

SOUTH DAKOTA BOARD OF REGENTS

Academic and Student Affairs

AGENDA ITEM: 7 – A
DATE: July 31 – August 1, 2024

SUBJECT

SDSBVI Comprehensive Plan for Special Education

CONTROLLING STATUTE, RULE, OR POLICY

[ARSD § 24:05:21:01](#) – Local Education Comprehensive Plans – Contents

BACKGROUND / DISCUSSION

Each local school district and accredited school is required to annually submit a Comprehensive Plan for Special Education to the South Dakota Department of Education that details how the school will implement federal and state laws and special education regulations.

The Comprehensive Plan addresses the following major areas:

- I. Communication
- II. Child Count
- III. Timelines
- IV. Individualized Education Program (IEP)
- V. Evaluation
- VI. Individualized Education Program (IEP) Team
- VII. Parental Prior Written Notice
- VIII. Discipline Procedures
- IX. State and District Wide Assessment Procedures
- X. Procedural Safeguards
- XI. File Maintenance

In addition to this document, much of the information in the Comprehensive Plan is documented in the SDSBVI school policy handbooks.

IMPACT AND RECOMMENDATION

Each year the Board of Regents is asked to approve the Comprehensive Plan developed by SDSBVI staff. Local school boards across the state are required to approve similar plans, and since the SDBOR serves in this capacity for SDSBVI, formal Board approval is required prior to submission.

(Continued)

DRAFT MOTION 20240731_7-A:

I move to approve the South Dakota School for the Blind and Visually Impaired’s Comprehensive Plan for Special Education as presented for signature by the BOR President.

Board staff recommend approval.

ATTACHMENTS

Attachment I – SDSBVI Comprehensive Plan & Signature Page

South Dakota Agency Comprehensive Plan

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

The district/cooperative and all member schools/districts will make available to all children with disabilities residing in the district(s) between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in 300.530(d); 24:05:26 and 24:05:26.01, ARSD.

State monitoring -- Primary focus. ARSD 24:05:20:18.01. The department shall monitor the implementation of this article, enforce this article in accordance with §§ 24:05:20:23.03 and 24:05:20:23.04 and annually report on performance under this article. The primary focus of the department's monitoring activities shall be on:

- (1) Improving educational results and functional outcomes for all children with disabilities; and
- (2) Ensuring that public agencies meet the program requirements under Part B of the IDEA, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

As a part of its responsibilities under this section, the department shall use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas identified in § 24:05:20:18.02 and the indicators established by the U.S. Secretary of Education for the state performance plan.

The [South Dakota School for the Blind and Visually Impaired](#) (SDSBVI) has formally adopted the following policies and procedures as their comprehensive plan for special education. The intent of this document is to identify the responsibilities of the district and the SDSBVI.

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

Signature of Authorized Official

Date

Typed Name and Title

Address/State/Zip

Telephone Number

*This page must be signed by the agency official listed above and returned to:

Department of Education Special Education Programs
 800 Governor's Drive
 Pierre, SD 57501

Section I.

Communication between the SDSBVI and LEA is vital to the success of the student. This includes communicating about meetings, evaluations, timelines, and etc.

The South Dakota School for the Blind and Visually Impaired (SDSBVI) Superintendent and/or designee will connect with the LEA Superintendent, Special Education Director, and/or designee on the communication and collaboration of meetings, evaluations, timelines, progress monitoring and any other coordination of services. The SDSBVI superintendent and/or designee will coordinate meetings, evaluations, and timelines, etc. for students enrolled full-time at SDSBVI. For students with partial enrollment, the coordination of meetings, evaluations, timelines, etc. will remain the LEA's responsibility.

Section II. Child Count

Child Count 34 C.F.R. §300.640; ARSD 24:05:17

- a. Child Count data is the collection of enrollment information for students with disabilities ages 3-21 that are receiving Special Education services. Accurate reporting ensures who is responsible for providing services to identified students.

SDSBVI does not report child count.

SDSBVI's Administrative Assistant or Designee will input student specific data into the statewide Student Information Management System (SIMS) for students enrolled at SDSBVI.

The Superintendent's Administrative Assistant or Designee will work with the LEA and the South Dakota Department of Education to ensure the accuracy and reliability of the data, as well as address any errors, overlaps, or corrections.

Section III. Timelines

Evaluation 34 C.F.R. §300.122; ARSD 24:05:25

Yearly Review and revision of individual educational programs 34 C.F.R. §300.324; ARSD 24:05:27:08

- a. Special Education has explicit timelines that need to be followed. Those timelines are associated with;
 - i. Annual Meetings
 - ii. Eligibility
 - iii. Evaluation – Initial and reevaluation

The SDSBVI Superintendent and/or designee will communicate with the LEA Superintendent, Special Education Director, and/or designee on the collaboration of annual IEP meetings, evaluations, timelines, etc. The SDSBVI superintendent and/or designee will initiate and coordinate annual meetings, eligibility, and re-evaluations for students who attend SDSBVI full

time. For students with partial enrollment, the initiation and coordination of annual meetings, eligibility, and re-evaluations will remain the LEA's responsibility.

Section IV. Individualized Education Program (IEP)

Development of the IEP 34 C.F.R. 300.112; ARSD 24:05:27

- a. Identify who will be responsible for writing the IEP. Some agencies have certified special education staff on-site and can develop the IEP.

Certified Special Education staff at SDSBVI will write the IEP for students who attend SDSBVI full time. For students with partial enrollment at SDSBVI, the writing of the IEP will remain the LEA's responsibility with the input from SDSBVI staff.

- b. The agency works directly with the student and has the knowledge of the strengths and needs of the student. The district and the agency must work together to develop a comprehensive IEP based on the needs of the student.

SDSBVI, the LEA, and any related service providers will collaborate to create a draft of proposed ideas prior to the IEP meeting. LEA representatives are encouraged to visit and observe students from the district within their classroom at SDSBVI to assist in keeping up-to-date with current needs. Progress reports will be provided to the LEA on a quarterly basis to assist them in overseeing the progress. SDSBVI and LEA's will continually monitor student's needs and progress to assist in determination of any changes to least restrictive environment is warranted.

- c. Every student on an IEP will have annual goals. These goals are written to be measurable and progress will be documented. Each student's progress must be reported to the parent as specified in the IEP.

Annual IEP progress monitoring reports for students who attend SDSBVI full time will be reported to student parent/guardian and LEAs quarterly each school year via postal mail or electronic notification by SDSBVI. The LEA will be responsible for collecting and disseminating progress reports for students who do not attend SDSBVI full time.

- d. The IEP identifies the individual services that each student with a disability will receive. These services identified in the IEP documents the amount of service and frequency related but not limited to, special education services, related services, transition services, etc.

The determination and implementation of special education services, related services, and transition services will be made by the IEP team. SDSBVI will implement/coordinate the special education services, related services (if a service provided by a SDSBVI staff member), and transition services as indicated by the IEP. If a service provider is needed to carry out the students' IEP, and it is not a SDSBVI staff person, the LEA is responsible for contracting with and paying for outside service providers. For South Dakota students that access the transition services of Vocational Rehabilitation Services, the team will work through the Vocational

Rehabilitation counselor assigned to SDSBVI unless otherwise directed by the Vocational Rehabilitation Office.

The LEA is responsible for any filing of Medicaid Reimbursement for students placed in the day or residential program.

Students enrolled at SDSBVI will follow the school calendar year of the SDSBVI. Extended School Year Services will be based on the SDSBVI Calendar rather than the calendar year of the LEA.

Section V. Evaluation

Completion of the evaluation 34 C.F.R. §300.122; ARSD 24:05:25

- a. Special education evaluations (initial or reevaluations) must be completed in a specific period. For students of transition age, a transition evaluation must also take place. The district and the agency will determine who will be responsible for initiating the evaluation process. Communication between the agency and the district is significantly important to complete the evaluation.

The SDSBVI serves children who have been determined eligible by their LEA prior to being accepted for placement. The SDSBVI Superintendent and/or designee will communicate with the LEA Superintendent, Special Education Director, and/or designee on the collaboration of re-evaluation timelines. The SDSBVI superintendent and/or designee will initiate and coordinate Parental Prior Written Notice for Consent and comprehensive re-evaluation meetings for students who attend SDSBVI full time. For students with partial enrollment, the initiation and coordination of re-evaluation comprehensive evaluations and meetings will remain the LEA's responsibility. SDSBVI's Superintendent, Special Education Director, and/or Designee will work with the LEA Designee on the coordination of the completion of assessments.

SDSBVI uses standardized and skill-based assessments to determine the present levels of academic achievement and functional performance to help the IEP team determine the need for special education and related services. Transition will be assessed for all students of transition age. SDSBVI will coordinate distribution of the evaluation reports completed at SDSBVI.

Section VI. IEP Team

IEP team meeting date 34 C.F.R. §300.23; ARSD 24:05:27:02

Parent Participation 34 C.F.R. §; ARSD 24:05:30:02.01

IEP team 34 C.F.R. §300.321; ARSD 24:05:27:01.01

Special Education has specific laws that govern the meetings. The IEP team is the key element in making informed decisions for the best interest of the student. Communication with the district about who will be conducting the meetings (annual, eligibility, amendment, etc.) is essential.

- a. Meeting Notice – Prior to a meeting, the notice will be sent out. Content of the meeting notice includes date, time, location, purpose, or agenda, attendees, and contact information.
- b. Conducting- SDSBVI and the LEA will co-chair and conduct the meeting with full collaboration with the parents/guardian and IEP team. For students who are enrolled full time at SDSBVI, the scheduling of the meeting and completion of the meeting notice will be the responsibility of the SDSBVI Superintendent and/or designee.

For students with partial or dual enrollment, the LEA will schedule the meeting, complete the meeting notice and send a copy of the documents to SDSBVI for the file and provide parent/guardian/adult student a copy.

- c. Location- For students who are fully enrolled at SDSBVI, unless otherwise agreed upon, the location of the meeting will be at SDSBVI. SDSBVI has various technology available to promote participation when distance and travel are obstacles for participation.
- d. Attendance - Special Education law requires, at a minimum, that the parent/guardian of the student, regular education teacher (if student is participating in the regular education environment), at least one special education provider, representative of the school district that can make decisions about the availability of resources of the district, the student (if appropriate), and transition service participants (if applicable).

SDSBVI will collaborate with the LEA, parents/guardians/surrogate parent, and any related services to determine a mutually agreeable time for the meeting. Meeting invitations will be sent to individuals outside of SDSBVI by mail, electronic correspondence, or sent home with the student per parent and district preference. The team will make reasonable effort to promote the parent/guardian participation in the IEP process. If after reasonable measures are taken to have the parent/guardian attend the meeting have been unsuccessful, the team will continue with the IEP with the LEA. SDSBVI will continue to collaborate with the parent/guardian to review the document via technology and through visits when they are on campus. Team members that must be excused from an IEP will be responsible for completion of an Excusal Form and document parent/guardian approval of their absence prior to the meeting. A copy of the excusal will be attached to the meeting notice and copy provided to the parents and the LEA.

Section VII. Parental Prior Written Notice

Content of Notice 34 C.F.R. §300.503; ARSD 24:05:30:04, 24:05:30:05

- a. Meeting Notice -Parents of students with disabilities are to be included in all IEP team meetings. These meetings are at a mutually agreed upon time and place. Parents are to be informed early enough to ensure that they will have the opportunity to attend. As for the Parental Prior Written Notice, is completed and given to the parent after a meeting has been held. This notice is provided as a recap of what was discussed in the meeting and

should include what the district proposes or refuses to initiate or change in the identification, evaluation, or educational placement of the child and should be given to the parents five days before this change.

SDSBVI Superintendent and/or designee will be responsible for sending out the meeting notice via U.S. Postal mail, electronic correspondence, or send home with student per parent preference for students who attend SDSBVI full time. For students who attend SDSBVI part time or less, it is the responsibility of the LEA to write and distribute the meeting notice to the parents/guardians/surrogate parent.

The LEA will complete the Parental Prior Written Notice Form during the meeting and coordinate its dissemination. The PPWN may be sent to SDSBVI by mail or electronic correspondence.

- b. The timelines of the notices are important and need to be provided to the parents within those timelines.

SDSBVI maintains a data base of the timelines for the Individual Education Program and Comprehensive Evaluations and coordinates with LEA's for meeting timelines. The meeting notices are distributed via U.S. Mail, electronically, or sent home with the student pending parent/guardian preference, as soon as the proposed meeting is agreed to, or the meeting is scheduled. The Parental Prior Written Notice summarizing the IEP will be distributed to SDSBVI and parent/guardian via U.S. mail or electronically by the LEA.

Section VIII. Discipline Procedures

Authority of School Personnel 34 C.F.R. §300.530; ARSD 24:05:26:02.03, 24:05:26:09.03

Change of Placement for disciplinary removals 34 C.F.R. §300.536: ARSD 24:05:26:02.01

- a. Students that are on an IEP may exhibit minor to extreme behavior issues. Existing behavior plans in the IEP may need to be addressed. Specific guidelines exist and need to be followed for the suspension and expulsion of students on an IEP.

When unexpected behavior situations arise that may or may not be addressed in the student's IEP behavior plan, SDSBVI's superintendent and/or designee will communicate with the LEA to respond the student's behavior needs as per SDSBVI, BOR, LEA, and SD DOE policy.

Section IX. State and District Wide Assessment Procedures

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

- a. Students are required to participate in state assessments at certain grade levels. Some accommodations stated on their IEP may be needed for participation in the assessment.

The South Dakota School for the Blind and Visually Impaired ensures that all students with disabilities will be included in state assessments, with appropriate accommodations and alternate assessments when necessary. SDSBVI will proctor all state assessments for students attending SDSBVI full time and may proctor to those who attend less than full time if agreed

upon with the LEA. Parent/guardian will be informed of their child's participation during the course of the IEP meeting, including any necessary accommodations or any assessment that will be based on alternate or modified achievement standards. The LEA is responsible for any and all district wide assessment administration.

Section X. Procedural Safeguards

Availability of mediation 34 C.F.R. §300.506; ARSD 24:05:30:09

Filing of due process complaints 34 C.F.R. §300.507; 300.508, 300.509; ARSD 24:05:30:07.01

Resolution process 34 C.F.R. §300.510; ARSD 24:05:30:08.09-.12

Impartial due process hearing 34 C.F.R. §300.511; ARSD 24:05:30:09.04

Hearing rights 34 C.F.R. §300.514; ARSD 24:05:30:12

Hearing decisions 34 C.F.R. §300.513, 300.514, 300.515, 300.516, 300.517; ARSD 24:05:30:11

Status of child during due process proceedings 34 C.F.R. §300.518; ARSD 24:05:30:14

PROCEDURAL SAFEGUARDS AND DUE PROCESS COMPLAINTS

The Department of Education (DOE) and SDSBVI agree that DOE has the responsibility under the Individuals with Disabilities Education Act (IDEA) to monitor SDSBVI to ensure compliance with IDEA. As such, the DOE has the responsibility to oversee corrective actions because of compliance monitoring.

State and federal special education laws require that parents have access to due process procedures to resolve concerns about IEP plans or with the implementation of those plans. Cooperation between SDSBVI and LEAs will be essential to ensure parent/guardian's recourse to effective decision-makers who have the financial resources to provide services found to be necessary.

Each placement agreement should specify that SDSBVI and the LEA will encourage parents to address concerns about IEP plans or the implementation of those plans to the SDSBVI superintendent for informal resolution. Such procedures shall not preclude the parent/guardian from requesting mediation or initiating due process complaints as permitted under ARSD 24:05:30:08.01. Due process complaints should be directed to the LEA as they have the primary responsibility to provide a FAPE.

In the event that a parent/guardian initiates a due process complaint, SDSBVI shall cooperate fully with the LEA in resolution sessions, or any meetings with parent/guardian attempt to resolve the concern, in mediation sessions, if any, and in preparing for and participating in any formal hearings.

RESOLUTION OF DISPUTES BETWEEN SPECIAL SCHOOLS AND SCHOOL DISTRICTS

From time to time, disputes may arise between SDSBVI and an LEA concerning the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child. When such disputes cannot be resolved through other procedures, such as those established pursuant to ARSD chapter 24:05:15 (Appeals) or 24:05:30 (Procedural Safeguards), the process described herein will be available to SDSBVI and to LEAs where IEP meetings, additional evaluations and other procedures have failed to resolve the disputes between them. As with interagency disputes, during the pendency of this dispute resolution process, the parties will ensure that services required to provide FAPE will continue. Disputed service(s) currently being provided will continue until the outcome of the dispute resolution process. The implementation of disputed service(s) not previously provided will be pursuant to a decision

reached through the following resolution process.

1. All attempts must be made to resolve disputes at the lowest possible level. Resolution attempts could include but are not limited to conferencing with the appropriate individuals involved or performing other fact-finding activities.
2. Mediation between SDSBVI and the LEA will be conducted at a mutually agreed-upon time and location. The cost of the mediator will be covered by the DOE. The cost of attending the mediation and representation by legal assistance is the responsibility of the affected institution or LEA.
3. When disputes cannot be resolved by mediation, a written explanation of the dispute will be sent to the Special Education Programs Director of DOE, the superintendent of SDSBVI, and the superintendent of the LEA. These individuals, in consultation with each other, shall review the issues and make a determination as to how the dispute should be resolved. The decision will be shared in writing with each level involved within twenty (20) calendar days of receipt of request for the determination and will include reasons for the decision.
4. If a resolution is not obtained the matter will be referred to the Secretary of the South Dakota DOE and the Executive Director of the BOR. These individuals will jointly make a final determination with 30 calendar days.

INTERAGENCY DISPUTE RESOLUTION

When disputes arise between the parties that cannot be resolved through other means, the resolution process described herein will be available. During the pendency of the dispute resolution process, the parties will ensure that services, including disputed services, required to provide FAPE will continue.

1. All attempts will be made to resolve disputes at the lowest possible level.
2. When disputes cannot be resolved by the designated department representatives, a written explanation of the dispute will be sent to the Special Education Programs Director of DOE and the superintendent of SDSBVI. These individuals, in consultation with each other, shall review the issues and make a determination as to how the dispute should be resolved. The decision will be shared in writing with each level involved within twenty (20) calendar days of receipt of request for the determination and will include reasons for the decision.
3. If a resolution is not obtained through this process, then the matter will be referred to the Secretary of the DOE and the Executive Director of the BOR. These individuals will jointly make a final determination with 30 calendar days.

Section XI. File Maintenance

Confidentiality of Information 34 C.F.R. §300.123; ARSD 24:05:29, ARSD 24:05:21:05

Records regarding migratory children with disabilities 34 C.F.R. §300.213; ARSD 24:05:21:05

Destruction of information 34 C.F.R. §300.624; ARSD 24:05:29:15

- A. District policies and procedures on confidentiality of information. The South Dakota School for the Blind and Visually Impaired ensures the compliance with all regulations regarding the confidentiality of personally identifiable information and all records according to 34 CFR 300.610 through 300.626

CONFIDENTIALITY POLICY

1. The complete privacy of school records of every enrolled student or former enrolled student from unwarranted inspection by or communication to any unauthorized individual or agency.
2. Upon request, the right of the parents or legal guardians of every student and the similar right of every eligible student to read or to have read, explained and interpreted to them each and every portion of the record in their primary language.
3. All parents, even those not having custody of their children, have access to each record kept on a child, unless barred by the court.
4. Parents have rights under the Family Education Rights and Privacy Act (FERPA) and also under the Individuals with Disabilities Education Act (IDEA) and will receive annual notification of those rights in the Student/Parent Handbook.
5. Copies of SDSBVI policies on confidentiality and retention and destruction of records are available in the main office during regular business hours.
6. The SDSBVI will not release records to any individual or agency without prior written consent of the parent/legal guardian or eligible student. Consent from either parent is sufficient, unless a court order specifies both parents must sign. Parents/legal guardians and adult students have the right to revoke consent in writing at any time.

EMPLOYEE ACCESS

Current confidentiality regulations limit access to student files to specific personnel, who have a legitimate educational interest in the individual child. If a student file is to be removed from the office area, a record consisting of the name of the person checking out the file, the student's name, the date access was given, and date returned must be entered on the form provided.

PARENT/STUDENT ACCESS

Parents, legal guardians, or eligible students have the right to inspect and review any educational records collected and maintained by the SDSBVI. The school shall comply with a written request without unnecessary delay and within forty-five (45) calendar days after a request is received. Parents, legal guardians or eligible students requesting records for use at an Individualized Educational Planning Committee meeting, a hearing, or a hearing appeal shall be given immediate access to the requested records.

- A. Items to be in the file at SDSBVI.
 - i. IEP (most current)
 - ii. Psychology Report (most current)
 - iii. Eligibility Document (most current)
 - iv. Notices (most current) Meeting Notice, Parental Prior Written Notice, Consent for Evaluation, etc.
- B. The SDSBVI Superintendent and/or designee are responsible for files of students enrolled for services on campus at SDSBVI. The most current copy of the above documents will be kept in hard copy. All documents are stored electronically in the statewide SIMS in each students' respective folders.

- C. The student files are confidential and need to be located in a locked cabinet.
Student educational records are maintained and stored in the Staff Work Area in locked file cabinets. The Superintendent and designee are the individuals who have access to the locked file cabinets in the staff work area.
- D. Transfer of records. The SDSBVI will assist the LEA in transferring student records.
- E. Destruction of information. IEPs must be retained by the SDSBVI for five years. Only the most current special education process documents will be in hard copy format and the entire collection will be in electronic format stored in the statewide SIMS in each students' respective folders.