


Technical Assistance Checklist¹ – Eligibility Requirements found in Part B of the IDEA (20 U.S.C. 1411 through 1419) and 34 CFR Part 300

Related Assurances	Related Statutory or Regulatory Provisions	 Consistent State policies and procedures are in place.
Section I		
NA	No Related Statutory or Regulatory Provisions Associated with this Section	
Section II A		
1	<p>FAPE Requirements</p> <p>Sec. 300.101 Free appropriate public education (FAPE).</p> <ul style="list-style-type: none"> (a) General. A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in Sec. 300.530(d). (b) FAPE for children beginning at age 3. <ul style="list-style-type: none"> (1) Each State must ensure that-- <ul style="list-style-type: none"> (i) The obligation to make FAPE available to each eligible child residing in the State begins no later than the child's third birthday; and (ii) An IEP or an IFSP is in effect for the child by that date, in accordance with Sec. 300.323(b). (2) If a child's third birthday occurs during the summer, the child's IEP Team shall determine the date when services under the IEP or IFSP will begin. (c) Children advancing from grade to grade. <ul style="list-style-type: none"> (1) Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade. (2) The determination that a child described in paragraph (a) of this section is eligible under this part, must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations. 	

¹ This checklist, organized by "Sections", "Assurances", "Other Assurances", "Certifications", "Use of Funds Form", and "State Administration" is provided to assist States in the completion of OMB Information Collection 1820-0030. Use of the checklist is optional. For related information access <https://sites.ed.gov/idea/>.


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<p>Related Assurances</p>	<p>Related Statutory or Regulatory Provisions</p>	<p>✓ Consistent State policies and procedures are in place.</p>
	<p>a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP.</p> <p>(ii) If changes are made to the child's IEP in accordance with paragraph (a)(4)(i) of this section, the public agency must ensure that the child's IEP Team is informed of those changes.</p> <p>(5) Consolidation of IEP Team meetings. To the extent possible, the public agency must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.</p> <p>(6) Amendments. Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or as provided in paragraph (a)(4) of this section, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.</p> <p>(b) Review and revision of IEPs--</p> <p>(1) General. Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team--</p> <p>(i) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and</p> <p>(ii) Revises the IEP, as appropriate, to address--</p> <p>(A) Any lack of expected progress toward the annual goals described in Sec. 300.320(a)(2), and in the general education curriculum, if appropriate;</p> <p>(B) The results of any reevaluation conducted under Sec. 300.303;</p> <p>(C) Information about the child provided to, or by, the parents, as described under Sec. 300.305(a)(2);</p> <p>(D) The child's anticipated needs; or</p> <p>(E) Other matters.</p> <p>(2) Consideration of special factors. In conducting a review of the child's IEP, the IEP Team must consider the special factors described in paragraph (a)(2) of this section.</p> <p>(3) Requirement with respect to regular education teacher. A regular education teacher of the child, as a member of the IEP Team, must, consistent with paragraph (a)(3) of this section, participate in the review and revision of the IEP of the child.</p> <p>(c) Failure to meet transition objectives--</p> <p>(1) Participating agency failure. If a participating agency, other than the public agency, fails to provide the</p>	

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	<p>transition services described in the IEP in accordance with Sec. 300.320(b), the public agency must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.</p> <p>(2) Construction. 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 children with disabilities who meet the eligibility criteria of that agency.</p> <p>(d) Children with disabilities in adult prisons--</p> <p>(1) Requirements that do not apply. The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:</p> <p>(i) The requirements contained in section 612(a)(16) of the Act and Sec. 300.320(a)(6) (relating to participation of children with disabilities in general assessments).</p> <p>(ii) The requirements in Sec. 300.320(b) (relating to transition planning and transition services) do not apply with respect to the children whose eligibility under Part B of the Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.</p> <p>(2) Modifications of IEP or placement.</p> <p>(i) Subject to paragraph (d)(2)(ii) of this section, the IEP Team of a child with a disability who is convicted as an adult under State law and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.</p> <p>(ii) The requirements of Sections 300.320 (relating to IEPs), and 300.114 (relating to LRE), do not apply with respect to the modifications described in paragraph (d)(2)(i) of this section.</p> <p><i>(Authority: 20 U.S.C. 1412(a)(1), 1412(a)(12)(A)(i), 1414(d)(3), (4)(B), and (7); and 1414(e))</i></p> <p>Sec. 300.325 Private school placements by public agencies.</p> <p>(a) Developing IEPs.</p> <p>(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 Sections 300.320 and 300.324.</p> <p>(2) The agency must ensure that a representative of the private school or facility attends the meeting. If the</p>	

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Related Assurances	Related Statutory or Regulatory Provisions	 Consistent State policies and procedures are in place.
	<p>representative cannot attend, the agency must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.</p> <p>(b) Reviewing and revising IEPs.</p> <p>(1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.</p> <p>(2) If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and an agency representative--</p> <p>(i) Are involved in any decision about the child's IEP; and</p> <p>(ii) Agree to any proposed changes in the IEP before those changes are implemented.</p> <p>(c) Responsibility. Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA.</p> <p><i>(Authority: 20 U.S.C. 1412(a)(10)(B))</i></p>	
<p>5</p>	<p>Sec. 300.114 LRE requirements.</p> <p>(a) General.</p> <p>(1) Except as provided in Sec. 300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and Sections 300.115 through 300.120.</p> <p>(2) Each public agency must ensure that--</p> <p>(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and</p> <p>(ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.</p> <p>(b) Additional requirement--State funding mechanism--</p> <p>(1) General.</p> <p>(i) A State funding mechanism must not result in placements that violate the requirements of paragraph (a) of this section; and</p> <p>(ii) A State must not use a funding mechanism by which the State distributes funds on the basis of the</p>	

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<p>Related Assurances</p>	<p>Related Statutory or Regulatory Provisions</p>	<p style="text-align: center;">✓ Consistent State policies and procedures are in place.</p>
	<p style="text-align: center;">type of setting in which a child is served that will result in the failure to provide a child with a disability FAPE according to the unique needs of the child, as described in the child's IEP.</p> <p>(2) Assurance. If the State does not have policies and procedures to ensure compliance with paragraph (b)(1) of this section, the State must provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that the mechanism does not result in placements that violate that paragraph.</p> <p><i>(Approved by the Office of Management and Budget under control number 1820-0030)</i></p> <p><i>(Authority: 20 U.S.C. 1412(a)(5))</i></p> <p>Sec. 300.115 Continuum of alternative placements.</p> <p>(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.</p> <p>(b) The continuum required in paragraph (a) of this section must--</p> <p>(1) include the alternative placements listed in the definition of special education under Sec. 300.39 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and</p> <p>(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.</p> <p><i>(Approved by the Office of Management and Budget under control number 1820-0030)</i></p> <p><i>(Authority: 20 U.S.C. 1412(a)(5))</i></p> <p>Sec. 300.116 Placements.</p> <p>In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that--</p> <p>(a) The placement decision--</p> <p>(1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and</p> <p>(2) Is made in conformity with the LRE provisions of this subpart, including Sections 300.114 through 300.118;</p>	

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	<p>(b) The child's placement-- (1) Is determined at least annually; (2) Is based on the child's IEP; and (3) Is as close as possible to the child's home;</p> <p>(c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;</p> <p>(d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and</p> <p>(e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.</p> <p><i>(Approved by the Office of Management and Budget under control number 1820-0030)</i> <i>(Authority: 20 U.S.C. 1412(a)(5))</i></p> <p>Sec. 300.117 Nonacademic settings.</p> <p>In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in Sec. 300.107, each public agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.</p> <p><i>(Approved by the Office of Management and Budget under control number 1820-0030)</i> <i>(Authority: 20 U.S.C. 1412(a)(5))</i></p> <p>Sec. 300.118 Children in public or private institutions.</p> <p>Except as provided in Sec. 300.149(d) (regarding agency responsibility for general supervision for some individuals in adult prisons), an SEA must ensure that Sec. 300.114 is effectively implemented, including, if necessary, making arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures).</p>	

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	<p><i>(Approved by the Office of Management and Budget under control number 1820-0030)</i> <i>(Authority: 20 U.S.C. 1412(a)(5))</i></p> <p>Sec. 300.119 Technical assistance and training activities.</p> <p>Each SEA must carry out activities to ensure that teachers and administrators in all public agencies--</p> <ul style="list-style-type: none"> (a) Are fully informed about their responsibilities for implementing Sec. 300.114; and (b) Are provided with technical assistance and training necessary to assist them in this effort. <p><i>(Approved by the Office of Management and Budget under control number 1820-0030)</i> <i>(Authority: 20 U.S.C. 1412(a)(5))</i></p> <p>Sec. 300.120 Monitoring activities.</p> <ul style="list-style-type: none"> (a) The SEA must carry out activities to ensure that Sec. 300.114 is implemented by each public agency. (b) If there is evidence that a public agency makes placements that are inconsistent with Sec. 300.114, the SEA must-- <ul style="list-style-type: none"> (1) Review the public agency's justification for its actions; and (2) Assist in planning and implementing any necessary corrective action. <p><i>(Approved by the Office of Management and Budget under control number 1820-0030)</i> <i>(Authority: 20 U.S.C. 1412(a)(5))</i></p>	
<p>6</p>	<p>Sec. 300.121 Procedural safeguards.</p> <ul style="list-style-type: none"> (a) General. The State must have procedural safeguards in effect to ensure that each public agency in the State meets the requirements of Sections 300.500 through 300.536. (b) Procedural safeguards identified. Children with disabilities and their parents must be afforded the procedural safeguards identified in paragraph (a) of this section. <p><i>(Approved by the Office of Management and Budget under control number 1820-0030)</i> <i>(Authority: 20 U.S.C. 1412(a)(6)(A))</i></p>	

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	<p>Sec. 300.500 Responsibility of SEA and other public agencies.</p> <p>Each SEA must ensure that each public agency establishes, maintains, and implements procedural safeguards that meet the requirements of Sections 300.500 through 300.536.</p> <p><i>(Authority: 20 U.S.C. 1415(a))</i></p> <p>Sec. 300.501 Opportunity to examine records; parent participation in meetings.</p> <p>(a) Opportunity to examine records. The parents of a child with a disability must be afforded, in accordance with the procedures of Sections 300.613 through 300.621, an opportunity to inspect and review all education records with respect to--</p> <ol style="list-style-type: none"> (1) The identification, evaluation, and educational placement of the child; and (2) The provision of FAPE to the child. <p>(b) Parent participation in meetings. (1) The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to--</p> <ol style="list-style-type: none"> (i) The identification, evaluation, and educational placement of the child; and (ii) The provision of FAPE to the child. <p>(2) Each public agency must provide notice consistent with Sec. 300.322(a)(1) and (b)(1) to ensure that parents of children with disabilities have the opportunity to participate in meetings described in paragraph (b)(1) of this section.</p> <p>(3) A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does 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.</p> <p>(c) Parent involvement in placement decisions.</p> <ol style="list-style-type: none"> (1) Each public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child. (2) In implementing the requirements of paragraph (c)(1) of this section, the public agency must use procedures consistent with the procedures described in Sec. 300.322(a) through (b)(1). (3) 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 must use other methods to ensure their participation, including 	

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	<p>individual or conference telephone calls, or video conferencing.</p> <p>(4) A placement decision may be made by a group without the involvement of a parent, if the public agency is unable to obtain the parent's participation in the decision. In this case, the public agency must have a record of its attempt to ensure their involvement.</p> <p><i>(Authority: 20 U.S.C. 1414(e), 1415(b)(1))</i></p> <p>Sec. 300.502 Independent educational evaluation.</p> <p>(a) General.</p> <p>(1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.</p> <p>(2) Each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section.</p> <p>(3) For the purposes of this subpart--</p> <p>(i) 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 in question; and</p> <p>(ii) 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 Sec. 300.103.</p> <p>(b) Parent right to evaluation at public expense.</p> <p>(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, subject to the conditions in paragraphs (b)(2) through (4) of this section.</p> <p>(2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either--</p> <p>(i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or</p> <p>(ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to Sections 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria.</p> <p>(3) If the public agency files a due process complaint notice to request a 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</p>	


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	<p>not at public expense.</p> <p>(4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.</p> <p>(5) A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.</p> <p>(c) Parent-initiated evaluations. If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation--</p> <p>(1) 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; and</p> <p>(2) May be presented by any party as evidence at a hearing on a due process complaint under subpart E of this part regarding that child.</p> <p>(d) Requests for evaluations by hearing officers. If a hearing officer requests an independent educational evaluation as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.</p> <p>(e) Agency criteria.</p> <p>(1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.</p> <p>(2) Except for the criteria described in paragraph (e)(1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.</p> <p><i>(Authority: 20 U.S.C. 1415(b)(1) and (d)(2)(A))</i></p> <p>Sec. 300.503 Prior notice by the public agency; content of notice.</p> <p>(a) Notice. Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency--</p> <p>(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or</p>	


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	<p>(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.</p> <p>(b) Content of notice. The notice required under paragraph (a) of this section must include--</p> <p>(1) A description of the action proposed or refused by the agency;</p> <p>(2) An explanation of why the agency proposes or refuses to take the action;</p> <p>(3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;</p> <p>(4) 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;</p> <p>(5) Sources for parents to contact to obtain assistance in understanding the provisions of this part;</p> <p>(6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and</p> <p>(7) A description of other factors that are relevant to the agency's proposal or refusal.</p> <p>(c) Notice in understandable language.</p> <p>(1) The notice required under paragraph (a) of this section must be--</p> <p>(i) Written in language understandable to the general public; and</p> <p>(ii) 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.</p> <p>(2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure--</p> <p>(i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;</p> <p>(ii) That the parent understands the content of the notice; and</p> <p>(iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met.</p> <p><i>(Authority: 20 U.S.C. 1415(b)(3) and (4), 1415(c)(1), 1414(b)(1))</i></p> <p>Sec. 300.504 Procedural safeguards notice.</p> <p>(a) General. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the</p>	

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	<i>(Authority: 20 U.S.C. 1412(a)(21)(D))</i>	
22	<p>Sec. 300.170 Suspension and expulsion rates.</p> <p>(a) General. The SEA must examine data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities--</p> <p>(1) Among LEAs in the State; or</p> <p>(2) Compared to the rates for nondisabled children within those agencies.</p> <p>(b) Review and revision of policies. If the discrepancies described in paragraph (a) of this section are occurring, the SEA must review and, if appropriate, revise (or require the affected State agency or LEA to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that these policies, procedures, and practices comply with the Act.</p> <p><i>(Approved by the Office of Management and Budget under control number 1820-0030)</i></p> <p><i>(Authority: 20 U.S.C. 1412(a)(22))</i></p>	
23a 23b1 23b2	<p>Sec. 300.172 Access to instructional materials.</p> <p>(a) General. The State must--</p> <p>(1) Adopt the National Instructional Materials Accessibility Standard (NIMAS), published as appendix C to part 300, for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after publication of the NIMAS in the Federal Register on July 19, 2006 (71 FR 41084); and</p> <p>(2) Establish a State definition of "timely manner" for purposes of paragraphs (b)(2) and (b)(3) of this section if the State is not coordinating with the National Instructional Materials Access Center (NIMAC) or (b)(3) and (c)(2) of this section if the State is coordinating with the NIMAC.</p> <p>(b) Rights and responsibilities of SEA.</p> <p>(1) Nothing in this section shall be construed to require any SEA to coordinate with the NIMAC.</p> <p>(2) If an SEA chooses not to coordinate with the NIMAC, the SEA must provide an assurance to the Secretary that it will provide instructional materials to blind persons or other persons with print disabilities in a timely</p>	

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	The State must have in effect, consistent with the purposes of this part and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in Sec. 300.8. <i>(Approved by the Office of Management and Budget under control number 1820-0030)</i> <i>(Authority: 20 U.S.C. 1412(a)(24))</i>	
<p style="text-align: center;">25</p>	<p>Sec. 300.174 Prohibition on mandatory medication.</p> <p>(a) General. The SEA must prohibit State and LEA personnel from requiring parents to obtain a prescription for substances identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) for a child as a condition of attending school, receiving an evaluation under Sections 300.300 through 300.311, or receiving services under this part.</p> <p>(b) Rule of construction. Nothing in paragraph (a) of this section shall be construed to create a Federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under Sec. 300.111 (related to child find).</p> <p><i>(Approved by the Office of Management and Budget under control number 1820-0030)</i> <i>(Authority: 20 U.S.C. 1412(a)(25))</i></p>	

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Other Assurances	Related Statutory or Regulatory Provisions
	<p><i>(Approved by the Office of Management and Budget under control numbers 1820-0030, 1820-0043, 1820-0621, 1820-0521, and 1820-0517)</i></p> <p><i>(Authority: 20 U.S.C. 1418(a), (b))</i></p> <p>Sec. 300.642 Data reporting.</p> <ul style="list-style-type: none"> (a) Protection of personally identifiable data. The data described in section 618(a) of the Act and in Sec. 300.641 must be publicly reported by each State in a manner that does not result in disclosure of data identifiable to individual children. (b) Sampling. The Secretary may permit States and the Secretary of the Interior to obtain data in section 618(a) of the Act through sampling. <p><i>(Approved by the Office of Management and Budget under control numbers 1820-0030, 1820-0043, 1820-0518, 1820-0521, and 1820-0517)</i></p> <p><i>(Authority: 20 U.S.C. 1418(b))</i></p> <p>Sec. 300.643 Annual report of children served--certification.</p> <p>The SEA must include in its report a certification signed by an authorized official of the agency that the information provided under Sec. 300.640 is an accurate and unduplicated count of children with disabilities receiving special education and related services on the dates in question.</p> <p><i>(Approved by the Office of Management and Budget under control numbers 1820-0030 and 1820-0043)</i></p> <p><i>(Authority: 20 U.S.C. 1418(a)(3))</i></p> <p>Sec. 300.644 Annual report of children served--criteria for counting children.</p> <p>The SEA may include in its report children with disabilities who are enrolled in a school or program that is operated or supported by a public agency, and that--</p> <ul style="list-style-type: none"> (a) Provides them with both special education and related services that meet State standards; (b) Provides them only with special education, if a related service is not required, that meets State standards; or (c) In the case of children with disabilities enrolled by their parents in private schools, counts those children who are eligible under the Act and receive special education or related services or both that meet State standards under Sections 300.132 through 300.144. <p><i>(Approved by the Office of Management and Budget under control numbers 1820-0030, 1820-0043, 1820-0659, 1820-0621, 1820-0521, and 1820-0517)</i></p> <p><i>(Authority: 20 U.S.C. 1418(a))</i></p> <p>Sec. 300.645 Annual report of children served--other responsibilities of the SEA.</p> <p>In addition to meeting the other requirements of Sections 300.640 through 300.644, the SEA must--</p> <ul style="list-style-type: none"> (a) Establish procedures to be used by LEAs and other educational institutions in counting the number of children with disabilities receiving special education and related services; (b) Set dates by which those agencies and institutions must report to the SEA to ensure that the State complies with Sec. 300.640(a); (c) Obtain certification from each agency and institution that an unduplicated and accurate count has been made; (d) Aggregate the data from the count obtained from each agency and institution, and prepare the reports required under Sections 300.640

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Other Assurances	Related Statutory or Regulatory Provisions
	<p style="text-align: center;">through 300.644; and</p> <p style="text-align: center;">(e) Ensure that documentation is maintained that enables the State and the Secretary to audit the accuracy of the count.</p> <p><i>(Approved by the Office of Management and Budget under control numbers 1820-0030, 1820-0043, 1820-0659, 1820-0621, 1820-0518, 1820-0521, and 1820-0517)</i></p> <p><i>(Authority: 20 U.S.C. 1418(a))</i></p>
3	<p>34 CFR §76.702 Fiscal control and fund accounting procedures.</p> <p>A State and a subgrantee shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds.</p> <p><i>(Authority: 20 U.S.C. 1221e-3, 3474, and 65511(a))</i></p>
4	No Related Statutory or Regulatory Provisions Associated with this Assurance

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Certifications	Related Statutory or Regulatory Provisions
Section II C - Certifications	
1	34 CFR Part 82, Appendix A and B
2	<p>34 CFR §76.104 State plans.</p> <p>(a) A State shall include the following certifications in each State plan:</p> <p>(1) That the plan is submitted by the State agency that is eligible to submit the plan.</p> <p>(2) That the State agency has authority under State law to perform the functions of the State under the program.</p> <p>(3) That the State legally may carry out each provision of the plan.</p>

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Certifications	Related Statutory or Regulatory Provisions
	<p>(4) That all provisions of the plan are consistent with State law.</p> <p>(5) That a State officer, specified by title in the certification, has authority under State law to receive, hold, and disburse Federal funds made available under the plan.</p> <p>(6) That the State officer who submits the plan, specified by title in the certification, has authority to submit the plan.</p> <p>(7) That the agency that submits the plan has adopted or otherwise formally approved the plan.</p> <p>(8) That the plan is the basis for State operation and administration of the program.</p> <p>(b) [Reserved]</p> <p>(Authority: 20 U.S.C. 1221e-3 and 3474)</p>
3	<p>Sec. 300.154 Methods of ensuring services.</p> <p>(a) Establishing responsibility for services. The Chief Executive Officer of a State or designee of that officer must ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each noneducational public agency described in paragraph (b) of this section and the SEA, in order to ensure that all services described in paragraph (b)(1) of this section that are needed to ensure FAPE are provided, including the provision of these services during the pendency of any dispute under paragraph (a)(3) of this section. The agreement or mechanism must include the following:</p> <ol style="list-style-type: none"> (1) An identification of, or a method for defining, the financial responsibility of each agency for providing services described in paragraph (b)(1) of this section to ensure FAPE to children with disabilities. The financial responsibility of each noneducational public agency described in paragraph (b) of this section, including the State Medicaid agency and other public insurers of children with disabilities, must precede the financial responsibility of the LEA (or the State agency responsible for developing the child's IEP). (2) The conditions, terms, and procedures under which an LEA must be reimbursed by other agencies. (3) Procedures for resolving interagency disputes (including procedures under which LEAs may initiate proceedings) under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism. (4) Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services described in paragraph (b)(1) of this section. <p>(b) Obligation of noneducational public agencies.</p> <ol style="list-style-type: none"> (1)(i) If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy or pursuant to paragraph (a) of this section, to provide or pay for any services that are also

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Certifications	Related Statutory or Regulatory Provisions
	<p>considered special education or related services (such as, but not limited to, services described in Sec. 300.5 relating to assistive technology devices, Sec. 300.6 relating to assistive technology services, Sec. 300.34 relating to related services, Sec. 300.42 relating to supplementary aids and services, and Sec. 300.43 relating to transition services) that are necessary for ensuring FAPE to children with disabilities within the State, the public agency must fulfill that obligation or responsibility, either directly or through contract or other arrangement pursuant to paragraph (a) of this section or an agreement pursuant to paragraph (c) of this section.</p> <p>(ii) A noneducational public agency described in paragraph (b)(1)(i) of this section may not disqualify an eligible service for Medicaid reimbursement because that service is provided in a school context.</p> <p>(2) If a public agency other than an educational agency fails to provide or pay for the special education and related services described in paragraph (b)(1) of this section, the LEA (or State agency responsible for developing the child's IEP) must provide or pay for these services to the child in a timely manner. The LEA or State agency is authorized to claim reimbursement for the services from the noneducational public agency that failed to provide or pay for these services and that agency must reimburse the LEA or State agency in accordance with the terms of the interagency agreement or other mechanism described in paragraph (a) of this section.</p> <p>(c) Special rule. The requirements of paragraph (a) of this section may be met through--</p> <p>(1) State statute or regulation;</p> <p>(2) Signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or</p> <p>(3) Other appropriate written methods as determined by the Chief Executive Officer of the State or designee of that officer and approved by the Secretary.</p> <p>(h) Construction. Nothing in this part should be construed to alter the requirements imposed on a State Medicaid agency, or any other agency administering a public benefits or insurance program by Federal statute, regulations or policy under title XIX, or title XXI of the Social Security Act, 42 U.S.C. 1396 through 1396v and 42 U.S.C. 1397aa through 1397jj, or any other public benefits or insurance program.</p> <p><i>(Approved by the Office of Management and Budget under control number 1820-0030)</i></p> <p><i>(Authority: 20 U.S.C. 1412(a)(12) and (e))</i></p>

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Statement	Related Statutory or Regulatory Provisions
Section II D – Statement	
	<p>34 CFR §76.104 A State shall include certain certifications in its State plan.</p> <p>(a) A State shall include the following certifications in each State plan:</p> <ol style="list-style-type: none"> (1) That the plan is submitted by the State agency that is eligible to submit the plan. (2) That the State agency has authority under State law to perform the functions of the State under the program. (3) That all provisions of the plan are consistent with State law. (5) That a State officer, specified by title in the certification, has authority under State law to receive, hold, and disburse Federal funds made available under the plan. (6) That the State officer who submits the plan, specified by title in the certification, has authority to submit the plan. (7) That the agency that submits the plan has adopted or otherwise formally approved the plan. (8) That the plan is the basis for State operation and administration of the program. <p>(b) [Reserved]</p> <p><i>(Authority: 20 U.S.C. 1221e-3 and 3474)</i></p>

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Use of Funds Form	Related Statutory or Regulatory Provisions
Section III – Description of Use of Funds Under Part B of the Individuals with Disabilities Education Act	
	<p>Sec. 300.171 Annual description of use of Part B funds.</p> <p>(a) In order to receive a grant in any fiscal year a State must annually describe--</p> <ol style="list-style-type: none"> (1) How amounts retained for State administration and State-level activities under Sec. 300.704 will be used to meet the requirements of this part; and (2) How those amounts will be allocated among the activities described in Sec. 300.704 to meet State priorities based on input from LEAs. <p>(b) If a State's plans for use of its funds under Sec. 300.704 for the forthcoming year do not change from the prior year, the State may submit a letter to that effect to meet the requirement in paragraph (a) of this section.</p> <p>(c) The provisions of this section do not apply to the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the freely associated States.</p> <p><i>(Approved by the Office of Management and Budget under control number 1820-0030)</i></p>

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Use of Funds Form	Related Statutory or Regulatory Provisions
	<p><i>(Authority: 20 U.S.C. 1411(e)(5))</i></p> <p>Sec. 300.704 State-level activities</p> <p>(a) State administration.</p> <p>(1) For the purpose of administering Part B of the Act, including paragraph (c) of this section, section 619 of the Act, and the coordination of activities under Part B of the Act with, and providing technical assistance to, other programs that provide services to children with disabilities—</p> <p>(i) Each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under section 611 of the Act for fiscal year 2004 or \$800,000 (adjusted in accordance with paragraph (a)(2) of this section), whichever is greater; and</p> <p>(ii) Each outlying area may reserve for each fiscal year not more than five percent of the amount the outlying area receives under Sec. 300.701(a) for the fiscal year or \$35,000, whichever is greater.</p> <p>(2) For each fiscal year, beginning with fiscal year 2005, the Secretary cumulatively adjusts—</p> <p>(i) The maximum amount the State was eligible to reserve for State administration under section 611 of the Act for fiscal year 2004; and</p> <p>(ii) \$800,000, by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.</p> <p>(3) Prior to expenditure of funds under paragraph (a) of this section, the State must certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 612(a)(12)(A) of the Act are current.</p> <p>(4) Funds reserved under paragraph (a)(1) of this section may be used for the administration of Part C of the Act, if the SEA is the lead agency for the State under that Part.</p> <p>(b) Other State-level activities.</p> <p>(1) States may reserve a portion of their allocations for other State-level activities. The maximum amount that a State may reserve for other State-level activities is as follows:</p> <p>(i) If the amount that the State sets aside for State administration under paragraph (a) of this section is greater than \$850,000 and the State opts to finance a high cost fund under paragraph (c) of this section:</p> <p>(A) For fiscal years 2005 and 2006, 10 percent of the State's allocation under Sec. 300.703.</p> <p>(B) For fiscal year 2007 and subsequent fiscal years, an amount equal to 10 percent of the State's allocation for fiscal year 2006 under Sec. 300.703 adjusted cumulatively for inflation.</p> <p>(ii) If the amount that the State sets aside for State administration under paragraph (a) of this section is greater than \$850,000 and the State opts not to finance a high cost fund under paragraph (c) of this section—</p> <p>(A) For fiscal years 2005 and 2006, nine percent of the State's allocation under Sec. 300.703.</p> <p>(B) For fiscal year 2007 and subsequent fiscal years, an amount equal to nine percent of the State's allocation for fiscal year 2006 adjusted cumulatively for inflation.</p> <p>(iii) If the amount that the State sets aside for State administration under paragraph (a) of this section is less than or equal to \$850,000 and the State opts to finance a high cost fund under paragraph (c) of this section:</p> <p>(A) For fiscal years 2005 and 2006, 10.5 percent of the State's allocation under Sec. 300.703.</p>

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	<p>(B) For fiscal year 2007 and subsequent fiscal years, an amount equal to 10.5 percent of the State's allocation for fiscal year 2006 under Sec. 300.703 adjusted cumulatively for inflation.</p> <p>(iv) If the amount that the State sets aside for State administration under paragraph (a) of this section is equal to or less than \$850,000 and the State opts not to finance a high cost fund under paragraph (c) of this section:</p> <p>(A) For fiscal years 2005 and 2006, nine and one-half percent of the State's allocation under Sec. 300.703.</p> <p>(B) For fiscal year 2007 and subsequent fiscal years, an amount equal to nine and one-half percent of the State's allocation for fiscal year 2006 under Sec. 300.703 adjusted cumulatively for inflation.</p> <p>(2) The adjustment for inflation is the rate of inflation as measured by the percentage of increase, if any, from the preceding fiscal year in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.</p> <p>(3) Some portion of the funds reserved under paragraph (b)(1) of this section must be used to carry out the following activities:</p> <p>(i) For monitoring, enforcement, and complaint investigation; and</p> <p>(ii) To establish and implement the mediation process required by section 615(e) of the Act, including providing for the costs of mediators and support personnel;</p> <p>(4) Funds reserved under paragraph (b)(1) of this section also may be used to carry out the following activities:</p> <p>(i) For support and direct services, including technical assistance, personnel preparation, and professional development and training;</p> <p>(ii) To support paperwork reduction activities, including expanding the use of technology in the IEP process;</p> <p>(iii) To assist LEAs in providing positive behavioral interventions and supports and mental health services for children with disabilities;</p> <p>(iv) To improve the use of technology in the classroom by children with disabilities to enhance learning;</p> <p>(v) To support the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities;</p> <p>(vi) Development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of students with disabilities to postsecondary activities;</p> <p>(vii) To assist LEAs in meeting personnel shortages;</p> <p>(viii) To support capacity building activities and improve the delivery of services by LEAs to improve results for children with disabilities;</p> <p>(ix) Alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children enrolled in State-operated or State-supported schools, and children with disabilities in charter schools;</p> <p>(x) To support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with sections 1111(b) and 1201 of the ESEA; and</p> <p>(xi) To provide technical assistance to schools and LEAs, and direct services, including direct student services described in section 1003A(c)(3) of the ESEA, to children with disabilities, in schools or LEAs implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the ESEA on the basis of consistent underperformance of the disaggregated subgroup of children with disabilities, including providing professional development to special and regular education teachers who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement based on the challenging academic</p>

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	<p>standards described in section 1111(b)(1) of the ESEA.</p> <p>(c) Local educational agency high cost fund.</p> <p>(1) In general—</p> <p>(i) For the purpose of assisting LEAs (including a charter school that is an LEA or a consortium of LEAs) in addressing the needs of high need children with disabilities, each State has the option to reserve for each fiscal year 10 percent of the amount of funds the State reserves for other State-level activities under paragraph (b)(1) of this section—</p> <p>(A) To finance and make disbursements from the high cost fund to LEAs in accordance with paragraph (c) of this section during the first and succeeding fiscal years of the high cost fund; and</p> <p>(B) To support innovative and effective ways of cost sharing by the State, by an LEA, or among a consortium of LEAs, as determined by the State in coordination with representatives from LEAs, subject to paragraph (c)(2)(ii) of this section.</p> <p>(ii) For purposes of paragraph (c) of this section, local educational agency includes a charter school that is an LEA, or a consortium of LEAs.</p> <p>(2)(i) A State must not use any of the funds the State reserves pursuant to paragraph (c)(1)(i) of this section, which are solely for disbursement to LEAs, for costs associated with establishing, supporting, and otherwise administering the fund. The State may use funds the State reserves under paragraph (a) of this section for those administrative costs.</p> <p>(ii) A State must not use more than 5 percent of the funds the State reserves pursuant to paragraph (c)(1)(i) of this section for each fiscal year to support innovative and effective ways of cost sharing among consortia of LEAs.</p> <p>(3)(i) The SEA must develop, not later than 90 days after the State reserves funds under paragraph (c)(1)(i) of this section, annually review, and amend as necessary, a State plan for the high cost fund. Such State plan must—</p> <p>(A) Establish, in consultation and coordination with representatives from LEAs, a definition of a high need child with a disability that, at a minimum—</p> <p>(1) Addresses the financial impact a high need child with a disability has on the budget of the child’s LEA; and</p> <p>(2) Ensures that the cost of the high need child with a disability is greater than 3 times the average per pupil expenditure (as defined in section 8101 of the ESEA) in that State;</p> <p>(B) Establish eligibility criteria for the participation of an LEA that, at a minimum, take into account the number and percentage of high need children with disabilities served by an LEA;</p> <p>(C) Establish criteria to ensure that placements supported by the fund are consistent with the requirements of Sections 300.114 through 300.118;</p> <p>(D) Develop a funding mechanism that provides distributions each fiscal year to LEAs that meet the criteria developed by the State under paragraph (c)(3)(i)(B) of this section;</p> <p>(E) Establish an annual schedule by which the SEA must make its distributions from the high cost fund each fiscal year; and</p> <p>(F) If the State elects to reserve funds for supporting innovative and effective ways of cost sharing under paragraph (c)(1)(i)(B) of this section, describe how these funds will be used.</p> <p>(ii) The State must make its final State plan available to the public not less than 30 days before the beginning of the school year, including dissemination of such information on the State Web site.</p> <p>(4)(i) Each SEA must make all annual disbursements from the high cost fund established under paragraph (c)(1)(i) of this section in accordance with the State plan published pursuant to paragraph (c)(3) of this section.</p> <p>(ii) The costs associated with educating a high need child with a disability, as defined under paragraph (c)(3)(i)(A) of this</p>

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	<p>section, are only those costs associated with providing direct special education and related services to the child that are identified in that child’s IEP, including the cost of room and board for a residential placement determined necessary, consistent with Sec. 300.114, to implement a child’s IEP.</p> <p>(ii) The funds in the high cost fund remain under the control of the State until disbursed to an LEA to support a specific child who qualifies under the State plan for the high cost funds or distributed to LEAs, consistent with paragraph (c)(9) of this section.</p> <p>(5) The disbursements under paragraph (c)(4) of this section must not be used to support legal fees, court costs, or other costs associated with a cause of action brought on behalf of a child with a disability to ensure FAPE for such child.</p> <p>(6) Nothing in paragraph (c) of this section—</p> <p>(i) Limits or conditions the right of a child with a disability who is assisted under Part B of the Act to receive FAPE pursuant to section 612(a)(1) of the Act in the least restrictive environment pursuant to section 612(a)(5) of the Act; or</p> <p>(ii) Authorizes an SEA or LEA to establish a limit on what may be spent on the education of a child with a disability.</p> <p>(7) Notwithstanding the provisions of paragraphs (c)(1) through (6) of this section, a State may use funds reserved pursuant to paragraph (c)(1)(i) of this section for implementing a placement neutral cost sharing and reimbursement program of high need, low incidence, catastrophic, or extraordinary aid to LEAs that provides services to high need children based on eligibility criteria for such programs that were created not later than January 1, 2004, and are currently in operation, if such program serves children that meet the requirement of the definition of a high need child with a disability as described in paragraph (c)(3)(i)(A) of this section.</p> <p>(8) Disbursements provided under paragraph (c) of this section must not be used to pay costs that otherwise would be reimbursed as medical assistance for a child with a disability under the State Medicaid program under Title XIX of the Social Security Act.</p> <p>(9) Funds reserved under paragraph (c)(1)(i) of this section from the appropriation for any fiscal year, but not expended pursuant to paragraph (c)(4) of this section before the beginning of their last year of availability for obligation, must be allocated to LEAs in the same manner as other funds from the appropriation for that fiscal year are allocated to LEAs under Sec. 300.705 during their final year of availability.</p> <p>(d) Inapplicability of certain prohibitions. A State may use funds the State reserves under paragraphs (a) and (b) of this section without regard to—</p> <p>(1) The prohibition on commingling of funds in Sec. 300.162(b).</p> <p>(2) The prohibition on supplanting other funds in Sec. 300.162(c).</p> <p>(e) Special rule for increasing funds. A State may use funds the State reserves under paragraph (a)(1) of this section as a result of inflationary increases under paragraph (a)(2) of this section to carry out activities authorized under paragraph (b)(4)(i), (iii), (vii), or (viii) of this section.</p> <p>(f) Flexibility in using funds for Part C. Any State eligible to receive a grant under section 619 of the Act may use funds made available under paragraph (a)(1) of this section, Sec. 300.705(c), or Sec. 300.814(e) to develop and implement a State policy jointly with the lead agency under Part C of the Act and the SEA to provide early intervention services (which must include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with Part C of the Act to children with disabilities who are eligible for services under section 619 of the Act and who previously received services under Part C of the Act until the children enter, or are eligible under State law to enter, kindergarten, or elementary school as appropriate.</p> <p><i>(Approved by the Office of Management and Budget under control number 1820-0600) (Authority: 20 U.S.C. 1411(e))</i></p>

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State Administration	Related Statutory or Regulatory Provisions
Section IV – State Administration	
	<p>Sec. 300.199 State administration.</p> <p>(a) Rulemaking. Each State that receives funds under Part B of the Act must--</p> <ol style="list-style-type: none"> (1) Ensure that any State rules, regulations, and policies relating to this part conform to the purposes of this part; (2) Identify in writing to LEAs located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by Part B of the Act and Federal regulations; and (3) Minimize the number of rules, regulations, and policies to which the LEAs and schools located in the State are subject under Part B of the Act. <p>(b) Support and facilitation. State rules, regulations, and policies under Part B of the Act must support and facilitate LEA and school-level system improvement designed to enable children with disabilities to meet the challenging State student academic achievement standards.</p> <p><i>(Approved by the Office of Management and Budget under control number 1820-0030)</i></p> <p><i>(Authority: 20 U.S.C. 1407)</i></p>