With respect to the criterion that the student manifest one or more characteristics of emotional disturbance to a "marked degree," this generally refers to the frequency, duration, or intensity of a student's emotionally disturbed behavior in comparison to the behavior of peers, and can be indicative of either degree or acuity or</p>
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		<p>pervasiveness. (See OSEP Letter to Anonymous, 213 IDELR 247 (1989))</p> <p>With respect to the criterion that the emotional disturbance adversely affects educational performance, WALATOWA HIGH CHARTER SCHOOL expects the EDT to determine educational performance on an individual basis including non-academic as well as academic standards as determined by standardized measures. (See OSEP Letter to Lybarger 1990))</p> <p>An initial evaluation for emotional disturbance may include (highly recommended): for preschool-aged children, reviewing existing screening data and/or any previously conducted evaluation data and for school aged children, reviewing and considering complete SAT file documentation and existing evaluation data; gathering and analyzing developmental/educational, medical, family, and social history, including an interview with the parent(s)/guardian(s); completing multiple direct observations across both structured and unstructured settings and various times; completing a systematic review of individual academic achievement performance including formal and informal measures; administering an individual academic achievement assessment in the area(s) of suspected disability and for which instruction and intervention has been documented; conducting or reviewing and updating a functional behavioral assessment; conducting or obtaining a psychological evaluation consistent with the area(s) of suspected disability; using rating scales /checklists to collect data about frequency and intensity of behaviors (internalizing or externalizing); completing a transition assessment, including a vocational evaluation (as appropriate); and when an evaluation in any area is unable to be completed using standardized measures, using alternative methods of obtaining data to gather information about the child's present levels of performance. (See NM TEAM, December 2017 for potential additional components and reevaluation guidance.) Intellectual Disability</p>
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		<p>An initial evaluation for intellectual disability may include (highly recommended): for preschool-aged children, reviewing existing screening data and/or any previously conducted evaluation data and for school aged children, reviewing and considering complete SAT file documentation and existing evaluation data; gathering and analyzing developmental/educational, medical, family, and social history, including an interview with the parent(s)/guardian(s); completing multiple direct observations across both structured and unstructured settings and various times; conducting an assessment of cognitive abilities; obtaining adaptive behavior information including the areas of conceptual, social, and practical skills; documenting manifestation of the disability before the age of 18; completing a systematic review of individual academic achievement, including formal and informal measures; administering an individual academic achievement assessment in the areas of suspected disability and for which instruction and intervention have been documented; conducting a speech/language/communication evaluation; conducting a transition assessment, including a vocational evaluation, as appropriate; and when an evaluation in any area is unable to be completed using standardized measures, using alternative methods of obtaining data to gather information about the child's present levels of performance. (See NM TEAM, December 2017 for potential additional components and reevaluation guidance.)</p> <p>Multiple Disabilities</p> <p>WALATOWA HIGH CHARTER SCHOOL expects that the highly recommended and potential additional components of an initial evaluation be determined by the evaluation team based upon the concomitant disabilities and the guidance provided in the NM TEAM that is specific to those areas of suspected disability and need for special education. (See NM TEAM, December 2017 for reevaluation guidance.) Orthopedic Impairment</p>
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Federal Regulations New Mexico Rules Procedures

		<p>An initial evaluation for orthopedic impairment may include (highly recommended): for preschool-aged children, reviewing existing screening data and/or any previously conducted evaluation data and for school aged children, reviewing and considering complete SAT file documentation and existing evaluation data; gathering and analyzing developmental/educational, medical, family, and social history, including an interview with the parent(s)/guardian(s); documenting medical diagnosis of a chronic orthopedic impairment (See NM TEAM, December 2017, Appendix B); completing multiple direct observations across both structured and unstructured settings and various times; conducting a motor skills assessment by a licensed occupational therapist, licensed physical therapist, or both; completing a systematic review of individual academic achievement, including formal and informal measures; administering an individual academic achievement assessment in the area(s) of suspected disability and for which instruction and intervention have been documented; conducting a transition assessment, including a vocational evaluation (as appropriate); and when an evaluation in any area is unable to be completed using standardized measures, using alternative methods of obtaining data to gather information about the child's present levels of performance. (See NM TEAM, December 2017 for potential additional components and reevaluation guidance.)</p> <p>Other Health Impairment The list of acute or chronic health conditions in the definition of other health impairment is not exhaustive, but rather provides examples of problems that children have that could make them eligible for special education and related services under the category of other health impairment. (See 71 Fed. Reg. 46550 (August 14, 2006))</p> <p>IDEA does not necessarily require a WHCS to conduct a medical evaluation for the purpose of determining whether a child has ADD/ADHD. If WALATOWA HIGH CHARTER SCHOOL believes that a</p>
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		<p>medical evaluation by a licensed physician is needed as part of the evaluation to determine whether a child suspected of having ADD/ADHD meets the eligibility criteria of the OHI category, or any other disability category under the IDEA, WALATOWA HIGH CHARTER SCHOOL will ensure that this evaluation is conducted at no cost to the parents. (See OSEP Letter to Williams (March 14, 1994))</p> <p>If WALATOWA HIGH CHARTER SCHOOL believes that there are other effective methods for determining whether a child suspected of having ADD/ADHD meets the eligibility requirements of the OHI category, then it is permissible for WALATOWA HIGH CHARTER SCHOOL to use qualified personnel other than a licensed physician to conduct the evaluation as long as all of the protections in evaluation procedures are met. (See OSEP Letter to Williams (March 14, 1994)) An initial evaluation for other health impairment may include (highly recommended): for preschool-aged children, reviewing existing screening data and/or any previously conducted evaluation data and for school aged children, reviewing and considering complete SAT file documentation and existing evaluation data; gathering and analyzing developmental/educational, medical, family, and social history, including an interview with the parent(s)/guardian(s); obtaining documentation from a licensed physician or other qualified health professional, licensed to determine such conditions, that includes a diagnosis of a chronic or acute physical, physiological, or neurological impairment that results in limited strength, vitality, and/or alertness; completing an analysis of individual academic achievement, including formal and informal measures; administering an individual academic achievement assessment in the areas of suspected disability and for which instruction and intervention have been documented; completing direct observations across multiple settings, both structured and unstructured and at various times; if the referral concern being considered is attention, focus, and/or hyperactivity, obtaining behavior rating scales/checklists to collect data about the frequency</p>
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		and intensity of
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		<p>behaviors of concern (internalizing and externalizing), multiple time-sampled classroom observations, and a functional behavioral assessment; conducting a transition assessment, including a vocational evaluation (as appropriate); and when an evaluation in any area is unable to be completed using standardized measures, using alternative methods of obtaining data to gather information about the child's present levels of performance. (See NM TEAM, December 2017 for potential additional components and reevaluation guidance.)</p> <p>Specific Learning Disability WALATOWA HIGH CHARTER SCHOOL recognizes it must use the State criteria when determining whether a child has a Specific Learning Disability. In the specific learning disability category, WALATOWA HIGH CHARTER SCHOOL expects that evaluation teams adhere to NM TEAM (December 2017) when evaluating a student for a suspected learning disability, as a means of ensuring compliance with State criteria. (See OSEP Letter to Massanari (September 24, 2007); see also OSEP Letter to Zirkel (August 15, 2007).</p> <p>An initial evaluation for a specific learning disability may include (highly recommended): for school aged children, reviewing and considering complete SAT file documentation and existing evaluation data; gathering and analyzing developmental/educational, medical, family, and social history, including an interview with the parent(s)/guardian(s); completing direct observations across multiple settings, both structured and unstructured and at various times; analyzing observation completed in the child's learning environments including the general classroom setting, either through the SAT process or as part of the initial evaluation process (the observation must be completed in all areas of difficulty); conducting a comprehensive assessment of cognitive abilities, including verbal and nonverbal skills; gathering and analyzing informal individual academic achievement data, including benchmark testing, progress monitoring, curriculum-based measures, running records, work samples, and criterion</p>
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		<p>referenced testing; gathering and analyzing formal individual academic achievement data in the area of suspected disability, including basic reading skills, reading fluency, reading comprehension, math, written expression, oral expression, and/or listening comprehension; conducting an assessment of cognitive processing skills in the areas related to the suspected area(s) of disability; conducting a transition assessment, including a vocational evaluation (as appropriate); and when an evaluation in any area is unable to be completed using standardized measures, using alternative methods of obtaining data to gather information about the child's present levels of performance. (See NM TEAM, December 2017 for potential additional components and reevaluation guidance.)</p> <p>WALATOWA HIGH CHARTER SCHOOL, Shall screen all first grade students for dyslexia. Should the student's screening demonstrate characteristics of dyslexia and is having difficulty learning to read, write, spell, understand spoken language or express thoughts clearly WALATOWA HIGH CHARTER SCHOOL shall provide the student appropriate classroom interventions or be referred to a Student assistance team (SAT). (See NMSA 1978, § 22-13-32). WALATOWA HIGH CHARTER SCHOOL, by reference in these procedures, and through staff development (as appropriate), shall inform appropriate personnel of the District's literacy professional development plan (applicable to all elementary school teachers, reading interventionists and special education teachers working with students demonstrating characteristics of dyslexia or diagnosed with dyslexia) implementing NMSA 1978, § 22-13-32 to ensure students receive evidence-based reading instruction.</p> <p>WALATOWA HIGH CHARTER SCHOOL uses the NMPED manual, Dyslexia Handbook: A Guide to Teaching ALL Students to Read through Structured Literacy (2020), and New Mexico Technical Evaluation and Assessment Manual: Identification of Dyslexia Supplemental Narrative and Worksheet (2020), as its guiding</p>
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		<p>documents in implementing the student intervention and Dyslexia Identification. WALATOWA HIGH CHARTER SCHOOL, by reference in these procedures, and through staff development (as appropriate), shall inform appropriate personnel of this guidance document. Speech-Language Impairment An initial evaluation for a speech-language impairment (speech disorder) may include (highly recommended) : for preschool-aged children, reviewing existing screening data and/or any previously conducted evaluation data and for school-aged children, reviewing and considering complete SAT file; gathering and analyzing developmental/educational, medical, family, and social history, including an interview with the parent(s)/guardian(s); conducting a functional communication assessment; assessing intelligibility of speech; administering an oral mechanism/oral motor exam; completing an analysis of a spontaneous speech sample with a focus on areas of concern; conducting a transition assessment, including a vocational evaluation (as indicated); and when an evaluation in any area is unable to be completed using standardized measures, using alternative methods of obtaining data to gather information about the child's present levels of performance. In addition to the components listed above, the evaluation of articulation may include (highly recommended): assessing stimulability; and completing standardized and/or non-standardized inventory(ies) of speech sounds/phonological processes. In addition to the components listed above, the evaluation of voice may include (highly recommended): completing measures of and/or qualitative descriptions of quality, resonance, pitch, and volume. In addition to the components listed above, the evaluation of fluency may include (highly recommended): completing observations of oral, laryngeal, and respiratory behaviors; and completing a qualitative description of non-measurable aspects of fluency (i.e., coping behaviors, such as circumlocution, starter devices,</p>
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		postponement tactics, or attempts to disguise stuttering and emotional reactions).
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(See NM TEAM, December 2017 for potential additional components and reevaluation guidance.) An initial evaluation for a speech-language impairment (language disorder) may include (highly recommended): for preschool-aged children, reviewing existing screening data and/or any previously conducted evaluation data and for school-aged children, reviewing and considering complete SAT file; gathering and analyzing developmental/educational, medical, family, and social history, including an interview with the parent(s)/guardian(s); conducting a functional communication assessment; administering standardized and non-standardized assessments of receptive and expressive language in the areas of content (semantics), form (morphology and syntax), and use (pragmatics); completing a systematic review of individual academic achievement, including formal and informal measures; conducting a transition assessment, including a vocational evaluation (as appropriate); and when an evaluation in any area is unable to be completed using standardized measures, using alternative methods of obtaining data to gather information about the child's present levels of performance. (See NM TEAM, December 2017 for potential additional components and reevaluation guidance.)

Traumatic Brain Injury An initial evaluation for traumatic brain injury may include (highly recommended): for preschool-aged children, reviewing existing screening data and/or any previously conducted evaluation data and for school aged children, reviewing and considering complete SAT file documentation and existing evaluation data; gathering and analyzing developmental/educational, medical, family, and social history, including an interview with the parent(s)/guardian(s); obtaining medical or historical documentation of a TBI, including premorbid functioning, if available; conducting a speech/language/communication assessment; conducting an assessment of cognitive abilities; completing a systematic review of individual academic achievement, including

		formal and informal measures; administering
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Federal Regulations New Mexico Rules Procedures

		<p>an individual academic achievement assessment in the area(s) of suspected disability for which instruction and intervention have been documented; conducting a sensory processing and motor skills assessment; obtaining adaptive behavior information in the areas of conceptual, social, and practical skills; completing multiple direct observations across both structured and unstructured settings and at various times; conducting a transition assessment, including a vocational evaluation (as appropriate); and when an evaluation in any area is unable to be completed using standardized measures, using alternative methods of obtaining data to gather information about the child's present levels of performance. Specific to this eligibility category, it is vital to obtain any pre-injury information that may be available. This would include information regarding functioning at school, home, and in the community. (See NM TEAM, December 2017 for potential additional components and reevaluation guidance.)</p> <p>Visual Impairment An initial evaluation for visual impairment may include (highly recommended): for preschool-aged children, reviewing existing screening data and/or any previously conducted evaluation data and for school-aged children, reviewing and considering complete SAT file documentation and existing evaluation data; gathering and analyzing developmental/educational, medical, family, and social history, including an interview with the parent(s)/guardian(s); obtaining an eye examination (within one year) conducted by a licensed eye specialist such as an ophthalmologist or optometrist to determine the presence of an eye condition; conducting a functional vision evaluation by a licensed Teacher(s) of Students with Blindness/Visual Impairment or a certified orientation and mobility specialist; conducting a learning media assessment by a licensed Teacher(s) of Students with Blindness/Visual Impairment; completing multiple direct observations across both structured and unstructured settings and at various times; completing a systematic review of individual academic achievement, including formal and informal measures; administering an individual academic achievement assessment in the</p>
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		<p>area(s) of suspected need and for which instruction and intervention have been documented; completing a transition assessment, including a vocational evaluation (as appropriate); and when an evaluation in any area is unable to be completed using standardized measures, using alternative methods of obtaining data to gather information about the child's present levels of performance. The eye examination written report (see NM TEAM, December 2017, Appendix B) must include the diagnosis of the eye condition, visual acuity, and recommendations in regard to using prescription lenses. (See NM TEAM, December 2017 for potential additional components and reevaluation guidance.)</p>
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<p>§ 300.9 Consent.</p>		
<p><i>Consent</i> means that—</p> <p>(a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;</p> <p>(b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and</p> <p>(c)</p> <p>(1) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.</p> <p>(2) If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).</p> <p>(3) If the parent revokes consent in writing for</p>	<p>6.31.2.13 NMAC. ADDITIONAL RIGHTS OF PARENTS, STUDENTS AND PUBLIC AGENCIES:</p> <p>E. Communications in understandable language. Pursuant to 34 CFR Secs. 300.9(a), 300.322(e), 300.503(c) and 300.504(d), each public agency shall communicate with parents in understandable language, including the parent's native language or other mode of communication, unless it is clearly not feasible to do so, if necessary for understanding, in IEP meetings, in written notices and in obtaining consent where consent is required.</p>	<p>WALATOWA HIGH CHARTER SCHOOL understands that the definition of consent requires a parent to be fully informed of all information relevant to the activity for which consent is sought. WALATOWA HIGH CHARTER SCHOOL further understands that the definition also requires a parent to agree in writing to an activity for which consent is sought. Therefore, whenever consent is used in the regulations, WALATOWA HIGH CHARTER SCHOOL will ensure that the consent is both informed and in writing. (See 71 Fed. Reg. 46551 (August 14, 2006))</p>

Federal Regulations New Mexico Rules Procedures

<p>their child's receipt of special education services after the child is initially provided special education and related services, the public 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.</p> <p>(Authority: 20 U.S.C. 1414(a)(1)(D))</p>		
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§ 300.11 Day; business day; school day.		
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(a) *Day* means calendar day unless otherwise indicated as business day or school day.

(b) *Business day* means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day, as in § 300.148(d)(1)(ii)).

(c)

(1) *School day* means any day, including a partial day that children are in attendance at school for instructional purposes.

(2) *School day* has the same meaning for all children in school, including children with and without disabilities.

(Authority: 20 U.S.C. 1221e-3)

Federal Regulations New Mexico Rules Procedures

<p>§ 300.12 Educational service agency.</p>		
<p><i>Educational service agency</i> means—</p> <p>(a) A regional public multiservice agency—</p> <p>(1) Authorized by State law to develop, manage, and provide services or programs to LEAs;</p> <p>(2) Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State;</p> <p>(b) Includes any other public institution or agency having administrative control and direction over a public elementary school or secondary school; and</p> <p>(c) Includes entities that meet the definition of intermediate educational unit in section 602(23) of the Act as in effect prior to June 4, 1997.</p> <p>(Authority: 20 U.S.C. 1401(5))</p>		
<p>§ 300.13 Elementary school.</p>		

<p><i>Elementary school</i> means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.</p> <p>(Authority: 20 U.S.C. 1401(6))</p>		
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Federal Regulations New Mexico Rules Procedures

§ 300.14 Equipment.		
<p><i>Equipment</i> means—</p> <p>(a) Machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house the machinery, utilities, or equipment; and</p> <p>(b) All other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as</p> <p style="padding-left: 40px;">instructional equipment and necessary furniture; printed, published and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials. (Authority: 20 U.S.C. 1401(7))</p>		
§ 300.15 Evaluation.		

<p><i>Evaluation</i> means procedures used in accordance with §§ 300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.</p> <p>(Authority: 20 U.S.C. 1414(a) (c))</p>		<p>WALATOWA HIGH CHARTER SCHOOL will ensure that a child suspected of having one of the enumerated disabilities under the IDEA and needing special education services will be evaluated by a group of qualified professionals. The evaluation will be at no cost to the parent, including any educationally necessary evaluation conducted by a licensed physician to determine the child's medically-related disability that results in the child's need for special education and related services.</p>
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§ 300.16 Excess costs.		
<p><i>Excess costs</i> means those costs that are in excess of the average annual per-student expenditure in an LEA during the preceding school year for an elementary school or secondary school student, as may be appropriate, and that</p>		

<p>must be computed after deducting—</p> <p>(a) Amounts received—</p> <p>(1) Under Part B of the Act;</p> <p>(2) Under Part A of title I of the ESEA; and</p> <p>(3) Under Parts A of title III of the ESEA and;</p> <p>(b) Any State or local funds expended for programs that would qualify for assistance under any of the parts described in paragraph (a) of this section, but excluding any amounts for capital outlay or debt service. (See Appendix A to part 300 for an example of how excess costs must be</p> <p>calculated.) (Authority: 20 U.S.C. 1401(8))</p>		
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§ 300.17 Free appropriate public education.		
<p><i>Free appropriate public education</i> or <i>FAPE</i> means special education and related services that—</p> <ul style="list-style-type: none"> (a) Are provided at public expense, under public supervision and direction, and without charge; (b) Meet the standards of the SEA, including the requirements of this part; (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§ 300.320 through 300.324. <p>(Authority: 20 U.S.C. 1401(9))</p>	<p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>B. The following terms shall have the following meanings for purposes of these rules.</p> <p>...</p> <p>(7) A “free appropriate public education (FAPE)” means special education and related services which meet all requirements of 34 CFR Sec. 300.17 and which, pursuant to 34 CFR Sec. 300.17(b), meet all applicable department rules and standards, including but not limited to these rules; the New Mexico standards for excellence; and department rules governing school personnel preparation, licensure and performance;, student rights and responsibilities; and student transportation.</p> <p>6.29.1.7 NMAC. DEFINITIONS:</p>	

	<p>.R "Free appropriate public education (FAPE)" means special education and related services that are provided at public expense, under public supervision and direction without charge, which meet the standards of the department in providing appropriate preschool, elementary or secondary education in New Mexico; and which are provided in conformity with an individualized education program (IEP) that meets the requirements of 34 CFR, Sections 300.320 through 300.324.</p>	
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<p>General education curriculum. (Not defined in federal regulations; see New Mexico Rules).</p>	<p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>B. The following terms shall have the following meanings for purposes of these rules.</p> <p>...</p> <p>(8) The “general education curriculum” pursuant to 34 CFR Sec. 300.320, means the same curriculum that a public agency offers for nondisabled children. For New Mexico public agencies whose non-special education programs are subject to department rules, the general curriculum includes the content standards, benchmarks and all other applicable requirements of the New Mexico standards for excellence and any other department rules defining curricular requirements.</p>	
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<p>§ 300.19 Homeless children.</p>		
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<p><i>Homeless children</i> has the meaning given the term <i>homeless children and youths</i> in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 <i>et seq.</i></p> <p>(Authority: 20 U.S.C. 1401(11))</p>		<p>WALATOWA HIGH CHARTER SCHOOL will utilize the following definition from the McKinney-Vento Homeless Assistance Act.</p> <p>The term "homeless children and youths" –</p> <p>(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302(a)(1) of this title); and</p> <p>(B) includes –</p> <p>(i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;</p> <p>(ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 11302(a)(2)(C) of this title);</p> <p>(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and</p> <p>(iv) migratory children (as such term is defined in section 6399 of Title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).</p> <p>(42 U.S.C. § 11434a)</p>
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§ 300.20 Include.		
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<p><i>Include</i> means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.</p> <p>(Authority: 20 U.S.C. 1221e–3)</p>		
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§ 300.21 Indian and Indian tribe.		
<p>(a) <i>Indian</i> means an individual who is a member of an Indian</p> <p>(b) <i>Indian tribe</i> means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 <i>et seq.</i>).</p> <p>(c) Nothing in this definition is intended to indicate that the Secretary of the Interior is required to provide services or funding to a State Indian tribe that is not listed in the Federal Register list of Indian entities recognized as eligible to receive services from the United States, published pursuant to Section 104 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a–1.</p> <p>(Authority: 20 U.S.C. 1401(12) and (13))</p>		

§ 300.22 Individualized education program.		
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<p><i>Individualized education program</i> or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with §§ 300.320 through 300.324.</p> <p>(Authority: 20 U.S.C. 1401(14))</p>	<p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>B. The following terms shall have the following meanings for purposes of these rules.</p> <p>...</p> <p>(10) “Individualized education program” or “IEP” means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 34 CFR Secs. 300.320 through 300.324;</p> <p>6.29.1.7 NMAC. DEFINITIONS:</p> <p>X "Individualized education program (IEP)" means a written statement for a child with a disability that is developed, reviewed and revised in accordance with 34 CFR, Secs.300.320 through 300.324.</p>	
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<p>§ 300.23 Individualized education program team.</p>		
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Individualized education program team or *IEP Team* means a group of individuals described in § 300.321 that is responsible for developing, reviewing, or revising an IEP for a child with a disability.

(Authority: 20 U.S.C. 1414(d)(1)(B))

6.29.1.7 NMAC. DEFINITIONS:

(B)

...

(11) “IEP team” means, pursuant to 34 CFR Sec. 300.321, the public agency shall ensure that the IEP team for each

child with a disability includes:

(a) the parents of the child;

(b) not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);

(c) not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;

(d) a representative of the public agency who:

	<p>(i) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;</p> <p>(ii) is knowledgeable about the general education curriculum; and</p> <p>(iii) is knowledgeable about the availability of resources of the public agency;</p> <p>(e) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in Subparagraphs (b) through (e) of Paragraph (11) of Subsection B of 6.31.2.7 NMAC;</p> <p>(f) at the discretion of the parent or public agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and</p> <p>(g) whenever appropriate, the child with a disability.</p>	
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§ 300.24 Individualized family service plan.		
<p><i>Individualized family service plan</i> or <i>IFSP</i> has the meaning given the term in section 636 of the Act.</p> <p>(Authority: 20 U.S.C. 1401(15))</p>		<p>WALATOWA HIGH CHARTER SCHOOL understands that an IFSP must contain: (1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria; (2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability; (3) a statement of the measurable results or outcomes expected to be achieved for the infant or toddler and the family, including pre-literacy and language skills, as developmentally appropriate for the child,</p>

Federal Regulations New Mexico Rules Procedures

		<p>and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the results or outcomes is being made and whether modifications or revisions of the results or outcomes or services are necessary;</p> <p>(4) a statement of specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services;</p> <p>(5) a statement of the natural environments in which early intervention services will appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;</p> <p>(6) the projected dates for initiation of services and the anticipated length, duration, and frequency of the services;</p> <p>(7) the identification of the service coordinator from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this subchapter) who will be responsible for the implementation of the plan and coordination with other agencies and persons, including transition services; and</p> <p>(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.</p> <p>(20 U.S.C. § 1436)</p>
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§ 300.25 Infant or toddler with a disability.		
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<p><i>Infant or toddler with a disability—</i></p> <p>(a) Means an individual under three years of age who needs early intervention services because the individual—</p>		
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<p>(1) Is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or</p> <p>(2) Has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay; and</p> <p>(b) May also include, at a State's discretion— (1) At-risk infants and toddlers; and</p> <p>(2) Children with disabilities who are eligible for services under section 619 and who previously received services under Part C of the Act until such children enter, or are eligible under State law to enter, kindergarten or elementary school, as appropriate, provided that any programs under Part C of the Act serving such children shall include—</p> <p>(i) An educational component that promotes school readiness and incorporates pre literacy, language, and numeracy skills; and (ii) A written notification to parents of their rights and responsibilities in determining whether their child will continue to receive services under Part C of the Act or participate in preschool programs under section 619.</p> <p>(Authority: 20 U.S.C. 1401(16) and 1432(5))</p>		
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§ 300.26 Institution of higher education.		
<i>Institution of higher education—</i> (a) Has the meaning given the term in section 101 of		

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Federal Regulations New Mexico Rules Procedures

<p>the Higher Education Act of 1965, as amended, 20 U.S.C. 1021 <i>et seq.</i> (HEA); and</p> <p>(b) Also includes any community college receiving funds from the Secretary of the Interior under the Tribally Controlled Community College or University Assistance Act of 1978, 25 U.S.C. 1801, <i>et seq.</i></p> <p>(Authority: 20 U.S.C. 1401(17))</p>		
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§ 300.27 Limited English proficient.		
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<p><i>Limited English proficient</i> has the meaning given the term in English Learner in section 8101of the ESEA.</p> <p>(Authority: 20 U.S.C. 1401(18))</p>		<p>WALATOWA HIGH CHARTER SCHOOL understands the term “English learner” , when used with respect to an individual, to mean an individual:</p> <p>(A) who is aged 3 through 21;</p> <p>(B) who is enrolled or preparing to enroll in an elementary school or secondary school;</p> <p>(C) (i) who was not born in the United States or whose native language is a language other than English;</p> <p>(ii) (I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and</p> <p>(II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or</p> <p>(iii) who is migratory, whose native language is a language other than English, and who comes</p>
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		<p>from an environment where a language other than English is dominant; and</p> <p>(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual--</p> <p>(i) the ability to meet the State's proficient level of achievement on State assessments described in section 6311(b)(3) of the [Elementary and Secondary Education Act];</p> <p>(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or</p> <p>(iii) the opportunity to participate fully in society.</p> <p>20U.S.C. 7801 §)</p>
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§ 300.28 Local educational agency.		
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(a) *General. Local educational agency* or *LEA* means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, WHCS, or other political subdivision of a State, or for a combination of WHCSs or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(b) Educational service agencies and other public institutions or agencies. The term

includes—

- (1) An educational service agency, as defined in § 300.12; and
- (2) Any other public institution or agency having administrative control and direction of a public

6.31.2.7 NMAC. DEFINITIONS:

B. The following terms shall have the following meanings for purposes of these rules. (9) “**LEA**” means a local educational agency as defined in 34

CFR Sec. 300.28.

6.29.1.7 NMAC. DEFINITIONS:

Z "Local educational agency (LEA)" means a local educational agency as defined in 34 CFR Sec. 300.28. The LEA may be a public WHCS, a state chartered charter school or a state educational institution.

WALATOWA HIGH CHARTER SCHOOL recognizes that it is a local educational agency (LEA) under the IDEA.

<p>elementary school or secondary school, including a public nonprofit charter school that is established as an LEA under State law.</p> <p>(c) <i>BIA funded schools.</i> The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs, and not subject to the jurisdiction of any SEA other than the Bureau of Indian Affairs, but only to the extent that the inclusion makes the school eligible for programs for which specific eligibility is not provided to the</p> <p>school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the Act with the smallest student population.</p> <p>(Authority: 20 U.S.C. 1401(19))</p>		
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§ 300.29 Native language.		
<p>(a) <i>Native language</i>, when used with respect to an individual who is limited English proficient, means the following:</p> <p>(1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (a)(2) of this section.</p> <p>(2) In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning</p>		

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Federal Regulations New Mexico Rules Procedures

<p>environment.</p> <p>(b) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication).</p> <p>(Authority: 20 U.S.C. 1401(20))</p>		
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NMAC.		
(Not defined in federal regulations; see New Mexico Rules).	<p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>B. The following terms shall have the following meanings for purposes of these rules.</p> <p>(13) “NMAC” means the New Mexico administrative code, including future amendments.</p>	

NMSA 1978.		
(Not defined in federal regulations; see New Mexico Rules).	<p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>B. The following terms shall have the following meanings for purposes of these rules.</p> <p>...</p> <p>(14) “NMSA 1978” means the 1978 Compilation of New Mexico Statutes Annotated, including future amendments.</p>	

§ 300.30 Parent.		
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<p>(a) <i>Parent</i> means—</p> <p>(1) A biological or adoptive parent of a child;</p> <p>(2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;</p> <p>(3) A guardian generally authorized to act as the child’s parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);</p> <p>(4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or</p> <p>(5) A surrogate parent who has been appointed in accordance with § 300.519 or section 639(a)(5) of the Act.</p> <p>(b) (1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.</p> <p>(2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the “parent” of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the “parent” for purposes of this section.</p>	<p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>B. The following terms shall have the following meanings for purposes of these rules.</p> <p>...</p> <p>(15) “Parent” includes, in addition to the persons specified in 34 CFR Sec. 300.30, a child with a disability who has reached age 18 and for whom there is no court-appointed general guardian, limited guardian or other court-appointed person who has legal custody or has otherwise been authorized by a court to make educational decisions on the child’s behalf as provided in Subsection K of 6.31.2.13</p> <p>NMAC. Pursuant to 34 CFR Sec. 300.519 and department policy, a foster parent of a child with a disability may act as a parent under Part B of the IDEA if: (i) the foster parent or the state children, youth and families department (CYFD) provides appropriate documentation to establish that CYFD has legal custody and has designated the person in question as the child’s foster parent; and (ii) the foster parent is willing to make the educational decisions required of parents under the IDEA; and has no interest that would conflict with the interests of the child. A foster parent who does not qualify under the above requirements but who meets all requirements for a surrogate parent under 34 CFR Sec. 300.519 may be appointed as a surrogate if the public agency responsible for making the appointment deems such action appropriate.</p>	<p>WALATOWA HIGH CHARTER SCHOOL understands the phrase “attempting to act as a parent” generally to refer to situations in which an individual attempts to assume the responsibilities of a parent under the IDEA. An individual may “attempt to act as a parent” under the IDEA in many situations; for example, if an individual provides consent for an evaluation or reevaluation, or attends an IEP Team meeting as the child’s parent. (See 71 Fed. Reg. 46567 (August 14, 2004))</p>
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(Authority: 20 U.S.C. 1401(23))		
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§ 300.31 Parent training and information center.		
<i>Parent training and information center</i> means a center assisted under sections 671 or 672 of the Act. (Authority: 20 U.S.C. 1401(25))		

§ 300.32 Personally identifiable.		
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Personally identifiable means information that contains—

- (a) The name of the child, the child's parent, or other family member;
 - (b) The address of the child;
 - (c) A personal identifier, such as the child's social security number or student number; or
 - (d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.
- (Authority: 20 U.S.C. 1415(a))

§ 300.33 Public agency.		
<i>Public agency</i> includes the SEA, LEAs, ESAs, nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and	6.31.2.7 NMAC. DEFINITIONS: B. The following terms shall have the following meanings	

<p>any other political subdivisions of the State that are responsible for providing education to children with disabilities.</p> <p>(Authority: 20 U.S.C. 1412(a)(11))</p>	<p>for purposes of these rules.</p> <p>(6) The “educational jurisdiction” of a public agency includes the geographic area, age range and all facilities including residential treatment centers, day treatment centers, hospitals, mental health institutions, juvenile justice facilities, state supported schools, or programs within which the public agency is obligated under state laws, rules, or by enforceable agreements including joint powers agreements (JPAs) or memoranda of understanding (MOUs) to provide educational services for children with disabilities. In situations such as transitions, transfers and special placements, the educational jurisdiction of two or more public agencies may overlap and result in a shared obligation to ensure that a particular child receives all the services to which the child is entitled.</p> <p>(21) A “state-supported educational program” means a publicly funded program that:</p> <p>(a) provides special education and related services to children with disabilities who come within the program’s educational jurisdiction;</p> <p>(b) is operated by, or under contractual arrangements for, a state school, state educational institution, other state institution, state hospital or state agency; and</p> <p>(c) is primarily funded through direct legislative appropriations or other direct state support to a public agency other than a local WHCS.</p>	
<p>“Puente para los niños fund” (Not defined in federal regulations; see New Mexico Rules).</p>	<p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>B. The following terms shall have the following meanings for purposes of these rules.</p> <p>...</p>	

	(17) “Puente para los niños fund” means a risk pool fund in New Mexico to support high cost students with disabilities identified by LEAs pursuant to 34 CFR Sec. 300.704(c)(3)(i).	
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§ 300.34 Related services.		
<p>(a) <i>General. Related services</i> means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.</p> <p>(b) <i>Exception; services that apply to children with surgically implanted devices, including cochlear implants.</i></p> <p>(1) Related services do not include a medical device that is surgically implanted, the optimization of that device’s functioning (e.g., mapping), maintenance of that device, or the replacement of that device.</p> <p>(2) Nothing in paragraph (b)(1) of this section—</p> <p>(i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be</p>		<p>WALATOWA HIGH CHARTER SCHOOL understands that the list of related services in the IDEA is not exhaustive and may include other developmental, corrective, or supportive services if they are required to assist a child with a disability to benefit from special education. (See 71 Fed. Reg. 46569 (August 14, 2006))</p>

Federal Regulations New Mexico Rules Procedures

<p>necessary for the child to receive FAPE.</p> <p>(ii) Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or</p> <p>(iii) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in §300.113(b).</p> <p>(c) <i>Individual related services terms defined.</i> The terms used in this definition are defined as follows:</p> <p>(1) <i>Audiology</i> includes—</p> <p>(i) Identification of children with hearing loss;</p> <p>(ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;</p> <p>(iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;</p> <p>(iv) Creation and administration of programs for prevention of hearing loss;</p> <p>(v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and</p> <p>(vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of</p>		
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Federal Regulations New Mexico Rules
Procedures

<p>amplification.</p> <p>(2) <i>Counseling services</i> means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.</p> <p>(3) <i>Early identification and assessment of disabilities in children</i> means the implementation of a formal plan for identifying a disability as early as possible in a child's life.</p> <p>(4) <i>Interpreting services</i> includes—</p> <p>(i) The following, when used with respect to children who are deaf or hard of hearing: Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and</p> <p>(ii) Special interpreting services for children who are deaf-blind.</p> <p>(5) <i>medical services</i> 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> <p>(6) <i>Occupational therapy</i>—</p> <p>(i) Means services provided by a qualified occupational therapist; and</p> <p>(ii) Includes—</p> <p>(A) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;</p> <p>(B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and</p>		
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Federal Regulations New Mexico Rules Procedures

<p>(C) Preventing, through early intervention, initial or further impairment or loss of function.</p> <p>(7) Orientation <i>and mobility services</i>—</p> <p>(i) Means services provided to blind or visually impaired children by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and</p> <p>(ii) Includes teaching children the following, as appropriate:</p> <p>(A) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);</p> <p>(B) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;</p> <p>(C) To understand and use remaining vision and distance low vision aids; and</p> <p>(D) Other concepts, techniques, and tools.</p> <p>(8)</p> <p>(i) <i>Parent counseling and training</i> means assisting parents in understanding the special needs of their child;</p> <p>(ii) Providing parents with information about</p>		
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<p>child development; and</p> <p>(iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.</p> <p>(9) <i>Physical therapy</i> means services provided by a qualified physical therapist.</p> <p>(10) <i>Psychological services</i> includes—</p> <p>(i) Administering psychological and educational tests, and other assessment procedures;</p> <p>(ii) Interpreting assessment results;</p> <p>(iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;</p> <p>(iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;</p> <p>(v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and</p> <p>(vi) Assisting in developing positive behavioral intervention strategies.</p> <p>(11) <i>Recreation</i> includes—</p> <p>(i) Assessment of leisure function;</p> <p>(ii) Therapeutic recreation services;</p> <p>(iii) Recreation programs in schools and community agencies; and</p> <p>(iv) Leisure education.</p> <p>(12) <i>Rehabilitation counseling services</i> means</p>		
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<p>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 the community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 <i>et seq.</i></p> <p>(13) <i>School health services and school nurse services</i> means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.</p> <p>(14) <i>Social work services in schools</i> includes—</p> <p>(i) Preparing a social or developmental history on a child with a disability;</p> <p>(ii) Group and individual counseling with the child and family;</p> <p>(iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;</p> <p>(iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and</p> <p>(v) Assisting in developing positive behavioral intervention strategies.</p> <p>(15) <i>Speech-language pathology services</i> includes—</p>		
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Federal Regulations New Mexico Rules Procedures

<p>(i) Identification of children with speech or language impairments;</p> <p>(ii) Diagnosis and appraisal of specific speech or language impairments;</p> <p>(iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;</p> <p>(iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and</p> <p>(v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.</p> <p>(16) <i>Transportation</i> includes—</p> <p>(i) Travel to and from school and between schools;</p> <p>(ii) Travel in and around school buildings; and</p> <p>(iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.</p> <p>(Authority: 20 U.S.C. 1401(26))</p>		
<p>“SAT” (Not defined in federal regulations; see New Mexico Rules).</p>	<p>6.29.1.7 NMAC. DEFINITIONS:</p> <p>AI. “Student assistance team (SAT)” means a school-based group of people whose purpose is to provide additional educational support to students experiencing difficulties</p>	

	<p>preventing them from benefiting from general education.</p> <p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>B. The following terms shall have the following meanings for purposes of these rules.</p> <p>...</p> <p>(18) “SAT” means the student assistance team, which is a school-based group of people whose purpose is to provide additional educational support to students who are experiencing difficulties that are preventing them from benefiting from general education.</p>	
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§ 300.36 Secondary school.		
<p><i>Secondary school</i> means a nonprofit institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.</p> <p>(Authority: 20 U.S.C. 1401(27))</p>		

§ 300.37 Services plan.		
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<p><i>Services plan</i> means a written statement that describes the special education and related services the LEA will provide to a parentally- placed child with a disability enrolled in a private school who has been designated to receive services, including the location of the services and any transportation necessary, consistent with § 300.132, and is developed and implemented in accordance with §§300.137 through 300.139.</p> <p>(Authority: 20 U.S.C. 1412(a)(10)(A))</p>		
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§ 300.38 Secretary.		
<p><i>Secretary</i> means the Secretary of Education.</p> <p>(Authority: 20 U.S.C. 1401(28))</p>		

§ 300.39 Special education.		
<p>(a) <i>General.</i></p> <p>(1) <i>Special education</i> means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—</p> <p>(i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and</p> <p>(ii) Instruction in physical education.</p> <p>(2) <i>Special education</i> includes each of the</p>	<p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>B. The following terms shall have the following meanings for purposes of these rules.</p> <p>(20) “Special education” means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education.</p>	

<p>following, if the services otherwise meet the requirements of paragraph (a)(1) of this section—</p> <p>(i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;</p> <p>(ii) Travel training; and</p> <p>(iii) Vocational education.</p> <p>(b) <i>Individual special education terms defined.</i> The terms in this definition are defined as follows:</p> <p>(1) <i>At no cost</i> means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.</p> <p>(2) <i>Physical education</i> means—</p> <p>(i) The development of—</p> <p>(A) Physical and motor fitness;</p> <p>(B) Fundamental motor skills and patterns; and</p> <p>(C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and</p> <p>(ii) Includes special physical education, adapted physical education, movement education, and motor development.</p> <p>(3) <i>Specially designed instruction</i> means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction— (i) To address the unique needs of the child that result from the child’s disability; and</p>	<p>(a) As authorized by 34 CFR Sec. 300.8(a)(2)(ii) and 300.39(a)(2)(i), “special education” in New Mexico may include speech-language pathology services.</p> <p>(b) Speech-language pathology services shall meet the following standards to be considered special education:</p> <p>(i) the service is provided to a child who has received appropriate tier I universal screening under Subsection D of 6.29.1.9 NMAC [Correct citation 6.29.1.9 (E) NMAC] as it may be amended from time to time, before being properly evaluated under 34 CFR Secs. 300.301 through 300.306 and Subsection D of 6.31.2.10 NMAC;</p> <p>(ii) the IEP team that makes the eligibility determination finds that the child has a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance;</p> <p>(iii) the speech language pathology service consists of specially designed instruction that is provided to enable the child to have access to the general curriculum and meet the educational standards of the public agency that apply to all children; and</p> <p>(iv) the service is provided at no cost to the parents under a properly developed IEP that meets the requirements of Subsection B of 6.31.2.11 NMAC.</p> <p>(c) If all of the standards are met, the service shall be considered as special education rather than a related service.</p>	
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<p>(ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.</p> <p>(4) <i>Travel training</i> means providing instruction, as appropriate, to children with cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to—</p> <p>(i) Develop an awareness of the environment in which they live; and</p> <p>(ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).</p> <p>(5) <i>Vocational education</i> means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.</p> <p>(Authority: 20 U.S.C. 1401(29))</p>	<p>(d) Student/staff caseloads for special education shall meet the requirements of Paragraphs (1) and (2) of Subsection H of 6.29.1.9 NMAC.</p> <p>6.29.1.11 NMAC. PROGRAM REQUIREMENTS:</p> <p>F. Special education. Special education is specially designed instruction that is provided at no cost to parents to meet the unique needs of a student with a disability, as defined in the IDEA regulations (34 CFR Part 300 and state special education regulations (6.31.2 NMAC). Special education programs shall:</p> <p>(1) provide specially-designed instruction in career and technical education and travel training for students whose IEPs require such services;</p> <p>(2) provide instruction to students placed on homebound services as per their IEP; and</p> <p>(3) provide instruction in state-supported educational programs, hospitals, institutions and other settings. As set forth in the state special education regulations at Paragraph (15) of Subsection C of 6.31.2.7</p> <p>NMAC, [Correct citation is 6.31.2.7 (B)(20) NMAC], special education may include speech language pathology services consisting of specially designed instruction that is provided to enable a student with a disability, as recognized under IDEA, to have access to the general curriculum and to meet the educational standards of the public agency that apply to all children;</p> <p>(4) provide instruction, in accordance with Section 22-13-1 (D) NMSA 1978, for the unique needs of gifted and talented students;</p> <p>(5) be assessed as part of the EPSS process; and</p> <p>(6) support the local curriculum and EPSS.</p> <p>6.29.1.7 NMAC. DEFINITIONS:</p> <p>I "Caseload" means the total number of students receiving special education and speech-only services as special</p>	
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Federal Regulations New Mexico Rules Procedures

	<p>education, for whom a special education teacher or speech language pathologist has responsibility for developing and monitoring the students' IEPs.</p> <p>"Caseload" may also mean the number of students for which individual support services staff members are responsible.</p> <p>L "Class load" means the number of students for whom a teacher structures activities at a given time. 6.29.1.9</p> <p>NMAC. PROCEDURAL REQUIREMENTS:</p> <p>H. Class loads. Class loads shall be in compliance with the most current class load requirements in Section 22- 10A-20 NMSA 1978 and Section 22-5-15 NMSA 1978.</p> <p>...</p> <p>(5) Students receiving special education services integrated into a regular classroom for any part of the day shall be counted in the calculation of class load averages. Students receiving special education services not integrated into the regular classroom shall not be counted in the calculation of class load averages. Only classroom teachers charged with responsibility for the regular classroom instructional program shall be counted in determining average class loads. In elementary schools offering only one grade level, average class loads may be calculated by averaging appropriate grade levels between schools in the WHCS.</p> <p>6.29.1.9 NMAC. PROCEDURAL REQUIREMENTS: I. Student/staff caseloads in gifted and special education.</p> <p>(1) The student/staff caseload shall not exceed 35:1 for a special education teacher and 60:1 for a speech language pathologist for special education services or speech-only services, in which properly licensed special education teachers or speech-language</p>	
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Federal Regulations New Mexico Rules Procedures

	<p>Pathologists travel from class to class or school to school, providing services to students with disabilities whose individualized education programs (IEPs) require a minimal amount of special education. (A minimal amount of special education services shall not exceed 10 percent of the school day/week.)</p> <p>(2) The student/staff caseload shall not exceed 24:1 for a special education teacher and 35:1 for a speech language pathologist for special education services or speech-only services which properly-licensed special education teachers or speech-language pathologists provide to students with disabilities whose IEPs require a moderate amount of special education. (A moderate amount of special education services shall be less than 50 percent of the school day.)</p> <p>(3) The student/staff caseload shall not exceed 15:1 for special education services in which properly licensed special education teachers provide services to students with disabilities whose IEPs require an extensive amount of special education for a portion of the school day as appropriate to implement the plan. (An extensive amount of special education services shall be provided 50 percent or more of the school day.)</p> <p>(4) The student/staff caseload shall not exceed 8:1 for special education services in which a properly licensed professional provides services to students with disabilities whose IEPs require a maximum amount of special education. (A maximum amount of special education services shall be provided in an amount approaching a full school day.)</p> <p>(5) The student/adult caseload shall not exceed 4:1 for center-based special education services in which one of the adults in the program is a properly licensed professional providing three- and four-year old children with the amount of special education needed to implement each child's IEP.</p>	
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Federal Regulations New Mexico Rules Procedures

	<p>(6) The student/adult caseload shall not exceed 2:1 for center-based special education services in which three- and four-year old children have profound educational needs.</p> <p>(7) Adequate student/staff caseloads shall be provided to appropriately address needs identified in the IEPs. Paraprofessionals and assistants who are appropriately trained and supervised in accordance with applicable department licensure rules or written department policy may be used to assist in the provision of special education and related services to students with disabilities under Part B of IDEA.</p> <p>(8) If the student/staff caseload ratio exceeds the standards provided above, a request for waiver shall be submitted to the department for review and approval by the secretary.</p>	
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§ 300.40 State.		
<p><i>State</i> means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.</p> <p>(Authority: 20 U.S.C. 1401(31))</p>		

§ 300.41 State educational agency.		
<p><i>State educational agency</i> or <i>SEA</i> means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.</p> <p>(Authority: 20 U.S.C. 1401(32))</p>	<p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>B. The following terms shall have the following meanings for purposes of these rules.</p> <p>...</p> <p>...</p> <p>(19) “SED” means the special education division of the department.</p>	

Federal Regulations New Mexico Rules Procedures

§ 300.42 Supplementary aids and services.		
<p><i>Supplementary aids and services</i> means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§ 300.114 through 300.116.</p> <p>(Authority: 20 U.S.C. 1401(33))</p>		

§ 300.43 Transition services.		
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(a) *Transition services* means a coordinated set of activities for a child with a disability that—

(1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(2) Is based on the individual child's needs,

taking into account the child's strengths, preferences, and interests; and includes—

6.29.1.7 NMAC. DEFINITIONS:

AK. "Transition plan" means a coordinated set of activities for a student with a disability, which specifies special education and related services designed to meet a student's unique needs and to prepare the student for future education, employment and independent living. The use of individualized educational program (IEP) transition planning, graduation planning and post secondary transitions is described in Subparagraph (a) of Paragraph (13) of Subsection J of 6.29.1.9 NMAC. [Correct citation is 6.29.1.9 (K)(13)(a) NMAC]

The definition of transition is written broadly to include a range of services, including vocational and career training that are needed to meet the individual needs of a child with a disability. WALATOWA HIGH CHARTER SCHOOL expects that IEP Teams will make decisions regarding transition services on the basis of the child's individual needs, taking into account the child's strengths, preferences, and interests. As with all special education and related services, the student's IEP Team determines the transition services that are needed to provide a FAPE to a child with a disability based on the needs of the child, and not on the disability category or severity of the disability. (See 71 Fed. Reg. 46579 (August 14, 2006))

Federal Regulations New Mexico Rules Procedures

<p>(i) Instruction;</p> <p>(ii) Related services;</p> <p>(iii) Community experiences;</p> <p>(iv) The development of employment and other post- school adult living objectives; and</p> <p>(v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.</p> <p>(b) <i>Transition services</i> for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education.</p> <p>(Authority: 20 U.S.C. 1401(34))</p>		
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§ 300.44 Universal design.		
<p><i>Universal design</i> has the meaning given the term in section 3 of the Assistive Technology Act of 1998, as amended, 29 U.S.C. 3002.</p> <p>(Authority: 20 U.S.C. 1401(35))</p>		

“USC” (Not defined in federal regulations; see New Mexico Rules).

6.31.2.7 NMAC. DEFINITIONS:

B. The following terms shall have the following

meanings for purposes of these rules.

(22) “USC” means the United States code, including future amendments.

§ 300.45 Ward of the State.		
<p>(a) <i>General.</i> Subject to paragraph (b) of this section, <i>ward of the State</i> means a child who, as determined by the State where the child resides, is—</p> <p>(1) A foster child;</p> <p>(2) A ward of the State; or</p> <p>(3) In the custody of a public child welfare agency.</p> <p>(b) <i>Exception.</i> Ward of the State does not include a foster child who has a foster parent who meets the definition of a <i>parent</i> in § 300.30.</p> <p>(Authority: 20 U.S.C. 1401(36))</p>		

	<p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>E. The definitions in Subsection E of 6.31.2.7 NMAC apply only to Subsection I of 6.31.2.13 NMAC</p> <p>(1) "Expedited hearing" means a hearing that is available on request by a parent or a public agency under 34 CFR Sec. 300.532(c) and is subject to the requirements of 34 CFR Sec. 300.532(c).</p> <p>(2) "Gifted services" means services to gifted children as defined in Subsection A of 6.31.2.12 NMAC.</p> <p>(3) "Transmit" means to mail, send by electronic mail (email) or telecopier (facsimile machine), or hand deliver a written notice or other document and obtain written proof of delivery by one of the following means:</p> <p>(a) an email system's confirmation of a completed transmission to an email address that is shown</p>	
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	<p>to be valid for the individual to whom the transmission was sent;</p> <p>(b) a telecopier machine's confirmation of a completed transmission to a number which is shown to be valid for the individual to whom the transmission was sent;</p> <p>(c) a receipt from a commercial or government carrier showing to whom the article was delivered and the date of delivery;</p> <p>(d) a written receipt signed by the secretary of education or designee showing to whom the article was hand-delivered and the date delivered; or</p> <p>(e) a final decision to any party not represented by counsel for a due process hearing by the U.S. postal service, certified mail, return receipt requested, showing to whom the articles was delivered and the date of delivery.</p>	
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	<p>6.31.2.7 NMAC. DEFINITIONS:</p> <p>F. The definitions in Subsection F of 6.31.2.7 NMAC apply only to Subsection B of 6.31.2.9 NMAC and Subsection L of 6.31.2.11 NMAC (correct citation 6.31.2.11 (N) NMAC):</p> <p>(1) "Qualified student" means, pursuant to Paragraph (1) of Subsection A of Section 22-13-8 NMSA 1978, a public school student who:</p> <p>(a) has not graduated from high school;</p> <p>(b) is regularly enrolled in one-half or more of the minimum course requirements approved by the department for public school students; and</p> <p>(c) in terms of age:</p> <p>(i) is at least five years of age prior to 12:01 a.m. on September 1 of the school year or will be five years of age prior to 12:01 a.m. on September 1 of the school year if the student is enrolled in a public school</p>	
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	<p>extended-year kindergarten program that begins prior to the start of the regular school year;</p> <p>(ii) is at least three years of age at any time during the school year and is receiving special education pursuant to rules of the department; or</p> <p>(iii) has not reached the student's 22nd birthday on the first day of the school year and is receiving special education in accordance with federal law.</p> <p>(2) "School-age person" means, pursuant to Paragraph (2) of Subsection A of Section 22-13-8 NMSA 1978, a person who is not a qualified student but who</p> <p>meets the federal requirements for special education and who:</p> <p>(a) will be at least three years old at any time during the school year;</p> <p>(b) is not more than twenty-one years of age; and</p> <p>(c) has not received a high school diploma or its equivalent.</p> <p>NMSA 1978, 22-1-2 Definitions.- as used in the Public School Code:</p> <p>---</p> <p>O. "school-age person" means a person who is at least five years of age prior to 12:01 a.m. on September 1 of the school year, who has not received a high school diploma or its equivalent and who has not reached the person's twenty second birthday on the first day of the school year and meets other criteria provided in the Public School Finance Act.</p>	
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SUBPART B—STATE ELIGIBILITY
GENERAL

§ 300.100 Eligibility for assistance.		
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<p>A State is eligible for assistance under Part B of the Act for a fiscal year if the State submits a plan that provides assurances to the Secretary that the State has in effect policies and procedures to ensure that the State meets the conditions in §§ 300.101 through 300.176.</p> <p>(Authority: 20 U.S.C. 1412(a))</p>		
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FAPE Requirements		
§ 300.101 Free appropriate public education (FAPE).		
<p>(a) <i>General.</i> A free appropriate public education must be available to all children residing in the State</p> <p style="padding-left: 40px;">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).</p> <p>(b) FAPE for children beginning at age 3.</p> <p style="padding-left: 40px;">(1) Each State must ensure that—</p> <p>(i) The obligation to make FAPE available to each eligible child residing in the State begins no later than the child’s third birthday; and</p> <p>(ii) An IEP or an IFSP is in effect for the child by that date, in accordance with § 300.323(b).</p> <p style="padding-left: 80px;">(2) If a child’s third birthday occurs during the summer, the child’s IEP Team shall determine the date when services under the IEP or IFSP will begin.</p>	<p>6.31.2.8 NMAC. RIGHT TO A FREE APPROPRIATE PUBLIC EDUCATION (FAPE):</p> <p>A. All children with disabilities aged three through 21 or who will turn three at any time during the school year who reside in New Mexico, including children with disabilities who have been suspended or expelled from school, have the right to a FAPE that is made available by one or more public agencies in compliance with all applicable requirements of 34 CFR Secs. 300.101 and 300.120 and these or other department rules and standards. Children with disabilities who are enrolled in private schools have the rights provided by 34 CFR Secs. 300.129-300.148 and Subsection L of 6.31.2.11 NMAC (correct citation 6.31.2.11 (N) NMAC).</p> <p>B. Only children who meet the criteria in these rules may be included in calculating special education program units for state funding and counted as eligible children for federal flow-through funds under Part B of IDEA.</p>	

<p>(c) <i>Children advancing from grade to grade.</i></p> <p>(1) Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.</p> <p>(2) The determination that a child described in paragraph (a) of this section is eligible under this part, must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.</p> <p>(Authority: 20 U.S.C. 1412(a)(1)(A))</p>	<p>6.31.2.11 EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES:</p> <p>A. Preschool programs for children aged 3 through 5.</p> <p>(1) Each public agency shall ensure that a free appropriate public education is available for each preschool child with a disability within its educational jurisdiction no later than the child's third birthday and that an individualized education program (IEP) under Part B or an individual family services plan (IFSP) under Part C of IDEA is in effect by that date in compliance with 34 CFR Secs. 300.101, 300.124 and 300.323(b).</p> <p>(2) Eligibility to enroll in Part B preschool program. If a child turns three at any time during the school year and is determined to be eligible under Part B, the child may enroll in a Part B preschool program when the child turns three if the parent so chooses, whether or not the child has previously been receiving Part C services.</p> <p>(3) To ensure effective transitioning from IDEA Part C programs to IDEA Part B programs, each public agency shall conduct a full and individual initial comprehensive evaluation, at no cost to the parent, and in compliance with requirements of 34 CFR Secs. 300.300, 300.301, 300.302, 300.304 and 300.305 and other department rules and standards before the initial provision of Part B special education and related services to a child with a disability.</p> <p>(a) The initial comprehensive evaluation process shall be conducted in all areas of suspected disability.</p> <p>(b) The Part B eligibility determination team shall review current assessments and shall determine</p>	
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	<p>the additional data and assessments needed for the comprehensive evaluation. Current assessments are defined as assessments, other than medical assessments, conducted no more than six months prior to the date of the meeting of the Part B eligibility determination team.</p> <p>(c) The Part B eligibility determination team shall consider educationally relevant medical assessments as part of the review of existing evaluation data. The determination of eligibility may not be made solely on the basis of medical assessments. If the team considers medical assessments conducted more than six months prior to the date of the meeting, the team shall document the appropriateness of considering such medical assessments.</p> <p>6.31.2.11 NMAC. EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES:</p> <p>A. Preschool programs for children aged 3 through 5. ... (5) In particular: ...</p> <p>(h) In compliance with 34 CFR Sec. 300.101(b)(2), if a child's birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP or IFSP will begin. Each public agency shall engage in appropriate planning with the Part C lead agency so that the eligible child will be prepared to receive Part B special education and related services when the IEP team determines that the services under the IEP or IFSP will begin.</p>	
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