

## EDUPRIZE POLICIES

### **FREE APPROPRIATE PUBLIC EDUCATION (FAPE)**

EDUPRIZE ensures that all children with disabilities ages 5 through 14 within its jurisdiction have the right to a free appropriate public education (FAPE), including children with disabilities who are advancing from grade to grade. FAPE shall also be provided to students who have been suspended or expelled from school in accordance with §§300.300(a) and 300.121(e).

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### **CHILD FIND**

EDUPRIZE ensures that all children with disabilities who are in need of special education and related services will be identified, located and evaluated (§300.125). EDUPRIZE assures that a practical method shall be developed and implemented to determine which children are currently receiving needed special education and related services. This policy shall apply to highly mobile children with disabilities and children that are suspected of being a child with a disability under §300.7 and in need of special education, even though they are advancing from grade to grade (§300.125).

## EDUPRIZE POLICIES

### **EVALUATION AND ELIGIBILITY DETERMINATION**

EDUPRIZE ensures that a full individual initial evaluation shall be conducted for each child before the initial provision of special education and related services to a child or youth with a disability (§300.531) to determine if the child is a “child with a disability” under §300.7-§300.531 and ARS 15-761 and to determine the educational needs of the child. Procedures shall be established for conducting evaluations in accordance with the requirements described in §§300.532-300.536, ARS 15-766. The child’s MET/IEP team and other qualified professionals shall review existing evaluation data and collect additional data, if necessary, and use the results of the evaluation to determine category of eligibility and the need for special education and related services (§§300.7-300.534-300.535, ARS 15-761 and ARS 15-766). The MET/IEP team shall use the results of the evaluation to develop the initial IEP or to review and revise an existing IEP (§§300.340-300.350 and ARS 15-761). A re-evaluation of each child shall be conducted every three years in accordance with §§300.532-300.534 and 300.536.

## EDUPRIZE POLICIES

### **INDIVIDUALIZED EDUCATION PROGRAMS**

EDUPRIZE assures that an individualized education program (IEP) shall be in effect for each child with a disability at the beginning of each school year within its school population (§300.342). Meetings shall be initiated and conducted for the purpose of developing, reviewing, and revising the IEP of a child with a disability (§§300.343-300.344-300.346-300.349 and 300.311). An IEP shall be developed and implemented for each eligible child served by EDUPRIZE and each eligible child placed in or referred to a private school or facility by EDUPRIZE (§§300.342-300.346-300.347 and 300.349). One or both parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate (§§300.344).

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### **LEAST RESTRICTIVE ENVIRONMENT (LRE)**

EDUPRIZE ensures that to the maximum extent appropriate, students with disabilities in public or private institutions of other care facilities are educated with students who are not disabled (§300.550). Special classes, separate schooling or other removal of students with disabilities from the regular environment occurs only when the nature or severity of the disability is such that education in regular classes, even with the use of supplementary aids and services cannot be achieved satisfactorily (§300.550 and AAC-R7-401).

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### **PROCEDURAL SAFEGUARDS**

EDUPRIZE shall ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education (§300.500(a)). The parents of a child with a disability shall be given an opportunity to inspect and review all education records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child §300.501(a)(1).

EDUPRIZE shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child §300.501(c).

EDUPRIZE ensures that the parents of a child with a disability shall have the right to obtain an independent educational evaluation of their child §300.502(a)(1). A copy of the procedural safeguards notice shall be given to the parent, at a minimum, upon initial referral for evaluation, each notification of an IEP meeting, reevaluation of the child, and receipt of a request for due process under §§300.507, 300.504(a). Parental consent shall be obtained if after a review of existing information, additional data are needed for an initial evaluation or reevaluation, and before initial provision of special education and related services §300.505(a)(1). A parent or EDUPRIZE may initiate a due process hearing on any of the matters described in §300.503(a)(1) and relating to the identification, evaluation, educational placement of a child with a disability, and provision of FAPE §300.507(a)(2).

EDUPRIZE shall ensure that the rights of a child are protected if (a) no parent (as defined in §300.20) can be identified, (b) the public agency, after reasonable efforts, cannot discover the whereabouts of a parent, after having made three documented and reasonable attempts and/or (c) the child is a ward of the State under the laws of the State §§300.515(a), ARS 15-763.01.

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### **CONFIDENTIALITY OF INFORMATION**

EDUPRIZE ensures that parents may inspect and review any educational records relating to their children that are collected, maintained or used by the agency. Without unnecessary delay, EDUPRIZE shall comply with parent request and in no case more than forty-five days after request (§300.562). Procedures shall be established and implemented to protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages §300.572(a). Parents may request amendment of records if they believe information in records is inaccurate, misleading or violates the privacy or other rights of their child (§300.567).

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### **EXTENDED SCHOOL YEAR (ESY) SERVICES**

EDUPRIZE ensures that extended school year services shall be available as necessary, to provide FAPE to a child with a disability (§300.309). Extended school year services shall be provided in accordance with §§300.340-300.350, ARS 15-881. Extended school year services shall be provided only if a child's IEP team determines, on an individual basis, that the services are necessary for the provision of FAPE to the child with a disability (§§300.309, 300.342-300.346). Procedures shall be established to implement ESY services for children with disabilities aged 3 through 21 (ARS 15-881, §§300.309, 300.340-300.340).

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### **PRIVATE SCHOOLS**

EDUPRIZE ensures that special education and related services shall be provided to a child with a disability who has been placed in or referred to a private school or facility by the public agency (§§300.401-300.402). The public agency will not pay the cost of education, including special education and related services, of a child with a disability at a private school or facility if the public agency made FAPE available to the child and the parents elected to place the child in a private school or facility, unless the agency is required to do so by the court of hearing officer (§300.403). The public agency ensures that if a placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board shall be at no cost to the parents of the child (§300.302, ARS15-765).

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### DISCIPLINE

EDUPRIZE assures if a change in educational placement for disciplinary removal occurs for a child with a disability, the public agency shall provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP §300.121(d). When a child with a disability is removed from his or her current educational placement, a change of placement occurs if the removal is for more than 10 consecutive school days; or the series of removals constitute a pattern because they cumulate to more than 10 school days in a school year, because of such factors as length of each removal, total amount of time, or proximity of the removal to one another (§300.519). When the removal of a child with a disability constitutes a change of placement, a review of the placement shall be conducted regarding the relationship between the student's disability and the behavior subject to the disciplinary action (manifestation determination §300.523). If an IEP team determines that the behavior of the student with a disability was not a manifestation of the disability, disciplinary action applicable to students without disabilities shall be applied (§§300.524-300.525) except as provided in §300.121 which requires the provision of FAPE to all students with disabilities who are suspended or expelled (§300.524). A child who has not been determined eligible for special education and who engages in behavior that violates any rules or code of conduct may assert any of the protections of a child with a disability pursuant to (§300.527).

### FREE APPROPRIATE PUBLIC EDUCATION (FAPE)

EDUPRIZE ensures that all children with disabilities ages 5 through 14 within its school population have the right to a free appropriate public education (FAPE), including children with disabilities who are advancing from grade to grade. FAPE shall also be provided to students who have been suspended or expelled from school in accordance with §300.300(a) and 300.121(e).

#### Definitions

The term "free appropriate public education" or FAPE means special education and related services that

- a) are provided at public expense, under public supervision and direction, and without charge
- b) meet the standards of State education
- c) include elementary school education; and
- d) are provided in conformity with an individualized education program (IEP) that meets the requirements of §§300.340-300.350.

EDUPRIZE's procedures for child identification include the following provisions:

1. FAPE will be made available to a child with disabilities who is in need of special education and related services even though the child is

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advancing from grade to grade, §300.121(a) and 300.121(e)(1). The determination that a child is eligible for special education must be made on an individual basis by the group responsible within the public agency for making those determinations.

2. Services in accordance with §300.121 will be made available for a child with a disability who has been removed from his or her current educational placement for disciplinary reasons for more than 10 school days.

### **CHILD FIND**

EDUPRIZE ensures that all children with disabilities who are in need of special education and related services will be identified, located and evaluated (§300.125). EDUPRIZE assures that a practical method shall be developed and implemented to determine which children are currently receiving needed special education and related services. This policy shall apply to highly mobile children with disabilities and children that are suspected of being a child with a disability under §300.7 and in need of special education, even though they are advancing from grade to grade (§300.125).

EDUPRIZE procedures for child find include the following provisions:

1. EDUPRIZE will maintain documentation of the public awareness efforts conducted to inform the general public and parents residing within their jurisdiction, of the availability of special education services (§300.125, AAC R702-401).
2. Screening activities will be implemented for all newly enrolled students and those transferring in without sufficient records.
3. The screening must be completed within 45 days of enrollment.

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4. The screening will include consideration of academic or cognitive, vision, hearing, communication, emotional and psychomotor problems, AAC R7-2-401(c).
5. EDUPRIZE will maintain documentation and annually report the number of children with disabilities within each disability category that have been identified, located and evaluated (§300.125). The collection and use of data to meet these requirements are subject to the confidentiality requirements of §§300.560 and §300.577.
6. EDUPRIZE will refer children suspected of having a disability age birth through two years to the Arizona Early Intervention Program for evaluation and appropriate services.
7. EDUPRIZE will refer children suspected of having a disability age two years through five years to the child's school district of residence for evaluation and appropriate services.

## EVALUATION AND ELIGIBILITY DETERMINATION

EDUPRIZE ensures that a full individual initial evaluation shall be conducted for each child before the initial provision of special education and related services to a child or youth with a disability (§300.531) to determine if the child is a "child with a disability" under §§300.7-300.531 and ARS-15-761 and to determine the educational needs of the child. Procedures shall be established for conducting evaluation in accordance with the requirements described in (§§300.532-300.536, ARS-15-766). The child's MET/IEP team and other qualified professionals shall review existing evaluation data and collect additional data, if necessary, and use the results of the evaluation to determine category of eligibility and the need for special education and related services (§§300.7-300.534-300.535-ARS-15-761 and ARS 15-766). The MET/IEP team shall use the results of the evaluation to develop the initial IEP or to review and revise an existing IEP (§§300.340-300.350 and ARS 15-761). A re-evaluation of each child shall be conducted every three years in accordance with §§300.532-300.534 and 300.536.

EDUPRIZE's procedures for evaluation and eligibility include the following provisions:

- A. Procedures for initial evaluation (§§300.531 and 300.532)
  1. Tests and other evaluation materials used to assess a child are:

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- a. selected and administered so as not to be discriminatory on a racial or cultural basis; and
  - b. provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so.
2. Materials and procedures used to assess a child:
  - a. with limited English proficiency will be selected and administered to measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.
3. A variety of assessment tools and strategies will be used to gather relevant functional and developmental information about the child, including information provided by the parent.
4. Information related to enabling the child to be involved in and progress in the general curriculum will be included.
5. The information gathered will assist in determining whether the child is a child with a disability; and the development of the child's IEP.
6. Any standardized tests that are given to a child will be:
  - a. validated for the specific purpose for which they are used; and
  - b. administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.
7. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions will be included in the evaluation report.
8. Tests and other evaluation materials will be selected to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
9. Tests will be selected and administered to a child with impaired sensory, manual, or speaking skills to accurately reflect the test results of the child's aptitude or achievement level or whatever other factors

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the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

10. No single procedure will be used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.
11. The child will be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities and the need for assistive technology.
12. The evaluation will be sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.
13. Technically sound instruments will be used that may assess the cognitive and behavioral factors, in addition to physical or developmental factors.
14. Assessment tools and strategies will be used to provide relevant information that directly assists persons in determining the educational needs of the child.

### B. Re-evaluation (§§300.334, 300.536 and 300.543)

1. A re-evaluation will be conducted every three years or if conditions warrant a re-evaluation, if the child's parent or teacher requests a re-evaluation, or before determining that the child is no longer a child with a disability.
2. A re-evaluation will not be required before the termination of a student's eligibility due to graduation with a regular high school diploma, or when a student exceeds the age eligibility for FAPE under the State law.

### C. Determination of needed evaluation data for initial evaluation and re-evaluation (§§300.533 and ARS15-766)

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1. The MET/IEP team and other qualified professionals, as appropriate, will review existing data on the child, including:
    - a. evaluations and information provided by the parents of the child,
    - b. current classroom based assessments and observations, and
    - c. observations by teachers and related services providers.
  2. On the basis of that review and input from the child's parents, the MET/IEP team and other qualified professionals will identify what additional data, if any, are needed to determine eligibility.
- D. If the determination is that no additional data are needed:
1. The public agency will notify the child's parents
    - a. of that determination and the reasons for it, and
    - b. of the right of the parents to request an assessment to determine whether the child continues to be a child with a disability.
  2. No assessment will be required unless requested by the child's parents to determine eligibility.
  3. The MET/IEP team will provide a copy of the evaluation report and documentation of eligibility to the parents.
- E. If additional data is needed:
1. The MET/IEP team will provide procedural safeguards notice, prior written notice, and obtain informed parent consent.
  2. The public agency will administer tests and other evaluation materials as may be needed to determine if the child is a child with a disability under §300.7 and ARS 15-761.
- F. Determination of eligibility (§§300.533-300.536-300.540 and ARS 15-761)
1. The MET/IEP team and other qualified professionals and the parents of the child will determine whether the child has a disability, or continues to be a child with a disability, as defined in §300.7. ARS 15-761.
  2. Based on the review of data and input from the child's parents, the MET/IEP team will determine

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- a. if the child has a category of disability, or in the case of re-evaluation, if the child continues to have a disability
  - b. if the child needs special education and related services, or in the case of a re-evaluation, if the child continues to need special education and related services
  - c. the present levels of performance and other educational needs of the child
  - d. if any additions or modifications to the special education and related services will be needed to enable the child to meet the measurable annual goals established in the IEP and to participate in the general curriculum, as appropriate.
3. In interpreting evaluation data for the purpose of determining if, a child is a child with a disability the MET/IEP will draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, and consider and document all information obtained from all of these sources.
4. A child may not be determined to be eligible:
  - a. if the determinant factor for the eligibility determination is:
    - i. lack of instruction in reading or math; or
    - ii. limited English proficiency
  - b. if the child does not otherwise meet the eligibility criteria under §300.7-300.543 and ARS 15-761.
5. For a child suspected of having a specific learning disability, the documentation of the team's determination of eligibility will include:
  - a. whether the child has a specific learning disability
  - b. the basis for making the determination
  - c. the relevant behavior noted during the observation of the child
  - d. the relationship of that behavior to the child's academic functioning
  - e. the educationally relevant medical findings, if any

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- f. whether there is severe discrepancy between achievement and ability that is not correctable without special education and related services
- g. the determination of the team concerning the effects of environment, cultural or economic disadvantage
- h. Each team member will certify in writing whether the report reflects his/her conclusion, if it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusions.

### G. Evaluation Report

1. The MET/IEP team and other qualified professionals including the parents of the child will determine whether the child is a child with a category of disability or, in the case of a re-evaluation, if the child continues to be a child with a disability, as defined in §300.7 and ARS 15-761.
2. The evaluation report will include:
  - a. a review of current evaluations, including types of tests and results of those tests
  - b. educational history including the reason for referral, current classroom-based assessments, and observations by teachers and related service providers
  - c. information provided by the parents, including medical and developmental history
  - d. determination of whether the child's educational problems are related to or resulting from reason of educational disadvantage.
3. The MET/IEP team will provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.
4. The evaluation report will also include general information pertaining to:

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- a. whether the child has a category of disability or, in the case of re-evaluation if the child continues to be a child with a category of disability
- b. The present levels of performance and educational needs
- c. Whether the child needs special education and related services or continues to need special education and related services
- d. Whether any additions and modifications to special education and related services needed to meet the measurable annual goals established in the IEP and to participate, as appropriate, in the general curriculum

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### INDIVIDUALIZED EDUCATION PROGRAMS

EDUPRIZE assures that an individualized education program (IEP) shall be in effect for each child with a disability at the beginning of each school year within its school population (§300.342). Meetings shall be initiated and conducted for the purpose of developing, reviewing, and revising the IEP of a child with a disability (§§300.343-300.344-300.346-300.349 and 300.311). An IEP shall be developed and implemented for each eligible child served by EDUPRIZE and each eligible child placed in or referred to a private school or facility by EDUPRIZE (§§300.342-300.346-300-347 and 300.349). One or both parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate (§300.344).

EDUPRIZE's procedures for individualized education programs include the following provisions:

- A. When individualized Education Program must be in effect §300.342.
  1. At the beginning of each school year, an IEP must be in effect for each child with a disability.
  2. An IEP is in effect before special education and related services are provided to an eligible child under §300.342 .
  3. An IEP will be developed and implemented for each child with a disability who:
    - a. receives special education services in the public agency
    - b. is placed in a private school or facility by the public agency
    - c. is enrolled in a parochial or other private school and receives special education and related services from the public agency
  4. The IEP is implemented as soon as possible following the IEP meeting.
  5. The child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation.
  6. Each teacher and provider is informed of:
    - a. his or her specific responsibilities related to implementing the child's IEP
    - b. the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP (§300.342)
  7. The child's parents are provided a detailed explanation of the differences between

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an IFSP and an IEP; and if the parents choose an IFSP, written informed consent is obtained from the parents.

### B. Individualized Education Program meetings §300.343

1. In the case of a child with a disability age 5 or above, the IFSP developed in accordance with §§300.341-300.346 and §§300.349-300.350, may serve as the IEP of the child if using that plan as the IEP is:
  - a. consistent with State policy
  - b. agreed to by the agency and the child's parent
2. An IEP meeting is initiated and conducted for the purpose of developing, reviewing, and revising the IEP or IFSP of a child with a disability.

### C. Initial Individualized Education Programs provision of services §300.343(B)

1. A meeting to develop an IEP for the child is conducted within 30 days of a determination that the child needs special education and related services.

### D. Review and revision of the Individualized Education Programs §300.343(C)

1. The IEP team reviews the child's initial IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved.
2. The IEP team revises the IEP as appropriate to address:
  - a. any lack of expected progress toward the annual goals described in §300.347(a), and in the general curriculum, if appropriate
  - b. the results of any re-evaluation conducted under §300.536
  - c. information about the child provided to, or by, the parents, as described in §300.533(a)(1)
  - d. the child's anticipated needs
  - e. other matters

### E. Individualized Education Program Team §300.344

1. The IEP team for each child with a disability includes:
  - a. the parents of the child
  - b. at least one regular education teacher of the child (if the child is, or may be

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- participating in the regular education environment)
  - c. at least one special education teacher of the child, or if appropriate, at least one special education provider of the child
  - d. a representative of the public agency who
    - i. is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities
    - ii. is knowledgeable about the general curriculum
    - iii. is knowledgeable about the availability of resources of the public agency
  - e. an individual who can interpret the instructional implications of evaluation results, who may be a member of the team
  - f. at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate. The determination of whether an individual has knowledge or special expertise shall be made by the party (parent or public agency) who invited the individual to be a member of the team; and
  - g. if appropriate, the child.
- 2. Transition services participants include:
  - a. student with a disability who is invited to attend his or her IEP meeting
  - b. a student with a disability of any age
- 3. If a purpose of the meeting will be the consideration of transition
  - a. the student's transition service needs will be considered beginning at age 14 or younger under §300.347(b)(1)
  - b. the student's needed transition services will be considered beginning at age 16 or younger under §300.347(b)(2) or both
- 4. If the student does not attend the IEP meeting, the public agency shall take other steps to ensure that the student's preferences and interests are considered.

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5. In implementing the requirements of §300.347(b)(2)
    - a. the public agency also shall invite a representative of any other agency that is likely to be responsible for providing or paying for transition services.
    - b. if an agency invited to send a representative to a meeting does not do so, the public agency shall take other steps to obtain participation of the other agency in the planning of any transition services.
  6. The determination of the knowledge or special expertise of any individual shall be made by the party (parents or public agency) who invited the individual to be a member of the IEP.
  7. A public agency may designate members of the IEP team to also serve as the agency representative.
- F. Parents participation §300.345
1. Parents will be present or afforded the opportunity to participate in each IEP meeting. Efforts must include:
    - a. notifying parents of the meeting early enough to ensure that they will have an opportunity to attend
    - b. scheduling the meeting at a mutually agreed on time and place
  2. The meeting notice required must:
    - a. indicate the purpose, time, and location of the meeting and who will be in attendance
    - b. inform the parents of the provisions in §300.344(a)(6) and (c) relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child.
  3. For a student with a disability beginning at age 14 (or younger, if appropriate) the notice must also:
    - a. indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student required in §300.347(b)(1)
    - b. indicate that the agency will invite the student.

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4. If neither parent can attend, the public agency shall use other methods to ensure parent participation, including individual or conference telephone calls.
  5. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case the public agency must have a record of its attempts to arrange a mutually agreed on time and place, such as
    - a. detailed records of telephone calls made or attempted and the results of those calls
    - b. copies of correspondence sent to the parents and any responses received
    - c. detailed records of visits made to the parent's home or place of employment and the results of those visits
  6. The public agency will take whatever action is necessary to help the parent understand the proceedings at the IEP meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.
  7. The public agency will give the parent a copy of the child's IEP at no cost to the parent.
- G. Development, review, and revision of Individualized Education Program §300.346
1. In developing each child's IEP, the IEP team, will consider:
    - a. the strengths of the child and the concerns of the parents for enhancing the education of their child
    - b. the results of the initial or most recent evaluation of the child
    - c. as appropriate, the results of the child's performance on any general State or district-wide assessment programs
  2. In consideration of special factors the IEP team also will:
    - a. in the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, positive behavioral interventions, strategies, and supports to address that behavior
    - b. in the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP
    - c. in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team

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determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille) that instruction in Braille or the use of Braille is not appropriate for the child

- d. consider the communication needs of the child
  - e. in the case of a child who is deaf or hard of hearing, consider
    - i. the child's language and communication needs
    - ii. opportunities for direct communications with peers and professional personnel in the child's language and communication mode
    - iii. academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode
  - f. consider whether the child requires assistive technology devices and services
  - g. if the IEP team, in considering the special factors, determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive FAPE, the IEP team must include a statement to that effect in the child's IEP
3. The regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP, including assisting in the determination of:
- a. appropriate positive behavioral interventions and strategies for the child
  - b. supplementary aids and services program modifications or supports for school personnel that will be provided for the child, consistent with §300.347(a)(3).

### H. Content of Individualized Education Program §300.347

- 1. The IEP for each child with a disability must include:
  - a. a statement of the child's present levels of educational performance, including
    - i. how the child's disability affects the child's involvement and progress in the general curriculum (i.e., the same curriculum as for non-disabled children)

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- b. a statement of measurable annual goals (statement of amount of progress expected), including benchmarks (major milestones), or short-term objectives (measurable intermediate steps), related to:
  - i. meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum (i.e. the same curriculum as for non-disabled children).
  - ii. meeting each of the child's other educational needs that result from the child's disability
- c. a statement of the special education and related services
- d. supplementary aids and services to be provided to the child or on behalf of the child (services provided to the parents or teachers of the child to help them more effectively work with the child.
  
- e. A statement of the program modifications or supports for school personnel that will be provided for the child (LRE)
  - i. to advance appropriately toward attaining the annual goals
  - ii. to be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities (LRE)
  - iii. to be educated and participate and participate with other children with disabilities and non-disabled children in extracurricular and other nonacademic activities (LRE)
- f. an explanation of the extent, if any, to which the child will not participate with non-disabled children in the regular class and in extracurricular and other nonacademic activities (LRE)
- g. a statement of any individual accommodations and modifications in the administration of State or district-wide assessments of student achievement that are needed in order for the child to participate in the assessment (LRE)
- h. if the IEP team determines that the child will not participate in a particular State or district-wide assessment of student achievement (or part of an assessment), a statement of:
  - i. why that assessment is not appropriate for the child
  - ii. how the child will be assessed

## EDUPRIZE POLICIES

- i. the projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications; and
  - j. a statement of
    - i. how the child's progress toward the annual goals will be measured
    - ii. how the child's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their non-disabled children's progress, of:
      - \* their child's progress toward the annual goals, and
      - \* the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.
2. The IEP must include transition service planning.
  - a. for each student with a disability beginning at age 14 (or younger), a statement of the transition service needs of the student under the applicable components of the student's IEP that focus on the student's courses of study (such as participation in advanced-placement courses or a vocational education program)
  - b. the statement of transition service needs must be updated annually
  - c. a statement of the interagency responsibilities or any needed linkages must be included, if appropriate
3. Beginning at least one year before a student reaches the age of majority, the student's IEP must include a statement that the student has been informed of his or her rights, if any, that will transfer to the student on reaching the age of majority, consistent with §300.517.
4. Special rules concerning the content of IEPs for students with disabilities convicted as adults and incarcerated in adult prisons are contained in §300.311(b) and (c).
  - a. the IEP team may modify the IEP and placement of a student with a disability who is convicted as an adult under State law and incarcerated in an adult prison, if the State has demonstrated a bona fide security or compelling penal interest that cannot otherwise be accommodated
  - b. the requirements of §300.340(a) (definition of IEP) and §300.347(a) (content of IEP) relating to IEPs, and §300.550(b) relating to LRE, do not apply with respect to modifications

## EDUPRIZE POLICIES

- I. Agency responsibilities for transition services §300.348.
  1. If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with §300.347(b)(1), the public agency must reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.
  2. Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.
  
- J. IEP accountability §300.350
  1. The public agency must provide special education and related services to a child with a disability in accordance with the child's IEP.
  2. The public agency must make a good faith effort to assist the child to achieve the goals and objectives or benchmarks listed in the IEP.

### **LEAST RESTRICTIVE ENVIRONMENT (LRE)**

EDUPRIZE ensures that to the maximum extent appropriate, students with disabilities in public or private institutions of other care facilities are educated with students who are not disabled (§300.550). Special classes, separate schooling or other removal of students with disabilities from the regular environment occurs only when the nature or severity of the disability is such that education in regular classes, even with the use of supplementary aids and services cannot be achieved satisfactorily (§300.550 and AAC R7-401).

EDUPRIZE's procedures for least restrictive environment (LRE) include the following provisions:

#### DEFINITION

Supplementary aids and services as used in this section means, aids services, and other supports that are provided in regular education classes or other education related settings to enable the children with disabilities to be educated with non-disabled children to the maximum extent appropriate in accordance with §§300.550-300.556.

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### A. Continuum §300.551 and AAC R7-401(G)

1. A continuum of alternative placements for special education and related services must include:
  - a. regular classes with supplementary services (i.e. resource room)
  - b. regular classes with supplementary services (i.e. itinerant instruction)
  - c. special classes
  - d. special schools
  - e. home instruction
  - f. instruction in hospitals
  - g. instruction in institutions
2. The provision of supplementary services (such as resource room or itinerant instruction) will be provided in conjunction with regular class placement (§300.551).

### B. Placements §300.552 and AAC R7-401(G)

1. Special education placement decision for a child with a disability, including a preschool child with a disability, will be made by a group of persons that includes:
  - a. the parent(s)
  - b. persons who are knowledgeable about the child
  - c. persons who are knowledgeable of evaluation data, and
  - d. persons who are knowledgeable of placement.
2. Special education placements will:
  - a. be determined at least annually
  - b. be based on the child's IEP, and be as close as possible to the child's home
3. The child will be educated in the school that he or she would attend if non-disabled (unless the IEP requires some other arrangement).
4. Document consideration of any potential harmful effects on the child or the quality of services.
5. A child with a disability will not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

### C. Nonacademic settings §300.553

## EDUPRIZE POLICIES

1. Children with disabilities will participate with non-disabled children in non-academic and extracurricular services and activities which may include meals, recess periods, and the services and activities to the maximum extent appropriate to the needs of the child.

### D. Nonacademic services §§300.306-300.306

1. The children with disabilities will have available to them the variety of educational programs and services available to non-disabled children in the areas served by the public agency in nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities (§300.305).
2. Students with disabilities will participate with non disabled students in nonacademic and extracurricular services and activities which may include: counseling, services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities and employment of students, including both employment by the public agency and assistance in making outside employment available.

## PROCEDURAL SAFEGUARDS

EDUPRIZE shall ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education §300.500(a). The parents of a child with a disability shall be given an opportunity to inspect and review all education records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child, §300.501(a)(1). EDUPRIZE shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child, §300.501(c).

EDUPRIZE ensures that the parents of a child with a disability shall have the right to obtain an independent educational evaluation of the child, §300.502(a)(1). A copy of the procedural safeguards notice shall be given to the parent, at a minimum, upon initial referral for evaluation, each notification of an IEP meeting, re-evaluation of the child, and

## EDUPRIZE POLICIES

receipt of a request for due process under §§300.507, 300.504(a). Parental consent shall be obtained if after a review of existing information, additional data are needed for an initial evaluation or re-evaluation, and before initial provision of special education and related services §300.505(a)(1). A parent or EDUPRIZE may initiate a due process hearing on any of the matters described in §300.503(a)(1) and relating to the identification, evaluation, educational placement of a child with a disability, and provision of FAPE §300.507(a)(2).

EDUPRIZE shall ensure that the rights of a child are protected if (a) no parent (as defined in §300.20) can be identified, (b) the public agency, after reasonable efforts, cannot discover the whereabouts of a parent, after having made three documented and reasonable attempts and/or (c) the child is a ward of the State under the laws of the State (§§300.515(a); ARS 15-763.01).

### DEFINITIONS §§300.500-300.517

1. “Consent” means:
  - a. the parent is 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
  - b. the parent understands and agrees in writing to the activity for which consent is sought
  - c. the consent describes the activity
  - d. the consent lists the records (if any) that will be released and to whom
  - e. the parent understands that the consent is voluntary and may be revoked at any time.
  - f. if a parent revokes consent, that the revocation is not retroactive, meaning that the revocation does not negate an action that has occurred after the consent was given and before the consent was revoked §300.500(b)(1)
  - g. parental consent for initial evaluation will not be construed as consent for initial placement §300.505(2).

Parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation §300.505(a)(3).

Parental consent is not required before administering a test or other evaluation that is administered to all children unless consent is required of parents of all children §300.505(a)(3).

2. “Evaluation” means procedures used in accordance with §§300.530-300.536 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs §300.500(b).
3. “Personally identifiable” means that the information includes:

## EDUPRIZE POLICIES

- 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
  - d. a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty
- §300.500(b)(3).

4. "Meetings" do not include informal or unscheduled conversations involving public agency personnel and conversations of issues such as teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the child's IEP §300.501(b)(2).

Meetings do not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting §300.501(b)(2).

5. "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child §300.502(a)(3).
6. "Public expense" means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with FAPE (§§300.502(a)(3) and 300.301).

Arizona Call-A-Teen Center of Excellence procedural safeguards include the following provisions:

- A. Parent participation in meetings §§300.345 and 300.501
  1. The parents will be provided with meeting notice to ensure their participation in meetings §300.501(b).
  2. The public agency will take steps to ensure that one or both of the parents are present at each IEP meeting or are given the opportunity to participate by:
    - a. notifying parents of the meeting early enough to ensure that they will have an opportunity to attend, and
    - b. scheduling the meeting at a mutually agreed time and place§300.345(a).
  3. The meeting notice must:
    - a. indicate the purpose, time, and location of the meeting
    - b. indicate who will be in attendance

## EDUPRIZE POLICIES

- c. inform the parents of the provisions in §300.344(a)(c) relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child §300.345(b)(1)(2).

### B. Opportunity to examine records §300.501

1. The parents of a child with a disability must be given the opportunity to inspect and review all education records with respect to:
  - a. identification
  - b. evaluation
  - c. educational placement of the child
  - d. FAPE §300.501(a)

### C. Parent involvement in placement decisions §300.501

1. If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency will use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing §300.501(c)(3).
2. A placement decision may be made by a group without the involvement of the parents, if the public agency is unable to obtain the parent's participation in the decision §300.501(c)(4).
3. If the public agency is unable to obtain the parent's participation in the placement decision, the public agency must have a record of its attempt to ensure their involvement, including:
  - a. detailed records of telephone calls made or attempted and the results of those calls
  - b. copies of correspondence sent to the parents and any responses received
  - c. detailed records of visits made to the parents' home or place of employment and the results of those visits §§300.345(d) and 300.501(c)(4)
4. The public agency will make reasonable efforts to ensure that the parents understand, and are able to participate in, any group discussions relating to the educational placement of their child, including arranging for an

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interpreter for parents with deafness, or whose native language is other than English §300.501(c)(5).

### D. Independent educational evaluation §300.501

1. Upon request for an independent educational evaluation, the public agency will provide to parents:
  - a. information about where an independent educational evaluation may be obtained.
  - b. the agency criteria §300.(a)(2)

### E. Parent right to evaluation at public expense §300.502

1. A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency §300.502(b)(1).
2. If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either:
  - a. initiate a due process hearing under §300.507 to show that the agency's evaluation is appropriate, or
  - b. ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a due process hearing under §300.507 that the evaluation obtained by the parent did not meet agency criteria §300.502(b)(2) (i and ii).
3. If the public agency initiates a due process hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense §300.502(b)(3).
4. If a parent requests an independent educational evaluation, the public agency
  - a. may ask for the parent's reason why he or she objects to the public evaluation, but
  - b. the explanation may not be required §300.502(b)(4)
5. The public agency may not unreasonable delay either providing the independent educational evaluation at public expense, or initiating a due process hearing to defend the public evaluation §300.502(b)(4).

### F. Parent-initiated evaluations §300.502

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1. If the parent obtains an independent educational evaluation at private expense, the results of the evaluation
  - a. must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child
  - b. results may be presented as evidence at a hearing regarding the child §300.502(c)(1 and 2)
  
- G. Requests for evaluations by hearing officers §300.502
  1. Cost of the independent educational evaluation must be at public expense if requested by a hearing officer §300.502(d).
  
- H. Agency criteria §300.502
  1. If an independent educational evaluation is at public expense:
    - a. the criteria under which the evaluation is obtained must be the same as the criteria the public agency uses when it initiates an evaluation, including the location of the evaluation and the qualifications of the examiner.
    - b. the criteria must be consistent with the parent's right to an independent educational evaluation §300.502(e)(1)
    - c. the agency may establish a range of payment for independent educational evaluation
  
  2. The public agency may not impose other conditions or timelines related to obtaining an independent educational evaluation at public expense §300.502(e)(2).
  
- I. Prior notice by the public agency §300.503
  1. Prior written notice must be given to parents a reasonable time before the public agency proposes to initiate or change the:
    - a. identification
    - b. evaluation
    - c. educational placement of a child with a disability
    - d. provision of FAPE §300.503(a)(1)(i)

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2. Prior written notice must be given to parents a reasonable time before the public agency refuses to initiate or change the:
  - a. identification
  - b. evaluation
  - c. educational placement of a child with a disability
  - d. provision of FAPE §300.503(a)(1)(ii)
3. Prior written notice must be given to the parent at the same time the public agency requests parent consent, if the prior written notice relates to an action proposed by the agency that also requires parental consent §300.503(a)(2).
4. The content of the prior written notice must contain:
  - a. a description of the action proposed or refused by the agency
  - b. an explanation of why the agency proposes or refuses to take the action
  - c. a description of any other options that the agency considered and the reasons why those options were rejected.
  - d. a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action
  - e. a description of any other factors that are relevant to the agency's proposal or refusal
  - f. a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained.
  - g. sources for parents to contact to obtain assistance in understanding these provisions §300.503(b)(1-7).
5. The prior written notice must be written in language understandable to the general public §300.503(c)(1)(i).
6. The prior written notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so §300.503(c)(1)(ii).
7. If the native language or other mode of communication of the parent is not a written language, the public agency will take steps to ensure
  - a. that the prior written notice is translated orally or by other means to the parent in his or her native language or other mode of communication

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- b. that the parent understands the content of the prior written notice
- c. that there is written evidence that the requirements of (a) and (b) have been met §300.503(c)(2)(i-iii)

### J. Procedural safeguards notice §300.504

1. A copy of the procedural safeguards notice will be given to the parent, at a minimum
  - a. upon initial referral for evaluation
  - b. upon each notification of an IEP meeting
  - c. upon re-evaluation of the child
  - d. upon receipt of a request for due process under §§300.507 and 300.504(a)(1-4).
2. The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under the law, relating to
  - a. independent educational evaluation
  - b. prior written notice
  - c. parental consent
  - d. access to educational records
  - e. opportunity to present complaints to initiate due process hearings
  - f. the child's placement pending due process proceedings
  - g. procedures for students who are subject to placement in an interim alternative educational setting
  - h. requirements for unilateral placement by parents of children in private schools at public expense
  - i. mediation
  - j. due process hearings, including requirements for disclosure of evaluation results and recommendations
  - k. state level appeals (if applicable)
  - l. civil actions
  - m. attorneys' fees
  - n. the State complaint procedures under §§300.660-300.662, including a description of how to file a complaint and the timelines under those procedures §300.504(b)(1-14)
3. The procedural safeguards notice must be written in language understandable to the general public §300.504(c).
4. The procedural safeguards notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so §300.504(c).

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5. If the native language or other mode of communication of the parent is not a written language, the public agency will take steps to ensure:
    - a. that the procedural safeguards notice is translated orally or by other means to the parent in his or her native language or other mode of communication
    - b. that the parent understands the content of the procedural safeguards notice
    - c. that there is written evidence that the requirements of (a) and (b) have been met §300.504(c)
- K. Parental consent §300.505
1. Parental consent must be obtained if, after a review of existing data, additional data is needed for an initial evaluation or re-evaluation, and before initial provision of special education and related services §300.505(a)(1). Parental consent is not required before reviewing existing data as part of an evaluation or before administering a test or other evaluation that is administered to all children unless such consent is required from the parents of all children.
  2. If the parents refuse consent for initial evaluation or re-evaluation, the agency may pursue those evaluations by using (except to the extent inconsistent with State law relating to parental consent)
    - a. due process procedures under §§300.507 and 300.509
    - b. mediation procedures under §§300.506 and 300.505(b)
  3. Informed parental consent need not be obtained for re-evaluation if the public agency can demonstrate that it has taken reasonable measures to obtain that consent, and the child's parent has failed to respond §300.505(c).
  4. The reasonable measures taken by the public agency to obtain informed parental consent include:
    - a. detailed records of telephone calls made or attempted and the results of those calls.
    - b. copies of correspondence sent to the parents and any responses received
    - c. detailed records of visits made to the parent's home or place of employment and the results of those visits §300.505(c)(2).

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5. A public agency will not use a parent's refusal to consent to one service or activity under this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part §300.505(e).
- L. Mediation requirements §300.506
1. The public agency will ensure that the mediation process
    - a. is voluntary on the part of the parties
    - b. is not used to deny or delay a parent's right to a due process hearing under §300.507, or to deny any other rights afforded under Part B of the Act
    - c. is conducted by a qualified and impartial mediator who is trained in effective mediation techniques §300.506(b)(1)(i-iii). Impartiality means that the mediator is not an employee of any public agency or State agency in §300.194 or the State Education Agency that is providing direct services to a child who is the subject of the mediation process. The mediator must not have a personal or professional conflict of interest. A person is not an employee of a public agency or the State solely because he or she is paid by the agency to serve as a mediator.
  2. Either the public agency or parent may contact the Arizona Department of Education / Exceptional Student Services to request mediation.
  3. Discussions that occur during the mediation process
    - a. will be confidential
    - b. may not be used as evidence in any subsequent due process hearings or civil proceedings §300.506(b)(6)
  4. The parties to the mediation process may request a confidentiality pledge prior to the commencement of the process §300.506(b)(6).
- M. Impartial due process hearing; parent notice (§§300.507 and AAC R7-2-405)

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1. When a due process hearing is initiated under §300.503(a)(1), the public agency will inform the parents of the availability of mediation described in §§300.506 and 300.507(a)(2).
  2. The public agency will inform the parent of any free or low cost legal and other relevant services available in the area if:
    - a. the parent requests the information
    - b. the parent or the agency initiates a due process hearing under this section  
§300.507(a)(3)(I and ii).
  3. The public agency will notify the Arizona Department of Education/Exceptional Student Services when a written request for due process is received  
§AAC R7-2-405.
  4. The due process hearing will be conducted by the public agency directly responsible for the education of the child §300.507(b).
  5. At least five business days prior to a due process hearing conducted pursuant to this section, the public agency will disclose to all parties
    - a. all evaluations completed by that date
    - b. recommendations based on the offering party's evaluations that the party intends to use at the hearing §300.509(b)(1)
  6. Parents involved in due process hearings have the right to
    - a. have the child who is the subject of the hearing present
    - b. open the hearing to the public §300.509(c)(1)(I and ii)
  7. The record of the due process hearing and the findings of fact and decisions will be provided at no cost to parents §300.509(c)(2).
- N. Finality of decision; appeal; impartial review §300.510
1. A decision made in a due process hearing conducted pursuant to §300.507 or §§300.520-300.528 is final, except that any party involved in the hearing may appeal the decision under the provisions of §§300.510-300.512 and 300.510(a).
  2. The decision made by the reviewing official is final unless a party brings a civil action under §§300.512 and 300.510(d).

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- O. Timelines and convenience of hearings and reviews §300.511
1. The public agency will ensure that not later than 45 calendar days after the receipt of a request for a due process hearing
    - a. a final decision will be reached in the hearing, unless the hearing officer grants specific extensions of time at the request of either party: and
    - b. a copy of the decision will be mailed to each of the parties §300.511(a)(1 and 2)
  2. Each due process hearing and each impartial review involving oral arguments will be conducted at a time and place that is reasonably convenient to the parents and child involved §300.511(d).
- P. Attorney fees §300.513
1. The procedural safeguards notice will include a full explanation of all of the procedural safeguards relating to attorney fees §300.504(b)(13).
  2. Funds under Part B of the Act will not be used to pay attorney fees or costs of a party related to an action or proceeding under section 615 of the Act and subpart E §300.513(b)(1).
- Q. Child's status during proceedings §300.514
1. Except as provided in §300.526, pending any administrative or judicial proceeding regarding a due process complaint under §300.507, unless the State or local agency and the parents of the child agree otherwise, the child involved in the due process complaint will remain in his or her current educational placement §300.514(a).
  2. If the due process complaint involves an application for initial admission to public school, the child, with the consent of the parents, will be placed in the public school until the completion of all the proceedings §300.514(b).
  3. If the decision of a hearing officer in a due process hearing conducted by the SEA or a State review official in an administrative appeal agrees with the child's parents that a change of placement is appropriate, that placement will be treated as an agreement between the State or local agency and the parents for purposes of §§300.514(a) and 300.514(c).
- R. Surrogate parents; and appointment §§ARS 15.763.01 and 300.515

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1. It is the duty of public agency to assign an individual to act as a surrogate for the parents. This will include a method
  - a. for determining whether a child needs a surrogate parent
  - b. for assigning a surrogate parent to the child §300.515(b)(1 and 2)
2. A petition for the appointment of a surrogate parent will be made to a court of competent jurisdiction §ARS 15-763.01(A).
3. Except as provided in §300.515(c)(3), public agencies will ensure that a person selected as a surrogate
  - a. is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child
  - b. has no interest that conflicts with the interest of the child he or she represents
  - c. has knowledge and skills that ensure adequate representation of the child  
§§300.515(c)(2)(I-iii) and ARS 15-763.01(B)
4. The surrogate may represent the child in all matters relating to:
  - a. identification
  - b. evaluation
  - c. educational placement of a child with a disability
  - d. provision of FAPE §300.515(e)(1 and 2)

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### **CONFIDENTIALITY OF INFORMATION**

EDUPRIZE ensures that parents may inspect and review any educational records relating to their children that are collected, maintained or used by the agency. Without unnecessary delay, EDUPRIZE shall comply with parent requests and in no case more than forty-five days after request §300.562. Procedures shall be established and implemented to protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages §300.572(a). Parents may request amendment of records if they believe information in records is inaccurate, misleading or violates the privacy or other rights of their child §300.567. Confidentiality of information §§300.560-300.576

EDUPRIZE's procedures for confidentiality of information include the following provisions:

- A. Access rights §300.562
  - 1. Responses to reasonable requests for explanations and interpretation of educational records will be provided to parents.
  - 2. Parents will be given copies of records if failure to provide copies would prevent parent from inspecting and reviewing records.

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3. A parent's representative will be given an opportunity to inspect and review the educational records.
  4. The public agency may presume parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law (i.e. guardianship, separation, divorce) §§300.562(c), ARS 15-761(21), AAC R7-2-405(8), and AAC R&-2-401(22).
  5. A parent request for records will be provided without unnecessary delay, before any meeting regarding IEP or any hearing, and in no case more than 45 days after the request.
- B. Notification of rights to parents and eligible students §300.561
1. Notice will be distributed in the native languages of the various population groups in the public agency §300.561(a)(4).
  2. The public agency will inform parents by publishing a notice or announcement in newspapers or through other media, or both, with circulation adequate to notify local parents before any major identification, location, or evaluation activity §300.561(b). This notice will contain a description of all the rights of parents and children under the Family Educational Rights and Privacy Act of 1974 and the implementing regulations.
  3. The Annual Notice will contain the following components:
    - a. parents and eligible students have the right to inspect and review the student's education record §§99.7 and 300.564
    - b. the procedure for exercising the right to inspect and review the student's education record §99.7 within 45 days §§99.10 – 300.521 and 300.528
    - c. parents and eligible students have the right to seek amendment of the student's education record that is believed to be inaccurate, misleading, or in violation of the student's privacy rights §99.7 and §300.567
    - d. the procedure for requesting amendment of the record §99.7
    - e. parents and eligible students have the right to give consent before the release of personally identifiable information (except to the extent that the Act and §99.31 authorize disclosure without consent) §99.7
    - f. if the agency discloses information in the optional situations without prior consent, the notice must also include specification of criteria for determining who constitutes a school official §99.31(a)
    - g. what constitutes a legitimate educational interest §99.7(a)

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- h. notice that rights regarding records transfer at age 18 §§99.5(a), 300.574(b)
  - i. a description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the public agency intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information:
  - j. a summary of the procedures that the agency will follow in the storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
  - k. the process by which a parent or student can exercise the right to file a complaint concerning alleged failures by the agency to comply with FERPA.
- C. Record of access (§300.563 and records on more than one child §300.564)
  - 1. The public agency will keep records of parties obtaining access to records, collected, maintained and used including name, access date, purpose for access.
  - 2. If a record has information on more than one child, parents have a right to inspect and review only the information relating to their child, or to be informed of that specific information.
- D. List of type and location of information §300.565
  - 1. The public agency will maintain a list of types and location of educational records that are collected, maintained, or used and provide a copy of the list upon request §300.565.
- E. Fees §300.566
  - 1. The public agency will provide copies of records to the parent if failure to do so prevents the parent from inspecting or reviewing the records §300.562(b)(2).
  - 2. The public agency may charge for copies if the fee does not prevent inspection or review of the record §300.566(a).
  - 3. The public agency will not charge a fee to search or retrieve information §300.566(b).
- F. Amendment of records at parent request §300.567
  - 1. A parent may request amendment of records if he/she believes that information is an education record that is inaccurate, misleading, or

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otherwise in violation of student privacy or other rights §99.7 and §300.567(a).

2. The public agency will decide whether to amend information within a reasonable period of time after the receipt of the request §99.7 and §300.567(a)
  3. If the public agency refuses to amend, parents will be informed of the refusal and of the right to a hearing §300.567.
- G. Opportunity for a hearing §300.568
1. If the parent requests a hearing, the public agency will provide an opportunity for a hearing to challenge information in records. A hearing held for this purpose must be conducted according to the procedures under §34 CFR 99.22.
- H. Result of hearing §300.569
1. After a hearing, the agency will inform parents in writing of its decision to amend an education record believed to be inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child §300.569(a).
  2. If the agency makes a decision not to amend an education record, the parents will be informed of their right to place within the record a statement commenting on the information or setting forth any reasons for disagreeing with the decisions of the agency §300.569(b).
    - a. the agency will maintain the statement with the record or contested portion and
    - b. if the records are disclosed, the explanation will also be disclosed §300.569
- I. Safeguards §300.572
1. The public agency will protect the confidentiality of personally identifiable information at collection, storage, disclosure to third parties, retention, and destruction stages §300.572(a).
  2. An official will be designated to ensure the confidentiality of any personally identifiable information §300.572(b).

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3. All persons collecting or using personally identifiable information will receive training or instruction regarding policies and procedures under §300.127 and §99.
  4. The agency will maintain a current list for public inspection of the names and positions of employees who may have access to personally identifiable information §300.572(d).
- J. Destruction of information §300.573
1. The public agency will inform the parent when personally identifiable information collected, maintained or used, is no longer needed to provide educational services to the child.
  2. The agency will destroy the information at the request of the parent. However, permanent record of name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.
- K. Children's rights §300.574
1. Children may be afforded rights of privacy similar to those afforded to parents, taking into consideration the age, of the student and type or severity of disability.
  2. If the rights accorded to parents are transferred to a student with a disability who reaches the age of majority, the rights regarding educational records will be transferred to the student §99.5(a).
  3. In accordance with the Family Educational Rights and Privacy Act, the rights of parents regarding education records are transferred to the student at age eighteen. The agency must provide any notice under section 615 of IDEA to the students and the parents.
- L. Disciplinary information §300.576
1. The public agency will include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child.
  2. The disciplinary information on students with disabilities will be transmitted to the same extent that disciplinary information is transmitted on non-disabled students.
  3. The disciplinary statement may include a description of any behavior engaged in by the student, description of the disciplinary action taken and

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any other information that is relevant to the safety of the student and other individuals.

4. If a student transfers from one school to another, the transmission of any of the student's records will include the current IEP, current evaluation and any statement of current or previous disciplinary action that has been taken against the student.
5. If a student transfers from one school to another, the transmission of any of the student's records to the receiving school will occur within the timeframe specified in State statutes and will not require the consent of the parent (ARS 15-828(F-G)).

## **EXTENDED SCHOOL YEAR (ESY) SERVICES**

EDUPRIZE ensures that extended school year services shall be available as necessary, to provide

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FAPE to a child with a disability §300.309. Extended school year services shall be provided in accordance with §§300.340-300.350, ARS 15-881. Extended school year services shall be provided only if a child's IEP team determines, on an individual basis, that the services are necessary for the provision of FAPE to the child with a disability §§300.309, 300.342-300.346. Procedures shall be established to implement ESY services for children with disabilities aged 3 through 21 ARS 15-881, §§300.309, 300.340.

## DEFINITIONS

As used in this section, the term "extended school year services" means special education and related services that are provided to a child with a disability:

- a. beyond the normal school year of the public agency
- b. in accordance with the child's IEP
- c. at no cost to the parents of the child with a disability

As used in this section, "recoupment" means the amount of time required to re-learn skills included in the child's IEP following an extended break in instruction.

The term "regression" means the reversion to a lower level of functioning in skills or behavior specified in the child's IEP, which results from an extended break in instruction.

The term "critical learning stage" means a developmental period in which a child has mastered a concept or skill in one setting and is ready to generalize what has been learned so that it can be applied in other situations. A critical learning stage exists if the child is unlikely to retain the concept or skill, in order to generalize what has been learned to other situations.

EDUPRIZE's procedures for extended school year (ESY) include the following provisions:

- A. Procedures for determination of ESY services §§ARS 15-881 and 300.309
  1. ESY services will be provided to prevent irreparable harm to the pupil's ability to maintain identified skills or behavior.
  2. When the child is in a "critical learning period" of development and when there is a "window of opportunity" that will be lost if services are not provided

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3. The IEP team will determine, on an individual basis, the services that are necessary to provide FAPE to the child with a disability.
  4. When ESY services will significantly enhance the child's ability to function independently.
  5. ESY services will not be limited to particular categories of disability.
  6. ESY services will not unilaterally be limited to the type, amount or duration of those services.
  7. ESY services will not be required for all children with disabilities.
  8. ESY services will not be based on need or desire for any of the following:
    - a. a day care or respite care service for children with disabilities
    - b. a program to maximize the academic potential of a child with a disability
    - c. a summer recreation program for children with disabilities.
- B. Criteria for determination of eligibility for ESY services include:
1. regression-recoupment factors
  2. critical learning stages
  3. least restrictive environment considerations
  4. teacher and parent interviews and recommendations
  5. database observations of the pupil
  6. considerations of the child's previous history
  7. parental skills and abilities
- C. Methods to measure regression and recoupment include:
1. use a variety of types of measurement and strategies for assessing skills, abilities and behaviors
  2. a collection of data:
    - a. at the end of instruction
    - b. at the beginning of subsequent instruction
    - d. at the time of recoupment
  3. Any loss or reduction from the end of instruction to the beginning of subsequent instruction will be a measure of regression data.
  4. Any measurement from the beginning of the subsequent instruction to the time of recoupment will measure the recoupment data.

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D. Children with disabilities who are eligible for ESY

1. The IEP team will:
  - a. identify goals/benchmarks/short term objectives
  - b. identify special education and related services needed
  - c. must determine the initiation, location, frequency and duration of services
  - d. establish a date to review and document services

## PRIVATE SCHOOLS

EDUPRIZE ensures that special education and related services shall be provided to a child with a disability who has been placed in or referred to a private school or facility by the public agency §§300.401-300.402. The public agency will not pay the cost of education, including special education and related services of a child with a disability at a private school or facility if the public agency made FAPE available to the child and the parents elected to place the child in a private school or facility, unless the agency is required to do so by the court or hearing officer §300.403. The public school will exercise administrative control of all property, equipment, and supplies that the public agency acquires with federal funds for the benefit of private school children with disabilities (§300.462). The public agency ensures that if a placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board shall be at no cost to the parents of the child §§300.302 and ARS 15-765.

- A. Private school placements by public agencies §300.349
1. Before a public agency places a child with a disability in, or refers a child to a private school or facility, the agency must initiate and conduct a meeting to develop an IEP for the child in accordance with §§300.346 and 300.347.
  2. Before any student is placed in any private school or other public facility, the public agency will ensure a full continuum of alternative placements is available to meet the least restrictive environment (ARS 15-765).
  3. After a child with a disability enters a private school or facility, any IEP meeting to review or revise the child's IEP may be initiated and conducted by the private school at the discretion of the public agency.
  4. A representative of the private school or facility will be invited to attend the IEP meeting. If the representative cannot attend, the agency will use other methods to ensure participation by the private school or facility §300.349(b).
  5. If the private school or facility initiates and conducts IEP meetings, the public agency shall ensure that the parents and an agency representative

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are involved in any decision about the child's IEP and agree to any proposed changes in the IEP before those changes are implemented.

- B. Determination and provision of services to students enrolled by their parents in private school when FAPE is an issue §§300.301.
  - 1. Disagreements about whether FAPE was made available to a child with a disability and the question of financial responsibility are subject to due process procedures of §§300.507.514.
  - 2. If a court or hearing officer finds that the agency had not made FAPE available to the child in a timely manner prior to the parental enrollment in the private placement and orders the public agency to reimburse the parents for the cost of that enrollment, the public agency will comply.
- C. Determination and provision of services to students enrolled by their parents in private school when FAPE is not an issue.
- D. Residential placement §§300.302 and ARS 15-765
  - 1. The public agency may place a child with a disability in a public or private residential program to provide special education and related services.
  - 2. The placement will include non-medical care, room and board and placement will be at no cost to the parents of a child with a disability §300.302.
  - 3. Before any placement is made in a private residential facility, the public agency will ensure that a full continuum of alternative placements is available and the placement is least restrictive environment §ARS-15-765(c).
  - 4. The IEP team and other qualified professionals will
    - a. review the existing data
    - b. determine if additional data is needed
    - c. determine eligibility or continued eligibility
    - d. review and revise the IEP
    - e. includes exit criteria ARS 15-765(G)(K)
  - 5. A residential voucher application will be initiated in accordance with ARS 15-765 and ARS 15-1181.

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### **DISCIPLINE**

EDUPRIZE assures if a change in educational placement for disciplinary removal occurs for a child with a disability, the public agency shall provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP §300.121(d). When a child with a disability is removed from his or her current educational placement, a change of placement occurs if the removal is for more than 10 consecutive school days; or the series of removals constitute a pattern because they cumulate to more than 10 school days in a school year, because of such factors as length of each removal, total amount of time, or proximity of the removal to one another §300.519. When the removal of a child with a disability constitutes a change of placement, a review of the placement shall be conducted regarding the relationship between the student's disability and the behavior subject to the disciplinary action (manifestation determination) §300.523. If an IEP team determines that the behavior of the student with a disability was not a manifestation of the disability, disciplinary action applicable to students without disabilities shall be applied §§300.524-300.525 except as provided in §300.121 which requires the provision of FAPE to all students with disabilities who are suspended or expelled §300.524. A child who has not been determined eligible for special education and who engages

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in behavior that violates any rules or code of conduct may assert any of the protections of a child with a disability pursuant to §300.527.

EDUPRIZE's procedures for discipline include the following provisions:

- A. FAPE for children suspended or expelled §§300.121 and 300.520
1. The public agency may cease services during a removal period to a child with a disability when that child has been removed from his or her current placement for 10 school days or less in a school year, if services are not provided to a child without disabilities who has been similarly removed.
  2. For a child with a disability whose placement has not been changed, i.e., who has been removed for more than 10 school days during the school year but these days were not 10 consecutive days or whose removal did not constitute a pattern:
    - a. the public agency will provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and advance toward achieving the IEP goals.
    - b. School personnel, in consultation with the child's special education teacher, will determine the extent of services necessary to enable the child to appropriately progress in the general curriculum and advance toward achieving the IEP goals §300.121.
  3. For a child with a disability whose placement has been changed for disciplinary reasons, i.e., has been removed from his or her current placement for more than 10 consecutive school days in a school year or whose removals constitute a pattern:
    - a. the public agency will provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and advance toward achieving the IEP goals.
    - b. the IEP team will determine the extent of services necessary to enable the child to appropriately progress in the general curriculum and advance toward achieving the IEP goals §300.121.
  4. If a disciplinary action of more than 10 cumulative school days is contemplated for a child with a disability who has engaged in behavior that violated any rule or code of conduct of the public agency and:

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- a. the public agency did not conduct a functional behavioral assessment and implement a behavior intervention plan for the child before the behavior occurred, within 10 business days the agency will convene an IEP meeting to develop appropriate behavioral interventions to address that behavior and shall implement those interventions;
  - b. if the child already has a behavior intervention plan, the IEP team will meet to review the plan and its implementation, and, modify the plan to address the behavior §300.520.
- B. Change of placement for disciplinary removals §§300.519
  1. For a child with a disability, a change in placement occurs if:
    - a. a removal is for more than 10 consecutive school days
    - b. the child is subject to a series of removals that constitute a pattern because of factors such as length of each removal, total amount of time the child is removed and the proximity of the removals to one another §300.519
- C. Manifestation determination review §300.523
  1. The public agency will conduct a manifestation determination review when the agency is contemplating a change of educational placement for disciplinary reasons.
    - a. When the public agency is contemplating a change of educational placement for disciplinary reasons, the agency will notify the parents of the child no later than the date on which the decision was made to take that action. The agency will provide the parents with an appropriate procedural safeguard notice.
    - b. No later than 10 days after the date on which the decision to act is made, the manifestation determination review must be conducted.
    - c. In conducting a manifestation determination, the IEP team will consider evaluation and diagnostic results, including information provided by the parents, observations of the child, and the child's IEP and placement.
  2. The IEP team will only determine the child's behavior was not a manifestation of the disability, if all relevant information indicates that:

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- a. the child's IEP was appropriately developed and implemented and behavior intervention strategies were provided consistent with the child's IEP and placement
    - b. the child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to the disciplinary action
    - c. the child's disability did not impair the ability of the child to control the behavior subject to disciplinary action
  3. The behavior will be considered a manifestation of the child's disability if any of the standards in item 7 were not met.
  4. If the behavior is not a manifestation of the child's disability, disciplinary procedures applicable to children without disability will apply except as provided in IDEA regulation §300.121(d).
- C. Determination of interim alternative educational setting (IAES) §§300.520 through 300.522
1. The public agency may order a child with a disability to an interim alternative educational setting (IAES) for weapons or drug violations for the same amount of time as that of a child without a disability, but not to exceed 45 days. The IAES will be:
    - a. determined by the IEP team
    - b. selected so as to enable the child to continue to participate in the general curriculum, and receive services specified in the IEP that will enable the child to meet the goals set out in that IEP (§300.520); and
    - c. include services and modifications designed to prevent the behavior from recurring
  2. The public agency may request an expedited due process hearing to request that the child be moved to an appropriate IAES for not more than 45 days if the agency has substantial evidence that a child's current placement is likely to result in injury to the child or to others §300.521. Substantial evidence means beyond a preponderance of the evidence. This procedure may be repeated as necessary by the public agency.
- D. Parent appeal §§300.525
1. If the parent of a child with a disability disagrees with the manifestation determination or any decision regarding the placement, the parents may request a hearing §300.525.

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2. The public agency will arrange an expedited hearing if the parent requests a hearing. In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the public agency has demonstrated that the child's behavior was not a manifestation of the child's disability consistent with the requirements of IDEA. In reviewing a decision to place the child in an interim alternative educational setting, the hearing officer shall apply the standards in §300.521.
- E. Protections for children who are not yet eligible for special education and related services §300.527.
1. The parent may assert any of the protections provided to children with disabilities if the public agency had knowledge that the child was a child with a disability before the behavior occurred. The agency is presumed to have knowledge when:
    - a. the parent had expressed concern in writing
    - b. the parent expressed concern orally if the parent does not know how to read
    - c. the behavior of the child demonstrated the need for the services, in accordance with §300.7
    - d. the teacher of the child or other personnel has expressed concern about the behavior or performance of the child to the director of special education of the agency or to other personnel in accordance with the agency's established child find or special education referral system; or
    - e. the parent of the child requested an evaluation
  2. The public agency is presumed not to have knowledge when the agency either:
    - a. conducted a full and individual evaluation for special education eligibility and found the child was not a child with a disability
    - b. determined that an evaluation was not necessary and provided appropriate notice to the child's parents of its determination.
  3. If a request for an evaluation is made during the time period in which the child is subjected to disciplinary action under §§300.520 or 300.521
    - a. the evaluation will be conducted in an expedited manner
    - b. the child will remain in the placement determined by the school authorities

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until completion of the evaluation and eligibility determination