

Section	Proposed Modifications
	NOTE: Sections that were affirmed and not listed below will be revised to include section titles following referenced section numbers (e.g. Sec. 8-60-8 below) and to change the term “child/children” to “student/students”.
§ 8-60-1	<p>Purposes.</p> <p>The purposes of this part of this chapter are--</p> <p>(a) To ensure that all students with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;</p> <p>(b) To strengthen the role of parents;</p> <p>(c) To ensure that the rights of students with disabilities and their parents are protected;</p> <p>(d) To assist States, localities, educational service agencies, and Federal agencies to provide for the education of all students with disabilities; and</p> <p>(e) To assess and ensure the effectiveness of efforts to educate students with disabilities.</p> <p>(f) To encourage the participation of students with a disability in all school improvement efforts;</p> <p>(g) To encourage whole-school approaches and pre-referral intervention to reduce the need to label students as disabled in order to address their learning needs;</p> <p>(h) To encourage high expectations for students with a disability and to improve and increase educational achievement; and</p> <p>(i) To encourage all students with a disability to develop skills needed to lead a self determined life.</p>
§ 8-60-6	<p>Assistive technology service.</p> <p>Assistive technology service means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. The term includes--</p> <p>(a) The evaluation of the needs of a student with a disability, including an assistive technology functional evaluation of the student in the student's customary environment;</p> <p>(b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by students with disabilities;</p> <p>(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;</p> <p>(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;</p> <p>(e) Training or technical assistance for a student with a disability or, if appropriate, that student's family; and</p> <p>(f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that student.</p>
§ 8-60-7	<p>Charter school.</p> <p>Charter school has the meaning given the term in section 302A-101 of the Hawaii Revised Statutes.</p>
§ 8-60-8	<p>Student with a disability.</p> <p>(a) General. (1) Student with a disability means a student evaluated in accordance with Sec. Sec. 8-60-304 (Evaluation procedures) through 8-60-311 (Specific documentation for the eligibility determination) as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.</p> <p>(2)(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under Sec. Sec. 8-60-304 (Evaluation</p>

procedures) through 8-60-311 (Specific documentation for the eligibility determination), that a student has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the student is not a student with a disability under this part.

(ii) If, consistent with Sec. 8-60-39(a)(2) (Special education), the related service required by the student is considered special education rather than a related service under State standards, the student would be determined to be a student with a disability under paragraph (a)(1) of this section.

(b) Definitions of disability terms. The terms used in this definition of a student with a disability are defined as follows:

(1)(i) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a student's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

(ii) Autism does not apply if a student's educational performance is adversely affected primarily because the student has an emotional disturbance, as defined in paragraph (c)(4) of this section.

(iii) A student who manifests the characteristics of autism after age three could be identified as having autism if the criteria in paragraph (c)(1)(i) of this section are satisfied.

(2) Deaf-blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness.

(3) Deafness means a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a student's educational performance.

(4) Developmental Delay *[definition pending further discussion]*

(4)(i) Emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a student's educational performance:

(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(C) Inappropriate types of behavior or feelings under normal circumstances.

(D) A general pervasive mood of unhappiness or depression.

(E) A tendency to develop physical symptoms or fears associated with personal or school problems.

(ii) Emotional disturbance includes schizophrenia. The term does not apply to students who are socially maladjusted, unless it is determined that they have an emotional disturbance under paragraph (c)(4)(i) of this section.

(5) Hearing impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a student's educational performance but that is not included under the definition of deafness in this section.

(6) Mental retardation means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a student's educational performance.

(7) Multiple disabilities means concomitant impairments (such as mental retardation-blindness or mental retardation-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

(8) Orthopedic impairment means a severe orthopedic impairment that adversely affects a student's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

(9) Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that--

(i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and

(ii) Adversely affects a student's educational performance.

	<p>(10) Specific learning disability--(i) General. Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.</p> <p>(ii) Disorders not included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.</p> <p>(11) Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a student's educational performance.</p> <p>(12) Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.</p> <p>(13) Visual impairment including blindness means an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness.</p>
§ 8-60-15	<p>Evaluation. Evaluation means procedures used in accordance with Sec. Sec. 8-60-304, (Evaluation Procedures) through 8-60-311 (Specific documentation for the eligibility determination), to determine whether a student has a disability and the nature and extent of the special education and related services that the student needs.</p>
§ 8-60-17	<p>Free appropriate public education. Free appropriate public education or FAPE means special education and related services that--</p> <ul style="list-style-type: none"> (a) Are provided at public expense, in the least restrictive environment, under public supervision and direction, and without charge; (b) Meet the standards of the SEA, including the requirements of this chapter; (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of Sec. Sec. 8-60-320 (Definition of individualized education program) through 8-60-324 (Development, review, and revision of IEP).
§ 8-60-22	<p>Individualized education program. Individualized education program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with Sec. Sec. 8-60-320 (Definition of individualized education program), through 8-60-324 (Development, review, and revision of IEP).</p>
§ 8-60-23	<p>Individualized education program team. Individualized education program team or IEP Team means a group of individuals described in Sec. 8-60-321 (IEP Team) that is responsible for developing, reviewing, or revising an IEP for a child with a disability.</p>
§ 8-60-24	<p>Individualized family service or support plan. Individualized family service or support plan or IFSP has the meaning given the term in section 636 of the Act, (Individualized family service plan).</p>
§ 8-60-25	<p>Infant or toddler with a disability. Infant or toddler with a disability--</p> <ul style="list-style-type: none"> (a) Means an individual under three years of age who needs early intervention services because the individual-- <ul style="list-style-type: none"> (1) Is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of

	<p>cognitive development, physical development, communication development, social or emotional development, and adaptive development; or (2) Has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay; and</p> <p>(b) May also include, —</p> <p>(1) At risk infants and toddlers Students who are environmentally and biologically at risk; and</p> <p>(2) Students with disabilities who are eligible for services under section 619 and who previously received services under Part C of the Act until such students enter, or are eligible under State law to enter, kindergarten or elementary school, as appropriate, provided that any programs under Part C of the Act serving such students shall include--</p> <p>(i) An educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills; and</p> <p>(ii) A written notification to parents of their rights and responsibilities in determining whether their child will continue to receive services under Part C of the Act or participate in preschool programs under section 619.</p>
<p>§ 8-60-27</p>	<p>Limited English proficient. Limited English proficient has the meaning given the term in section 9101(25) of the ESEA. The term 'limited English proficient', when used with respect to an individual, means an individual —</p> <p>(a) who is aged 3 to 20;</p> <p>(b) who is enrolled or preparing to enroll in an elementary school or secondary school;</p> <p>(c)(1) who was not born in the United States or whose native language is a language other than English;</p> <p>(2)(i) who is a Native American or Alaska Native, or a native resident of the outlying areas; and</p> <p>(ii) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or</p> <p>(3) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and</p> <p>(d) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual —</p> <p>(1) the ability to meet the State's proficient level of achievement on State assessments described in section 1111(b)(3);</p> <p>(2) the ability to successfully achieve in classrooms where the language of instruction is English; or</p> <p>(3) the opportunity to participate fully in society.</p>
<p>§ 8-60-33</p>	<p>Public agency. Public agency includes the SEA, ESAs (defined in Sec. 8-60-12), nonprofit public charter schools, and any other political subdivisions of the State that are responsible for providing education to students with disabilities.</p>
<p>§ 8-60-34</p>	<p>Related services.</p> <p>(a) General. Related services includes but is not limited to transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education; speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in students, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.</p> <p>(b) Exception; services that apply to students with surgically implanted devices, including cochlear implants.</p> <p>(1) Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.</p> <p>(2) Nothing in paragraph (b)(1) of this section--</p> <p>(i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be necessary for the child to receive FAPE.</p>

- (ii) Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or
- (iii) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in Sec. 8-60-113(b).
- (c) Individual related services terms defined. The terms used in this definition are defined as follows:
- (1) Audiology includes--
- (i) Identification of **students** with hearing loss;
- (ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
- (iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;
- (iv) Creation and administration of programs for prevention of hearing loss;
- (v) Counseling and guidance of **students**, parents, and teachers regarding hearing loss; and
- (vi) Determination of **students's** needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.
- (2) Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.
- (3) Early identification and assessment of disabilities in **students** means the implementation of a formal plan for identifying a disability as early as possible in a child's life.
- (4) Interpreting services includes--
- (i) The following, when used with respect to **students** who are deaf or hard of hearing: Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and
- (ii) Special interpreting services for **students** who are deaf-blind.
- (5) Medical services means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.
- (6) Occupational therapy--
- (i) Means services provided by a qualified occupational therapist; and
- (ii) Includes--
- (A) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;
- (B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and
- (C) Preventing, through early intervention, initial or further impairment or loss of function.
- (7) Orientation and mobility services--
- (i) Means services provided to blind or visually impaired **students** by qualified personnel to enable those **students** to attain systematic orientation to and safe movement within their environments in school, home, and community; and
- (ii) Includes teaching **students** the following, as appropriate:
- (A) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);
- (B) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for **students** with no available travel vision;
- (C) To understand and use remaining vision and distance low vision aids; and
- (D) Other concepts, techniques, and tools.
- (8)(i) Parent counseling and training means assisting parents in understanding the special needs of their child;
- (ii) Providing parents with information about child development; and

(iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

(9) Physical therapy means services provided by a qualified physical therapist.

(10) Psychological services includes--

- (i) Administering psychological and educational tests, and other assessment procedures;
- (ii) Interpreting assessment results;
- (iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
- (iv) Consulting with other staff members in planning school programs to meet the special educational needs of **students** as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
- (v) Planning and managing a program of psychological services, including psychological counseling for **students** and parents; and
- (vi) Assisting in developing positive behavioral intervention strategies.

(11) Recreation includes--

- (i) Assessment of leisure function;
- (ii) Therapeutic recreation services;
- (iii) Recreation programs in schools and community agencies; and
- (iv) Leisure education.

(12) Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a **student** with a disability. The term also includes vocational rehabilitation services provided to a **student** with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq.

(13) School health services and school nurse services means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person

(14) Social work services in schools includes--

- (i) Preparing a social or developmental history on a child with a disability;
- (ii) Group and individual counseling with the child and family;
- (iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
- (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
- (v) Assisting in developing positive behavioral intervention strategies.

(15) Speech-language pathology services includes--

- (i) Identification of **students** with speech or language impairments;
- (ii) Diagnosis and appraisal of specific speech or language impairments;
- (iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
- (iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and
- (v) Counseling and guidance of parents, **students**, and teachers regarding speech and language impairments.

(16) Transportation includes--

- (i) Travel to and from school and between schools;
- (ii) Travel in and around school buildings; and
- (iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

§ 8-60-37

Services plan.

Services plan means a written statement that describes the special education and related services the SEA will provide to a parentally-placed child with a disability enrolled in a private school who has been designated to receive services, including the location of the services and any transportation

	<p>necessary, consistent with Sec. 8-60-132 (Provision of services for parentally-placed private school children with disabilities—basic requirement), and is developed and implemented in accordance with Sec. Sec. 8-60-137 (Equitable services determined) through 8-60-139 (Location of services and transportation).</p>
<p>§ 8-60-39</p>	<p>Special education.</p> <p>(a) General. (1) Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—</p> <ul style="list-style-type: none"> (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, in the community and in other settings; and (ii) Instruction in physical education. <p>(2) Special education includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section--</p> <ul style="list-style-type: none"> (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards; (ii) Travel training; and (iii) Vocational education. <p>(b) Individual special education terms defined. The terms in this definition are defined as follows:</p> <p>(1) At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.</p> <p>(2) Physical education means--</p> <ul style="list-style-type: none"> (i) The development of-- <ul style="list-style-type: none"> (A) Physical and motor fitness; (B) Fundamental motor skills and patterns; and (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and (ii) Includes special physical education, adapted physical education, movement education, and motor development. <p>(3) Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction--</p> <ul style="list-style-type: none"> (i) To address the unique needs of the child that result from the child's disability; and (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all students. <p>(4) Travel training means providing instruction, as appropriate, to students with significant cognitive disabilities, and any other students with disabilities who require this instruction, to enable them to--</p> <ul style="list-style-type: none"> (i) Develop an awareness of the environment in which they live; and (ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community). <p>(5) Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.</p>
<p>§ 8-60-101</p>	<p>Free appropriate public education (FAPE).</p> <p>(a) General. A free appropriate public education must be available to all students residing in the State aged 3 to 20, inclusive, including students with disabilities who have been suspended or expelled from school, as provided for in Sec. 8-60-530(d) (Authority of school personnel).</p> <p>(b) FAPE for students beginning at age 3. (1) Each State must ensure that--</p> <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. 8-60-323(b) (When IEPs must be in effect). <p>(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</p>

	<p>begin.</p> <p>(c) Students advancing from grade to grade. (1) Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.</p> <p>(2) The determination that a child described in paragraph (a) of this section is eligible under this part, must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.</p>
<p>§ 8-60-102</p>	<p>Limitation--exception to FAPE for certain ages.</p> <p>(a) General. The obligation to make FAPE available to all students with disabilities does not apply with respect to the following:</p> <p>(1) Students aged 3, 4, 5, 18, 19, or 20 in the State to the extent that its application to those students would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to students of those ages.</p> <p>(2)(i) Students aged 18 to 20 to the extent that State law does not require that special education and related services under Part B of the Act be provided to students with disabilities who, in the last educational placement prior to their incarceration in an adult correctional facility--</p> <p>(A) Were not actually identified as being a child with a disability under Sec. 8-60-8 (Child with a disability); and</p> <p>(B) Did not have an IEP under Part B of the Act.</p> <p>(ii) The exception in paragraph (a)(2)(i) of this section does not apply to students with disabilities, aged 18 to 20, who--</p> <p>(A) Had been identified as a child with a disability under Sec. 8-60-8 (Child with a disability) and had received services in accordance with an IEP, but who left school prior to their incarceration; or</p> <p>(B) Did not have an IEP in their last educational setting, but who had actually been identified as a child with a disability under Sec. 8-60-8 (Child with a disability).</p> <p>(3)(i) Students with disabilities who have graduated from high school with a regular high school diploma.</p> <p>(ii) The exception in paragraph (a)(3)(i) of this section does not apply to students who have graduated from high school but have not been awarded a regular high school diploma.</p> <p>(iii) Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with Sec. 8-60-503 (Prior notice by the public agency; content of notice).</p> <p>(iv) As used in paragraphs (a)(3)(i) through (a)(3)(iii) of this section, the term regular high school diploma does not include an alternative degree that is not fully aligned with the State's academic standards, such as a certificate or a general educational development credential (GED).</p> <p>(4) Students with disabilities who are eligible under subpart H of this chapter, but who receive early intervention services under Part C of the Act.</p> <p>(b) Documents relating to exceptions. The State must assure that the information it has provided to the Secretary regarding the exceptions in paragraph (a) of this section, as required by Sec. 8-60-700 (Grants to states) (for purposes of making grants to States under this part), is current and accurate.</p>
<p>§ 8-60-106</p>	<p>Extended school year services.</p> <p>(a) General. (1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.</p> <p>(2) Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with Sec. Sec. 8-60-320 (Definition of individualized education program) through 8-60-324 (Development, review, and revision of IEP), that the services are necessary for the provision of FAPE to the child.</p> <p>(3) In implementing the requirements of this section, a public agency may not--</p> <p>(i) Limit extended school year services to particular categories of disability; or</p> <p>(ii) Unilaterally limit the type, amount, or duration of those services.</p> <p>(b) Definition. As used in this section, the term extended school year services means special education and related services that--</p> <p>(1) Are provided to a child with a disability--</p> <p>(i) Beyond the normal school year of the public agency;</p>

	<ul style="list-style-type: none"> (ii) In accordance with the child's IEP; and (iii) At no cost to the parents of the child; and (2) Meet the standards of the SEA.
§ 8-60-112	<p>Individualized education programs (IEP).</p> <p>The State must ensure that an IEP, or an IFSP that meets the requirements of section 636(d) of the Act, is developed, reviewed, and revised for each child with a disability in accordance with Sec. Sec. 8-60-320 (Definition of individualized education program) through 8-60-324 (Development, review and revision of IEP), except as provided in Sec. 8-60-300(b)(3)(ii) (Parental Consent).</p>
§ 8-60-116	<p>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 parents are informed of the continuum of alternative placements, and--</p> <ul style="list-style-type: none"> (a) The placement options are discussed and the placement decision-- <ul style="list-style-type: none"> (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 (2) Is made in conformity with the LRE provisions of this subpart, including Sec. Sec. 8-60-114 (LRE requirements) through 8-60-118 (Children in public or private institutions); (b) The child's placement-- <ul style="list-style-type: none"> (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; (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; (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 (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.
§ 8-60-119	<p>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. 8-60-114 (LRE requirements); and (b) Are provided with technical assistance and training necessary to assist them in this effort.
§ 8-60-133	<p>Expenditures.</p> <ul style="list-style-type: none"> (a) Formula. To meet the requirement of Sec. 8-60-132(a) (Provision of services for parentally-placed private school children with disabilities—basic requirement), the SEA must spend the following on providing special education and related services (including direct services) to parentally-placed private school students with disabilities: <ul style="list-style-type: none"> (1) For students aged 3 to 20, an amount that is the same proportion of the SEA's total grant under section 611(f) of the Act as the number of private school students with disabilities aged 3 to 20 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the SEA, is to the total number of students with disabilities in its jurisdiction aged 3 to 20. (2)(i) For students aged three through five, an amount that is the same proportion of the SEA's total grant under section 619(g) of the Act as the number of parentally-placed private school students with disabilities aged three through five who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the SEA, is to the total number of students with disabilities in its jurisdiction aged three through five. (ii) As described in paragraph (a)(2)(i) of this section, students aged three through five are considered to be parentally-placed private school

	<p>students with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school in Sec. 8-60-13.</p> <p>(3) If the SEA has not expended for equitable services all of the funds described in paragraphs (a)(1) and (a)(2) of this section by the end of the fiscal year for which Congress appropriated the funds, the SEA must obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school students with disabilities during a carry-over period of one additional year.</p> <p>(b) Calculating proportionate amount. In calculating the proportionate amount of Federal funds to be provided for parentally-placed private school students with disabilities, the SEA, after timely and meaningful consultation with representatives of private schools under Sec. 8-60-134, must conduct a thorough and complete child find process to determine the number of parentally-placed students with disabilities attending private schools located in the SEA. (See Appendix B for an example of how proportionate share is calculated).</p> <p>(c) Annual count of the number of parentally-placed private school students with disabilities. (1) The SEA must--</p> <p>(i) After timely and meaningful consultation with representatives of parentally-placed private school students with disabilities (consistent with Sec. 8-60-134), determine the number of parentally-placed private school students with disabilities attending private schools located in the SEA; and</p> <p>(ii) Ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year.</p> <p>(2) The count must be used to determine the amount that the SEA must spend on providing special education and related services to parentally-placed private school students with disabilities in the next subsequent fiscal year.</p> <p>(d) Supplement, not supplant. State and local funds may supplement and in no case supplant the proportionate amount of Federal funds required to be expended for parentally-placed private school students with disabilities under this part.</p>
<p>§ 8-60-153</p>	<p>Filing a complaint.</p> <p>(a) An organization or individual may file a signed written complaint under the procedures described in Sec. Sec. 8-60-151 (Adoption of State complaint procedures) through 8-60-152 (Minimum State complaint procedures).</p> <p>(b) The complaint must include--</p> <ol style="list-style-type: none"> (1) A statement that a public agency has violated a requirement of Part B of the Act or of this chapter; (2) The facts on which the statement is based; (3) The signature and contact information for the complainant; and (4) If alleging violations with respect to a specific child-- <ol style="list-style-type: none"> (i) The name and address of the residence of the child; (ii) The name of the school the child is attending; (iii) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the school the child is attending; (iv) A description of the nature of the problem of the child, including facts relating to the problem; and (v) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed. <p>(c) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with Sec. 8-60-151 (Adoption of State complaint procedures).</p> <p>(d) The party filing the complaint must forward a copy of the complaint to the public agency serving the child at the same time the party files the complaint with the SEA.</p>