

**Regulations for Implementation of the  
Children with Exceptionalities  
Act (R.S. 17:1941 et seq.)**

**Bulletin 1706  
Subpart B - Regulations for  
Gifted/Talented Students**

Louisiana Department of Education  
Cecil J. Picard, Superintendent

**August 1, 2000**

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## TABLE OF CONTENTS

Chapter 11.	RESPONSIBILITIES OF THE BOARD OF ELEMENTARY AND SECONDARY EDUCATION.....	4
Chapter 12.	RESPONSIBILITIES OF THE SUPERINTENDENT OF PUBLIC ELEMENTARY AND SECONDARY EDUCATION AND THE DEPARTMENT OF EDUCATION .....	5
Chapter 13.	RESPONSIBILITIES AND ACTIVITIES OF THE DIVISION OF SPECIAL POPULATIONS.....	9
Chapter 14.	RESPONSIBILITIES OF CITY AND PARISH SCHOOL BOARDS, SPECIAL SCHOOL DISTRICTS AND STATE BOARD SPECIAL SCHOOLS.....	14
Chapter 15.	PROCEDURAL SAFEGUARDS .....	32
Chapter 16.	ESTABLISHMENT AND OPERATION OF SPECIAL SCHOOLS .....	47
Chapter 17.	RESPONSIBILITIES OF STATE BOARD SPECIAL SCHOOLS.....	49
Chapter 18.	INTERAGENCY AGREEMENTS .....	51
Chapter 19.	DEFINITIONS.....	54
Chapter 20.	PUPIL/TEACHER, AND PUPIL APPRAISAL RATIOS FOR PUBLIC EDUCATION.....	61

### **Chapter 11. RESPONSIBILITIES OF THE BOARD OF ELEMENTARY AND SECONDARY EDUCATION**

§1101. Free Appropriate Public Education

A. The Louisiana State Board of Elementary and Secondary Education (the State Board) shall be responsible for the assurance of a free appropriate public education to all G/T students ages three through twenty-one years; and shall exercise supervision and control of public elementary and secondary education.

B. The State Board shall be directly responsible for the provision of a free appropriate public education to G/T students, ages three through twenty-one years, who are within the jurisdiction of either Special School District Number or in the State Board Special Schools (Louisiana School for Visually Impaired, Louisiana School for the Deaf, or Louisiana Special Education Center).

C. The State ensures the use of whatever State, local, Federal, and private sources of support are available in the state to meet the requirements of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1576 (August 2000).

§1102. Issuance of Regulations

The State Board shall adopt, amend, or repeal rules, regulations, standards, and policies necessary or proper for the provision of a free appropriate public education developed pursuant to R.S.17: 1942.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1576 (August 2000).

§1103. Compliance with Federal Rules

A. The State Board has the responsibility of complying with rules and regulations governing grants for educational purposes from the Federal government or from any other person or agency, which are not in contravention to the Constitution and laws, and the authority to take all action necessary to achieve compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1576 (August 2000).

**Chapter 12. RESPONSIBILITIES OF THE SUPERINTENDENT OF PUBLIC ELEMENTARY AND SECONDARY EDUCATION AND THE DEPARTMENT OF EDUCATION**

§1201. General Responsibilities and Authorities

A. The State Superintendent of Public Elementary and Secondary Education (the Superintendent) and the State Department of Education (the Department) shall administer those programs and policies necessary to implement R.S.17: 1941 et seq. Responsibilities of the State Superintendent and the Department are listed below.

1. The Department shall approve, in accordance with standards approved by the State Board, each public school program that delivers special education.

2. The Department shall recommend to the State Board, in accordance with standards approved by the State Board, each participating private school program that delivers special education.

3. The Department shall receive, administer, and direct the distribution of Federal funds for the education of G/T students, except those received directly by LEAs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1576 (August 2000).

§1205. Preparation of Annual Budget

A. The Department shall prepare and submit to the State Board for review and approval for the next fiscal year a comprehensive budget that at a minimum proposes the appropriations by the Louisiana Legislature of whatever State funds are needed by the Department, Special School Districts, and city/parish LEAs to comply fully with all of the requirements established by R.S. 17:1941 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1577 (August 2000).

§1220 Personnel Standards

A. The Department shall develop as needed, Louisiana standards for all personnel who provide special education, administrative, ancillary, pupil appraisal and related services to G/T students (three through age twenty-one).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1577 (August 2000).

§1230. Review of Enforcement Recommendations

A. The State Superintendent, after review of the recommendations from the Division of Special Populations, shall submit to the State Board at its next regularly scheduled meeting all recommendations of the Department to withhold State or Federal funds for special education or to take other necessary enforcement action in accordance with the procedures described in the Louisiana Administrative Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1577 (August 2000).

§1240. Impartial Hearing Officers

A. The Department and each LEA shall maintain a list of qualified and impartial hearing officers. The list will include a statement of the qualifications of each of those persons and, to the extent possible, include representation from all regions of the state. The Department shall ensure that these hearing officers have successfully completed an inservice training program approved by the Department and have met all other criteria established by the Department. The Department shall provide additional inservice training whenever warranted by changes in applicable legal standards or educational practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1577 (August 2000).

§1251. Relationship between Special Education and Competency-Based Education

A. No provision of the Louisiana competency-based education program shall be construed to interfere with the provision of a free appropriate public education (FAPE) to G/T students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1577(August 2000).

§1252. Louisiana Educational Assessment Program

A. G/T students shall be included in the Louisiana Educational Assessment Program with appropriate accommodations and modifications in administration, if necessary, as documented in the student's IEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1577 (August 2000).

§1261. Program Options

A. The Department shall ensure that each LEA shall take steps to ensure that its G/T students residing in the area served by the LEA have available to them the variety of educational programs and services available to all students in the area served by the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1577 (August 2000).

§1270. Interagency Agreements and Methods for Ensuring Services

A. The Department is authorized to enter into any agreement developed with another public or private agency, or agencies, which is in accordance with prescribed guidelines.

1. The agreement shall be consistent with Chapter 18 of *Bulletin 1706 Subpart B* of these regulations.
2. The agreement shall be essential to the achievement of full compliance with these Regulations.
3. The agreement shall be designed to achieve or accelerate the achievement of the full educational goals for all G/T students.

B. The Department through the Governor shall ensure that an interagency agreement or other mechanism is in effect between each noneducational public agency to ensure that FAPE is provided, including the provision of these services during the pendency of disputes. The agreement must include the following:

1. an identification of or a method for defining the financial responsibility of each agency for providing services;
2. conditions and terms of reimbursement which an LEA must be reimbursed by other agencies;
3. procedures for resolving interagency disputes (including procedures under which LEAs may initiate proceedings); and
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.

C. The requirements of this section may be met through only the legal documents that are listed below.

1. State statute or regulation
2. Signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services
3. Other appropriate written methods as determined by the Governor or designee

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1577 (August 2000).

§1271 Nondiscrimination

A. The Department shall comply with all statutes and regulations prohibiting discrimination on the basis of race, color, national origin, sex, disability and age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1578 (August 2000).

## **Chapter13. RESPONSIBILITIES AND ACTIVITIES OF THE DIVISION OF SPECIAL POPULATIONS**

### §1301. General Supervision

A. The Division of Special Populations is established within the Department to provide general supervision of all education programs for G/T students within the State. *General Supervision* is defined as the responsibility to perform functions prescribed by the State Board.

1. The Division shall ensure that any State standards affecting other State agencies and established under the general supervision requirement shall be developed in cooperation with such agencies.

2. The Division shall disseminate such standards and revisions to all public agencies bound by them and provide parents and all citizens with information requested regarding implementation of such State standards.

3. The Division shall provide technical assistance to all public agencies bound by such standards in their proper implementation.

4. The Division shall monitor according to written procedures the implementation of State standards in each public agency. Such monitoring shall include child identification and programmatic, administrative, and fiscal issues.

5. The Division shall institute a system for complaint management and investigation regarding the implementation of State standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1578 (August 2000).

### §1302. Monitoring, Complaint Management, and Investigation

A. The Division is authorized to establish a system of monitoring, complaint management, and investigatory provisions of these regulations.

B. The Division shall monitor, in accordance with the procedures established in the *Compliance Monitoring Procedures Handbook*, all public and other education agencies for compliance with these and other applicable Federal regulations, State statutes and standards.

C. The Division shall receive and review complaints concerning suspected noncompliance of regulations concerning the education of G/T students. It shall conduct this requirement through prescribed procedures.

1. The Division shall investigate allegations of failure to comply with any provision of these regulations and other applicable State or Federal laws, regulations or State standards.

2. The Division shall conduct hearings in accordance with the provisions of the *Louisiana Administrative Code*.

3. The Division, in carrying out its investigatory responsibilities, may require LEAs to keep certain records and to submit to the Division complete and accurate reports at such time and in such form and containing such information as are determined necessary to enable the Division to fulfill its responsibilities for ensuring compliance.

§1330 State Policies and Procedures: Notice and Participation

A. In the preparation of the policies and procedures required by state statute, the Division shall ensure that prescribed activities are performed.

1. The Division shall submit proposed revisions of policies and procedures to the State Board of Elementary and Secondary Education for advertisement, and as appropriate, as a Notice of Intent in the Louisiana Register.

2. The Division shall publish in newspapers of general circulation throughout the state, other media, or both, the timetable for final approval, the procedures for submitting written comments, and a list of the dates, times, and places of public meetings to be held; the proposed policies and procedures shall be available for comment at least forty-five calendar days following the date of the notice.

3. The Division shall distribute to interested parties and shall post the policies and procedures on the Department's official Internet Website for public comment for a period of forty-five days.

4. The Division shall hold a series of open public meetings in which parents and other interested persons throughout the State are afforded a reasonable opportunity to comment on the proposed policies and procedures.

5. The Division shall review and consider all public comments that might warrant modification of the policies and procedures.

6. The Division shall attach a summary of the comments made during the public meetings or received by the State Board to the proposed final policies or procedures submitted to the State Board.

B. Upon approval, the Division shall distribute to interested parties and shall post the final policies and procedures on the Department's official Internet Website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1578 (August 2000).

§1355. Confidentiality of Records

A. The Division shall comply with all of the requirements of 1517 pertaining to confidentiality of personally identifiable information contained in educational records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1578 (August 2000).

§1356. Notification of Child Identification Effort

A. Notice of the child identification effort regularly undertaken by the Department and LEAs must be published or announced in newspapers or other media with circulation adequate to notify parents throughout the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1578 (August 2000).

§1369. Personnel Standards

A. Personnel of State and local public and private educational agencies, including local agency providers, that deliver special education services (including instructional, appraisal, related, administrative, and support services) to G/T children (three through twenty-one) shall meet appropriate entry level requirements that are based on the highest requirements in Louisiana applicable to the profession or discipline in which the person is providing special education or related services.

1. *The highest requirements in Louisiana applicable to a specific profession or discipline* means the highest entry-level academic degree needed for any State-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the profession or discipline. *Profession or discipline* means a specific occupational category that provides special education or related services to G/T students under these regulations, that has been established or designated by the State, and that has a required scope of responsibility and degree of supervision.

2. *State-approved or State-recognized certification, licensing, registration, or other comparable requirements* means the requirements that a State legislature either has enacted or has authorized a State agency to promulgate through rules to establish the entry-level standards for employment in a specific profession of discipline in the state.

B. The Department requires LEAs providing services to exceptional students to make an ongoing good faith effort to recruit and hire appropriately and adequately trained personnel to provide special education and related services. In geographic areas of the State where there is a shortage of personnel that meet these qualifications, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet established standards may be hired as entry level personnel, consistent with State law, but must attain appropriate certification credentials to meet the requirements in *Bulletin 746: The La. Standards of State Certification for School Personnel*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1578 (August 2000).

§1370. Comprehensive System of Personnel Development

A. The Department shall develop and implement a comprehensive system of personnel development that meets the requirements of a State Improvement Plan designed to ensure an adequate supply of qualified special education, general education, and related services personnel, and early intervention service providers which meets the requirements of §1371 and §1372 below. The needs assessment for personnel development, under this section, will be updated (at least) every five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1579 (August 2000).

§1371. Adequate Supply of Qualified Personnel.

A. The Department will analyze state and local needs for professional development for personnel to serve G/T students: the number of personnel providing special education and related services; relevant information on current and anticipated personnel vacancies and shortages (including the number of individuals with temporary certification); and the training or retraining necessary to eliminate the shortages based, to the maximum extent possible, on existing assessments of personnel needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1579 (August 2000).

§1372. Improvement Strategies

A. The Department will describe the strategies the State will use to address the needs identified. The strategies will include how the State will address the identified needs for in-service and pre-service preparation to ensure that all personnel who work with G/T students (including professional personnel who provide special education, general education, related services, or early intervention services) have the skills and knowledge necessary to meet the needs of G/T students. The plan will include a description of how the Department will accomplish the following:

1. The Department shall prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of G/T students including how the State will work with other states on common certification criteria.
2. The Department shall work with institutions of higher education and other entities that (on both a pre-service and an in-service basis) prepare personnel who work with G/T students to ensure that those institutions and entities develop the capacity to support quality professional development programs that meet State and local needs.
3. The Department shall develop collaborative agreements with other States for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single state to justify support or development of such a program of preparation.
4. The Department shall work in collaboration with other States, particularly the Departments of Education of neighboring states, to address the lack of uniformity and reciprocity in the credentialing of teachers and other personnel.
5. The Department shall acquire and disseminate to teachers, administrators, school board members, and related services personnel, significant knowledge derived from educational research and other sources, concerning how the State will, if appropriate, adopt promising practices, materials, and technology.
6. The Department shall encourage LEAs to recruit, prepare, and retain qualified personnel, including personnel with disabilities and personnel from groups that are under represented in the fields of regular education, special education, and related services.

7. The Department shall develop a plan that is integrated, to the maximum extent possible, with other professional development plans and activities, including plans and activities developed and carried out under other Federal and State laws that address personnel recruitment and training.

8. The Department shall provide for the joint training of parents and special education, related services, and general education personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1579 (August 2000).

#### §1373. Administration of Funds

A. The Division, in concert with other Divisions within the Department, shall ensure the proper receipt and disbursement of all State and Federal funds administered by the Department specifically for the provision of special education and related services for G/T students.

B. Fiscal review and compliance monitoring will be conducted in accordance with the *Compliance Monitoring Procedures Handbook* and in accordance with auditing procedures established by the Department.

C. The monitoring of disproportionality shall be responsibility of the Department.

1. The Division shall collect and analyze data to determine whether significant disproportionality based on race, color, national origin, or gender is occurring in the state with respect to G/T students and in the placement in particular educational settings of these students.

2. If a significant disproportionality is determined, the Division shall provide for the review and, if necessary, revision of its policies, procedures and practices or shall require the affected LEA to revise its policies, procedures and practices to ensure it complies with these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1579 (August 2000).

#### §1374. Nonbias of Testing and Evaluation Materials

A. The Division shall, with the approval of the SBESE, establish procedures as found in §1434 to ensure that testing and evaluation materials used for evaluation and placement are free of racial, cultural, and/or gender bias.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1579 (August 2000).

## Chapter 14. RESPONSIBILITIES OF LOCAL EDUCATIONAL AGENCIES

### §1401. Responsibilities of LEAs

A. Each LEA shall identify, locate, and evaluate each student suspected of being gifted/talented, three through twenty-one years of age, residing within its jurisdiction.

B. Each LEA is responsible for providing or causing to be provided a free appropriate public education to each eligible G/T student, three through twenty-one years of age, who resides within its jurisdiction, except those students enrolled by their parents in a private school program

C. *Free appropriate public education* means special education and related services that are provided at public expense, under public supervision and direction and without charge; that meet SBESE standards, including these Regulations and all applicable bulletins approved by the SBESE (i.e., Bulletin 741, *Bulletin 746*, *Pupil Appraisal Handbook*); that include preschool, elementary school, or secondary school education in the State; and that are provided in conformity with an individualized education program (IEP) that meets the requirements at §1440-1445.

1. Whatever State, local, Federal, and private sources of support are available may be used to provide a free appropriate public education, including the use of joint agreements between agencies for sharing the costs of those services.

2. Consistent with §1440 and §1443 of these Regulations, the LEA shall implement a student's IEP with no delay including any case in which the payment source for providing or paying for special education and related services to the student has yet to be determined.

D. *Jurisdiction* is the right of a LEA to exercise authority over all students residing within its geographic area and over each student placed by the LEA in an educational program within the geographic area of another LEA or in an approved educational program out of the state.

1. For city/parish school systems, the geographic area is the boundary of the school board as defined in the Louisiana Revised Statutes.

2. For SSD#1, the geographic area is the boundary of the State-operated treatment and care residential facilities.

3. For a State Board Special School, the geographic area is the boundary of the educational facility.

4. For a charter school that is considered an LEA, the geographic area is the boundary of the educational facility.

5. If there is a transfer of jurisdiction from one system to another for the provision of a free appropriate public education initiated by an LEA, this action is indicated by using the word *referral*. According to these Regulations, such a referral culminates in the establishment of responsibility for a FAPE for the student by the receiving LEA. All transfers of jurisdiction are considered significant changes in placement.

E. Students who are eligible to receive a free appropriate public education are described below.

1. Free appropriate public education must be available to all G/T students reaching the age of three years.

2. A G/T student shall remain eligible for services until reaching age the of twenty-two unless the student exits the school system with a high school diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1580 (August, 2000).

§1403. G/T Students in Public Charter Schools.

A. G/T students who attend public charter schools and their parents retain all rights under these Regulations.

B. If the public charter school is an LEA that receives funding under the MFP, the Department is responsible for ensuring that the requirements of these regulations are met through assigning initial responsibility for ensuring the requirements of these regulations are met to another entity; however, the Department shall maintain the ultimate responsibility for ensuring compliance with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1580 (August, 2000).

§1411. Child Search (Child Find) Activities

A. Each LEA, in accordance with the requirements of this subpart, shall document that the effort of ongoing identification activities is conducted to identify and locate each student who is under its jurisdiction, who is suspected of being gifted/talented and in need of special education and related services, and who is one of the following:

1. enrolled in an educational program operated by an LEA;
2. enrolled in a private school program;
3. enrolled in a public or private preschool or day care program;
4. is not enrolled in school, except for students who have graduated with a regular high school diploma.

B. On going identification activities apply to highly mobile G/T students (such as migrant and homeless students) and students who are suspected of being G/T and disabled and in need of special education, even though they are advancing from grade to grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1580 (August, 2000).

§1412. Responsibilities of the Child Search Coordinator

A. Each LEA shall designate an individual as a Child Search Coordinator, who shall be held accountable for certain responsibilities prescribed by the SBESE as listed below.

1. The Child Search Coordinator shall ensure that the progress of referrals and evaluation activities required by §1411, §1413-1414, and §1430-1436 for each student suspected of being G/T is tracked and that the collection and use of data to meet these requirements are subject to the confidentiality requirements in §1517 of these regulations.

2. The Child Search Coordinator shall ensure that the parents of each student initially identified as suspected of being gifted/talented and in need of special educational services is provided a copy of all safeguards as defined in §1504 of *Bulletin 1706, Part B*. The parents shall also be afforded an opportunity for an explanation of these rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1581 (August 2000).

§1413. Students in an Educational Program Operated by the LEA

A. A LEA shall identify a student as suspected of being G/T by the School Building Level Committee (SBLC). This committee shall coordinate and document the results, as appropriate, of educational screening, intellectual screening, talented screening, or other types of screening as needed, as defined in the *Pupil Appraisal Handbook*.

B. The SBLC, with the parents as invited participants, shall review all screening results to reach a decision whether to refer the student to pupil appraisal personnel for an individual evaluation. Parents shall be provided a report or summary by the SBLC on the status of the referral intervention at least once each grading period until a decision is reached. If the parents disagree with the SBLC decision, the parents shall be provided a copy of their rights which include a right to a due process hearing.

C. Within ten LEA business days after receipt of the referral by the pupil appraisal office for an individual evaluation, pre-referral activities as listed in the *Pupil Appraisal Handbook* under "Initial Responsibilities" of the Evaluation Coordinator shall be conducted.

D. For an initial evaluation and the re-evaluation, the LEA shall obtain informed parental consent according to §1505 of *Bulletin 1706, Subpart B*. Receipt of parental consent for an individual evaluation by pupil appraisal personnel begins the sixty business days timeline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1581 (August 2000).

§1414. Child Find for Students Enrolled in Private School Programs

A. Students enrolled in private school programs shall be identified according to the procedures noted in §1413 A. and §1462.A. of *Bulletin 1706, Subpart B* and shall be referred to the school system's Child Search Coordinator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1581(August 2000).

§1415. Students Out of School and/or Former G/T Students Residing in the State

A. Students out of school, including students ages three through twenty-two years who are suspected of being G/T who have left a public school without completing their public education by obtaining a State diploma, shall be referred to the school system's Child Search Coordinator, who shall locate and offer enrollment in the appropriate public school program and refer them for an individual evaluation, if needed. Students may be enrolled with the development of an interim IEP based on their individual need, following the enrollment process. If the Louisiana evaluation is current, students may be enrolled with the development of a review IEP within five school days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1581(August 2000).

§1417. Gifted/Talented Students Transferring from one LEA to another LEA within Louisiana

A. Students who have been receiving G/T services in one LEA in Louisiana and who transfer to another LEA within Louisiana shall be enrolled in the appropriate special education program in the new LEA with the current IEP or the development of a review IEP within five school days of the transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1581(August 2000).

§1418. Evaluation and Re-evaluation

A. A full and individual evaluation shall be conducted for each student being considered for Gifted/Talented and related services under these Regulations to determine whether the student is a "G/T student" as defined in these Regulations; and to determine the educational needs of the student. The evaluation shall be conducted following the procedures in the *Pupil Appraisal Handbook*; and, if it is determined the student is a "G/T student," the results of the evaluation shall be used by the student's IEP team.

B. A re-evaluation of each G/T student will be conducted following the procedures in *the Pupil Appraisal Handbook*, and the results of any re-evaluations will be addressed by the student's IEP team in reviewing and, as appropriate, revising the student's IEP.

C. Informed parental consent shall be obtained before conducting an evaluation or a re-evaluation according to prior notice and consent as per §1504 and §1505 of *Bulletin 1706, Subpart B*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1581(August 2000).

#### §1430. Pupil Appraisal Personnel

A. LEAs shall regularly employ pupil appraisal personnel to conduct individual evaluations.

B. LEAs may, when necessary, contract with individuals or organizations to provide specialized assessments needed to provide a comprehensive individual evaluation of an identified student.

C. LEAs may, when necessary, use a combination of the approaches listed herein in §1430 A and §1430B.

D. Regardless of the approach used for conducting individual evaluations, LEAs retain full responsibility. Any failure by an employee or contractor to meet any requirements of this section constitutes a failure by the LEA to comply with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1582 (August 2000).

#### §1431. Required Individual Evaluation

A. An initial evaluation shall be conducted whenever the student is not enrolled in special education and one of the following conditions exists.

1. Informed parental consent for an initial evaluation has been requested and received by the LEA.

2. A direct request for an individual evaluation of an enrolled student from sources other than the SBLC shall be routed through the SBLC for the collection of the required screening information and the conduct of the pre-referral procedures. If the LEA suspects that the student is exceptional, an evaluation shall be conducted. If the LEA disagrees with the referral source and does not suspect that the student is exceptional, it may refuse to conduct an evaluation. When the LEA refuses to initiate an evaluation upon parental request, the parent shall be provided a copy of all procedural safeguards, which include the right to a due process hearing.

3. A final written decision has been issued by a court of competent jurisdiction requiring that an individual evaluation be conducted.
4. A written request for an individual evaluation has been issued by a hearing officer or by the State Level Review panel.
5. The initial or most recent individual evaluation has expired.

B. An individual re-evaluation shall be conducted by the IEP Team and the evaluation coordinator if conditions warrant, but at least every three years whenever the student is enrolled in special education and one of the following occurs:

1. It is requested in writing by the student's teacher or by the local school system's special education supervisor/director.
2. It is requested in writing by the student's parent(s).
3. A final written decision has been issued by a court of competent jurisdiction requiring that an individual re-evaluation be conducted.
4. A student is suspected of no longer being exceptional and no longer in need of services.

C. A LEA is not required to conduct a re-evaluation of G/T students who transfer with a current evaluation into its jurisdiction from another jurisdiction in Louisiana.

D. In the event a parent has privately obtained an independent educational evaluation, the LEA shall consider the individual evaluation in accordance with §1503 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1582 (August 2000).

#### §1433. Evaluation Coordination

A. Upon identification of a student suspected of being exceptional, a qualified pupil appraisal staff member shall be designated as the evaluation coordinator.

B. The evaluation coordinator shall ensure that the evaluation is conducted in accordance with all requirements in the *Pupil Appraisal Handbook* including the following: initial responsibilities following receipt of referral, selection of participating disciplines, procedural responsibilities, and mandated timelines;

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1582 (August 2000).

#### §1434. Evaluation Process and Procedures

A. Individual evaluations shall be conducted according to the "Procedures for Evaluation" for each exceptionality as listed in the *Pupil Appraisal Handbook*.

B. The determination of gifted/talented shall be based upon the "Criteria for Eligibility" established in the *Pupil Appraisal Handbook* before the initial delivery of special education and related services.

C. All evaluations shall be conducted according to the prescribed standards, listed below.

1. Tests and other evaluation materials used to assess a student under these Regulations shall be selected and administered so as not to be discriminatory on a racial or cultural basis, and shall be provided and administered in the student's native language or other mode of communication, unless it is clearly not feasible to do so.

2. Materials and procedures used to assess a student with limited English proficiency shall be selected and administered to ensure that they measure the extent to which the student needs special education, rather than measuring the student's English language skills.

3. A variety of assessment tools and strategies shall be used to gather relevant functional and developmental information about the student, including information provided by the parents, and information related to the student's achievement.

4. Any standardized tests that are given to a student shall have been validated for the specific purpose for which they are used; they shall be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) shall be included in the evaluation report.

5. Tests and other evaluation materials include those tailored to assess specific areas of educational need, not merely those that are designed to provide a single general intelligence quotient. In no event shall IQ scores be reported or recorded in any individual student's evaluation report or cumulative folder.

6. No single procedure shall be used as the sole criterion for determining whether a student is a G/T student and for determining an appropriate educational program for the student.

7. The student shall be assessed in all areas related to the suspected G/T identification.

8. In evaluating each student suspected of being G/T according to established procedures, the evaluation shall be sufficiently comprehensive to identify all of the student's special education and related services needs.

9. Assessment tools and strategies that provide relevant information that directly assist persons in determining the educational needs of the student shall be selected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1583 (August 2000).

#### §1435.Determination of Eligibility and Placement

- A. In interpreting evaluation data for the purpose of determining whether a student is a G/T student and what are the educational needs of the student, the multidisciplinary team shall comply with prescribed procedures.
1. The team shall draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background.
  2. The team shall ensure that information obtained from all of these sources is documented and carefully considered.
- B. Upon completing the administration of tests and other evaluation materials, the multidisciplinary team and the parent of the student shall determine whether the student is a G/T student, as defined in these regulations: and the LEA shall provide a copy of the evaluation report and the documentation of determination of eligibility to the parents.
- C. A student may not be determined to be eligible under these regulations, if
1. the determinant factor for that eligibility determination is limited English proficiency;
  2. the student does not otherwise meet the eligibility criteria.
- D. If a determination is made that a student is gifted/talented and needs special education and related services, an IEP shall be developed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
 HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1583 (August 2000).

§1436. Time lines

- A. There shall be no more than ten business days from the date of receipt of the referral for an individual evaluation of an identified student by pupil appraisal personnel to the date when the request was made for parental approval to conduct the individual evaluation.
- B. Each individual evaluation shall be completed and the evaluation report disseminated within sixty business days of receipt of parental approval.
- C. Extensions of evaluation timelines shall be justified as defined in the *Pupil Appraisal Handbook*.
- D. The required triennial re-evaluation shall be completed on or before the third year anniversary date and shall include the activities noted in the *Pupil Appraisal Handbook*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
 HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1583 (August 2000).

§1437. Determination of Needed Data for Re-evaluations.

- A. In conducting re-evaluations under these regulations, the IEP team and the evaluation coordinator shall comply with prescribed procedures as described below.
1. The team shall review existing evaluation data on the student, including evaluations and information provided by the parents of the student and current classroom-based assessments. (The team may conduct its review without a meeting.)
  2. On the basis of that review and input from the student's parents, the team shall identify what additional data, if any, are needed to determine
    - a. what are the present levels of performance and educational needs of the student
    - b. whether the student continues to need special education and related services;
 and
    - c. whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student.
  3. The team shall determine what tests and other evaluation materials shall be administered, as needed, to produce the data identified in 1437.A.2 above.
  4. The LEA shall notify the student's parents, if the determination under 1437.A.2. above is that no additional data are needed to determine whether the student continues to be a G/T student, not only of that determination and the reasons for it but also of the right of the parents to request an assessment to determine whether, for purposes of services under these Regulations, the student continues to be a G/T student.
  5. The LEA is not required to conduct the assessment described in 1437.A.4. above unless requested to do so by the student's parents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
 HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1583 (August 2000).

§1440. IEP/Placement Responsibilities

- A. General Responsibilities. Each LEA develops and implements an IEP for each G/T student served by that agency as described below.
1. Each LEA is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a G/T student in accordance with all the requirements of this subpart and *Louisiana's G/T IEP Handbook*.
  2. The IEP shall be developed using a format approved by the Department.
  3. The LEA shall provide a copy of each completed IEP/Placement document signed by the officially designated representative of the LEA at no cost to the student's parent(s).
  4. At the beginning of each school year, each LEA shall have in effect an IEP for every G/T student receiving special education and related services in that LEA.
  5. When the student's IEP is in effect, it shall be accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation.
  6. Each teacher and service provider shall be informed of his or her specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports that shall be provided for the student in accordance with the IEP.

7. An IEP that is consistent with FAPE shall be developed and implemented for eligible students by their third birthday.

B. Each LEA shall comply with the prescribed time lines as described below.

1. Each initial IEP/Placement document shall be completed within thirty calendar days from the date of dissemination of the written evaluation report to the special education director/supervisor.

2. Implementation of educational placement shall begin as soon as possible but no later than ten calendar days following receipt by the LEA of formal parental approval.

C. IEP's shall be reviewed and revised following prescribed procedures described below.

1. Each LEA shall ensure that each IEP/Placement review meeting is conducted at least annually.

2. Each LEA shall ensure that the team reviews the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved; and

3. Each LEA shall revise the IEP, as appropriate, to address concerns in any areas noted in 1444.

4. More than one IEP/Placement review meeting may be conducted at the discretion of the school system. If a parent makes a written request for an IEP/Placement review meeting, the school system shall respond in ten calendar days in writing to that request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1583 (August 2000).

#### §1441 IEP Team Participants

A. Each LEA shall ensure that the IEP team for each student with exceptionality includes all of the required participants, as listed below.

1. One or both of the parents of the student.

2. At least one regular education teacher of the student (If the student is, or may be, participating in the regular education environment); the teacher shall to the extent appropriate, participate in the development, review and revision of the student's IEP, including

a. The determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student.

b. When a regular education teacher calls for a reconvening of the individualized education program team for any G/T student assigned to his or her classroom on a full time basis in which the IEP requires an adjustment in the curriculum, instruction or services to be provided by the regular education teacher, this teacher shall participate on the IEP team and shall participate continuously thereafter for as long as the student is assigned to his or her classroom.

3. At least one special education teacher, or when appropriate, at least one special education provider of the student. For review IEP meetings, this participant should be a special education teacher of the student or a service provider of the student.

4. An officially designated representative of the LEA who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of G/T

students. The LEA may designate another LEA member of the IEP team to serve also as the agency representative, if the above criteria are satisfied.

5. An individual who can interpret the instructional implications of evaluation results. This person may be a member of the team as described in 2, 3, 4, and 6.

6. At the discretion of the parent or LEA, other individuals who have knowledge or special expertise regarding the student, including related service personnel as appropriate. The determination of the knowledge or special expertise of any individual shall be made by either the parent or the LEA, whoever invited the individual to be a member of the IEP team.

7. If appropriate the student.

a. The LEA shall invite a G/T student of any age to attend his or her IEP meeting.

b. Beginning at least one year before a student reaches the age of majority under State law, the student's IEP shall include a statement that the student has been informed of his or her rights under these Regulations, if any, that will transfer to the student on her or her reaching the age of majority, consistent with 1518.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1584 (August 2000).

#### §1442. Parent Participation

A. LEAs shall take steps to ensure that one or both of the parents of the G/T student are present at each IEP/Placement meeting or are afforded an opportunity to participate. LEAs shall contact the parent(s) in writing regarding each meeting early enough to ensure that they will have an opportunity to attend and shall schedule the meeting at a mutually agreed upon time and place.

1. This notice shall indicate the purpose, time, and location of the meeting, as well as who shall be in attendance.

2. This notice shall inform the parents of the participation of other individuals on the IEP team who have knowledge or special expertise about the student.

B. If neither parent can attend a scheduled IEP/Placement meeting for which arrangements have been made in accordance with these regulations, other methods shall be used by the LEA to ensure parental participation, including making individual or conference telephone calls.

C. The meeting may be conducted without a parent in attendance provided that certain procedures are followed, as described below.

1. Another method for parental participation is used and documented; or

2. The LEA has documented attempts to arrange a mutually agreed on time and place, such as

a. detailed records of telephone calls made or attempted and the results of those calls;

b. copies of correspondence sent to the parents and any responses received;

c. detailed records of visits to the parents' home or place of employment and the results of those visits.

D. The LEA shall take whatever action is necessary to ensure that the parents understand the proceedings at a meeting, including arranging for an interpreter for parent(s) who are deaf or whose native language is other than English.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1584 (August 2000).

§1443. Parental Approval of IEP/Placement

A. When securing parental approval of the initial IEP/Placement document, the LEA shall follow prescribed procedures.

1. Each LEA shall obtain informed parental consent prior to providing initial special education and related services. The IEP will be considered in effect after the parents indicate formal written approval by signing the IEP/Placement document.

2. If the parents withhold written approval of the educational placement, the LEA special education supervisor shall within ten business days either

a. recommend a modified educational placement to which the parents will provide approval; or

b. indicate to the parents in writing that no placement modification will be made, in which case the student shall be maintained in the present placement or be offered placement in the LEA with approval of the parents until the matter is resolved.

3. The parent(s) may request a hearing in accordance with §1507 of these Regulations in order to resolve any disagreement over the proposed IEP/Placement of the student.

4. If the LEA wishes to override the parental decision to withhold a formal written approval for the initial placement of the student in special education, the LEA may appeal to the appropriate State court within the time prescribed by State Law.

B. In conducting a review IEP/Placement, the IEP team may make decisions without the involvement of the parents, when the LEA is unable to obtain the parents' participation in the decision. In this case, the public agency shall have a record of its attempt to ensure their involvement, including information that is consistent with the requirements of §1442 of *Bulletin 1706, Subpart B*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1584 (August 2000).

§1444. G/T IEP Content and Format

A. Each completed IEP shall contain a general overview of the student's instructional needs. Required components are listed below:

1. the student's strengths and support needs;
2. the concerns of the parents for enhancing the education of their child;

3. the results of the initial evaluation or most recent re-evaluation of the student;
4. as appropriate, the results of the student's performance on any general state or district wide assessment program;
5. the student's present levels of educational performance.

B. The IEP team shall also consider the following special factor and include, if needed, a statement addressing this issue on the IEP.

1. In the case of a student with limited English proficiency, it shall consider the language needs of the student as those needs relate to the student's IEP.

C. The IEP shall contain a statement of measurable annual goals, including benchmarks or short-term objectives, as listed below.

1. The statement shall relate to meeting the student's needs that result from the student's exceptionality and progress in an accelerated and enriched curriculum.
2. The statement shall relate to meeting each of the student's other educational needs that result from the student's exceptionality.
3. The statement shall relate to appropriate activities for the preschool-aged student.

D. The IEP shall contain a statement of the special education and related services and/or supplementary aids and services to be provided to the student, or on behalf of the student and a statement of the program modifications or supports for school personnel that will be provided for the student to achieve the following as listed below:

1. to advance appropriately toward attaining the annual goals;

E. The projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications shall be specified in the IEP.

F. The IEP shall contain a statement of how the student's progress toward the annual goals will be measured.

G. The IEP shall contain a statement of how the student's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their regular education student's progress:

- a. their child's progress toward the annual goals; and
- b. the extent to which the progress is sufficient to enable the student to achieve goals by the end of the year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1585 (August 2000).

#### §1445. IEP Accountability

A. The LEA shall provide special education and related services to a G/T student in accordance with the student's IEP.

B. The LEA shall make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed in the IEP.

C. No state agency, teacher, or other person be held accountable if a student does not achieve the growth projected in the annual goals and objectives or benchmarks. The State or public agency may establish its own accountability systems regarding teacher, school or agency performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1585 (August 2000).

#### §1446. Least Restrictive Environment of a G/T Student

A. For each educational placement of a G/T student, including a preschool student, the LEA shall ensure that prescribed placement procedures are implemented.

1. Placement shall be determined at least annually by a group of persons (including the parents and other persons knowledgeable about the student, the meaning of the evaluation data, and the placement options).

2. Placement must be based on an IEP/Placement document.

3. A continuum of alternative educational placements shall be available to the extent necessary to implement the IEP/Placement document for each G/T student. At a minimum, this continuum shall include (in order of restrictiveness as it applies to each student) the following:

a. instruction in regular classes (provisions shall be made for supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with regular class placement), including

b. resource room,

c. self contained,

d. pre-school,

3. Nonacademic and extracurricular services and activities shall be provided in the manner necessary to afford G/T students an equal opportunity for participation in those services and activities; these services may include counseling services, recreational activities, athletics, transportation, health services, special interest groups or clubs sponsored by the LEA.

B. Each completed IEP shall contain the prescribed placement components:

1. The IEP shall identify the specific educational environment for the G/T student.

2. The four assurances listed below shall be provided when site determination decisions are made by the LEA.

a. The placement shall be in the school which the student would attend if not G/T unless the IEP of the student requires some other arrangement. If the placement is not in the school the student would normally attend, the placement shall be as close as possible to the student's home.

b. The school and the class shall be chronologically age appropriate for the student. No student shall be placed in a setting that violates the maximal pupil/teacher ratio or the three-year chronological age span.

c. The school/setting selected shall be accessible to the student for all school activities.

d. If the placement is other than regular/general education, the classroom shall be comparable to and integrated with regular classes.

e. Any deviation from the four assurances above shall be documented and justified on the IEP. In selecting an alternative placement, the LEA shall consider any potential harmful effect on the G/T student or on the quality of services needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 261585 (August 2000).

#### §1448. Change of Educational Placement

A. During each IEP review or revision, the educational placement of the G/T student may be changed, the student's moving from one setting to another will not require a re-evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1586 (August 2000).

#### §1449. IEP Declassification Placement

A. When a re-evaluation indicates that a G/T student currently enrolled in special education no longer meets all the criteria in the *Pupil Appraisal Handbook* for classification as a G/T student, the LEA shall either

1. Place the student in regular education if the student is eligible for regular education;

2. Recommend that the student be placed in an appropriate alternative placement for up to a one-year period of special education programming; the declassification program shall be provided in accordance with an IEP/Placement document and shall include a regular education membership using resource or itinerant services, if needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1586 (August 2000).

#### §1462. G/T Students Enrolled by their Parents in Private Schools

A. As used in this section, *private school students* means students enrolled by their parents in private school or facilities.

B. Private school G/T students shall be identified, located, and evaluated through prescribed procedures.

1. Each LEA shall locate, identify, and evaluate all private school G/T students, including religious-school students residing in the jurisdiction of the LEA. The activities

undertaken to carry out this responsibility for private school G/T students shall be comparable to activities undertaken for G/T students in public schools.

2. Each LEA shall consult with appropriate representatives of private school G/T students on how to carry out the activities in paragraph §1462.B.1. above.

C. The provision of services to G/T students shall follow basic requirements.

1. No LEA is required to provide services for G/T students enrolled in private schools or in home school programs.

D. Complaints are limited to the conditions listed below.

1. The due process procedures in §1507 of these regulations apply to complaints that an LEA has failed to meet the child find requirements, including the procedures for evaluation and determination of eligibility found at §1411 - 1438. of these regulations.

2. Complaints that an LEA has failed to meet the requirements of §1462 of these regulations may be filed under the procedure in §1506.A. of *Bulletin 1706, Subpart B*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1586 (August 2000).

#### §1465. Facility Comparability

A. Facilities identified as being for G/T students and the services and activities provided therein shall meet the same standards and level of quality as do the facilities, services, and activities provided to other students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1586 (August 2000).

#### §1470. Local Advisory Panel

A. A local advisory panel for the education of G/T students may be appointed by each LEA for the purpose of providing policy guidance with respect to special education and related services for G/T students in their school district, with the approval of its governing authority. Membership of the panel should appropriately represent the populations served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1586 (August 2000).

#### §1481. Appointment of a Supervisor/Director of Special Education

A. Each LEA shall employ a certified supervisor/director of special education on a full- or part-time basis.

B. Each LEA shall designate a contact person for G/T issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1586 (August 2000).

§1482. Personnel Standards

A. Personnel of local public and private educational agencies, including other local agency providers to G/T students (three through age twenty-one), shall meet appropriate entry level requirements that are based on the highest requirements in Louisiana applicable to the profession or discipline in which a person is providing special education or related services. (See §1369 in *Bulletin 1706, Subpart B* for more details.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1586 (August 2000).

§1483. Comprehensive System of Personnel Development

A. LEAs shall have on file with the Department information to demonstrate that all personnel necessary to carry out these regulations within the jurisdiction of the agency are appropriately and adequately prepared, as consistent with the requirements of §1482 above

B. To the extent the LEA determines appropriate, it shall contribute to and use the comprehensive system of personnel development of the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1587 (August 2000).

§1486. Procedure for Determination of Eligibility for State or Federal Funds

A. Each LEA requesting State or Federal funds administered by the Department shall do so according to the procedures established by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1587 (August 2000).

§1495. Interagency Coordination

A. Each LEA shall, upon request, assist the Department in the development and implementation of any interagency agreements designed to improve the delivery of special education and related services to G/T students.

B. Each LEA shall enter into interagency agreements in §1830 to the extent necessary to comply with all provisions of these regulations.

C. Each agreement shall be consistent with §1800 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1587 (August 2000).

## **Chapter 15. PROCEDURAL SAFEGUARDS**

### **§1501. General Responsibility**

A. Each Local Educational Agency (LEA) shall establish and implement procedural safeguards that meet the requirements of these Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1587 (August 2000).

### **§1502. Opportunity to Examine Records and Parental Participation in Meetings**

A. Parents of a G/T student shall be afforded an opportunity to inspect and review all educational records with respect to the identification, evaluation and educational placement of the student and with respect to the provision of a FAPE to the student.

B. Parents of a G/T student shall be afforded an opportunity to participate in meetings with respect to the identification, evaluation and educational placement of the student and the provision of a free appropriate public education to the student.

1. Each LEA shall provide notice consistent with §1504 of these regulations to ensure that parents of a G/T student have the opportunity to participate in meetings described in paragraph §1502.B. above.

2. A meeting does not include informal or unscheduled conversations involving LEA personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision, if those issues are not addressed in the student's IEP. A meeting also does not include preparatory activities in which public agency personnel engage to develop a proposal or response to parents' proposal that will be discussed at a later meeting.

3. Each LEA shall ensure that the parents of each G/T student are members of any group that makes decisions on the educational placement of their child. (See §1442 of these regulations)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1587 (August 2000).

### **§1503. Independent Educational Evaluation**

A. The parents of a G/T student have a right to obtain an independent educational evaluation of the student subject to this section. The LEA shall provide to the parent, upon request for an IEE, information about where an independent educational evaluation may be obtained and the criteria by which it shall be conducted.

1. *Independent educational evaluation (IEE)* means an evaluation conducted by a qualified examiner who is not employed by the school system responsible for the education of the student in question.

2. *Public expense* means that the school system either shall pay for the full cost of the evaluation or shall ensure that the evaluation is otherwise provided at no cost to the parent.

3. To avoid unreasonable charges for Independent Educational Evaluations (IEEs), an LEA may establish maximum allowable charges for specific tests. The maximum shall be established so that it allows parents to choose among the qualified professionals in the area and eliminates only unreasonably excessive fees. The LEA shall allow parents the opportunity to demonstrate unique circumstances to justify an IEE that falls outside the district's criteria.

4. The LEA shall allow parents the opportunity to demonstrate unique circumstances to justify an IEE that falls outside the district's allowable charges.

B. An IEE is provided at public expense to the parents, if

1. the parent disagrees with an evaluation provided by the LEA, or
2. a hearing officer requests an IEE as part of a due process hearing.

C. When an LEA is notified in writing by the parents that the parents disagree with the LEA's educational evaluation, the LEA has ten business days following the receipt of the notice to initiate a due process hearing to show that its evaluation is appropriate. If the LEA does not initiate a due process hearing within the ten business days, the IEE shall be at public expense.

1. The request for an IEE may be presented orally if the parents are illiterate in English or have a disability that prevents the production of a written statement.

2. If, in a due process hearing, the hearing officer finds that the LEA's evaluation is appropriate, the parents still have the right to an independent evaluation, but not at public expense.

3. If the parents request an IEE, the LEA may ask for the parents' reasons why they object to the public evaluation. However, the explanation by the parents may not be required and the LEA may not unreasonably delay either providing the IEE at public expense or initiating a due process hearing to defend the public evaluation.

D. An IEE obtained at public expense shall meet the same criteria established by these Regulations and the *Pupil Appraisal Handbook*. The LEA may not impose conditions on obtaining an IEE, other than the criteria contained in the *Pupil Appraisal Handbook*.

E. If the parents obtain an IEE at private expense and the IEE meets the criteria in the *Pupil Appraisal Handbook*, the results of the evaluation shall be considered by the LEA; any decision made with respect to the provision of a free appropriate public education to the student may be presented as evidence at a hearing as described in §1507 of these regulations regarding the student.

F. The LEA is not required to use the IEE obtained at private expense as its only criteria for deciding the content of the student's special education program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1587 (August 2000).

§1504. Prior Notice and Procedural Safeguard Notice

- A. Written notice shall be given to the parents of a G/T student a reasonable time before the LEA
1. proposes to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student; or
  2. refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student.
- B. The prior notice shall include prescribed information as listed below:
1. a description of the action proposed (or refused) by the school, an explanation of why the LEA proposes or refuses to take the action, and a description of any other options the LEA considered with the reasons why those options were rejected;
  2. a description of each evaluation procedure, test, record or report the LEA used as a basis for the proposed or refused action;
  3. a description of any other factors that are relevant to the LEA's proposal or refusal;
  4. a statement assuring that the parents of a G/T student have protections under the procedural safeguards; and
  5. sources for parents to contact to obtain assistance in understanding the provisions of the procedural safeguards.
- C. The notice shall be written in language understandable to the general public and provided in the native language of the parents or other mode of communication used by the parents, unless it is clearly not feasible to do so; and
1. if the native language or other mode of communication of the parents is not a written language, the Department and the LEA shall take steps to ensure that
    - a. the notice is translated orally or by other means to the parents in their native language or other mode of communication;
    - b. the parents understand the content of the notice;
    - c. the LEA shall maintain written evidence that the requirements of paragraph C. of this section have been met.
- D. Notices scheduling Individualized Education Program (IEP) Team meetings shall contain not only a description of the purpose, date, time, location of the meeting, but also a list of who will be in attendance.
- E. If the notice relates to an action proposed by the LEA and requires parental consent under §1505 of these regulations, the LEA may give notice at the same time it requests parental consent.
- F. Requirements for procedural safeguards notice are noted below.
1. A copy of the procedural safeguards shall be given to the parents of a G/T student, at a minimum

- a. upon the initial referral of the student for evaluation,
- b. upon each notification of an IEP meeting,
- c. upon re-evaluation of the student, and
- d. upon receipt of a request for a due process hearing.

2. The procedural safeguards notice shall include a full explanation of all procedural safeguards available including the State's complaint procedures available in §1506 of these regulations.

3. The procedural safeguards notice shall meet the requirements of §1504.C. of this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1588 (August 2000).

### §1505. Parental Consent

A. Parental consent shall be obtained before the LEA conducts an initial evaluation or re-evaluation and before the LEA provides initial special education and related services to a G/T student.

B. Consent for the initial evaluation may not be construed as consent for initial placement as described in §1505A.2. above.

C. If re-evaluation involves initial criteria for any exceptionality, then written parental consent shall be obtained.

D. Parental consent is not required before the LEA reviews existing data as part of an evaluation or re-evaluation or before the LEA administers a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.

E. Whenever parental consent has been withheld, the LEA shall follow procedures to ensure a FAPE for the student.

1. If the parents' decision is to withhold consent for the initial evaluation or initial placement of the student in G/T services, the LEA may appeal. If the parents withhold consent for a re-evaluation, the LEA may request a due process hearing following the procedures outlined in §1507 of these regulations.

2. The parents may refuse special education services.

3. An LEA may not use a parents' refusal to consent to one service or activity to deny the parents or student any other service, benefit, or activity of the LEA except as required by these regulations

E. Informed parental consent need not be obtained for re-evaluation if the LEA can demonstrate-through detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parents and any responses received,

detailed records of visits made to the parent's home or place of employment, and the results of those visits-that it has taken reasonable measures to obtain that consent and the student's parent has failed to respond.

F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1588 (August 2000).

§1506. Complaint Management and Mediation

A. Complaint management procedures have been established to resolve disputes regarding educational decisions between an LEA and parents.

1. Any individual or organization acting on behalf of a G/T student shall have a right to file a complaint when it is believed that there exists a violation of State law regarding the educational rights of a G/T student.

2. Complaints may be filed in writing, by telephone or in person. The complaint shall involve a violation that occurred not more than one year prior to the date of filing unless a longer period is reasonable because the violation is continuing, or because the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the complaint was received under this Section.

3. Upon receipt, the complaint shall be reviewed; the LEA shall be notified in writing and asked to provide specific information regarding the complaint.

4. The complainant shall be given the opportunity to provide additional oral or written information during the course of the investigation.

5. All information relevant to the complaint shall be reviewed by the Department and a decision shall be made as to whether an on- site visit is needed. A determination shall be made as to whether the LEA is violating any requirements of applicable Federal or State statutes, regulations, or standards.

6. Within sixty days of the receipt of the complaint, the Department shall issue a letter of findings to the complainant and to the LEA on each of the allegations of the complaint and on the reasons for the Department's decision.

7. The Department shall ensure effective implementation of the final decision through technical assistance, negotiations and corrective actions that achieve compliance. In resolving a complaint in which it has found a failure to provide appropriate services, the Department shall address how to remediate the denial of those services, including, as appropriate, not only the awarding of monetary reimbursement or other corrective action appropriate, to the needs of the student; but also appropriate future provision of services for all G/T students.

8. The Department shall allow for extensions of the sixty (60) day time lines only if exceptional circumstances exist.

9. If a complaint received is the subject of a due process hearing or if it contains multiple issues, of which one or more is part of the hearing, the Department shall set aside any part of the complaint that is being addressed in the hearing until the conclusion of the hearing. Any issue of the complaint that is not a part of a hearing action shall be resolved, using the time limit and procedures above.

10 If an issue is raised in a complaint that has previously been decided in a due process hearing involving the same parties, the hearing decision is binding and the Department shall inform the complainant to that effect.

11. A complaint alleging a LEA's failure to implement a due process decision shall be resolved by the Department.

B. Mediation process procedures shall be available to parents and to the LEA personnel to allow them to resolve disputes involving any matter described in §1504.A 1. At a minimum, mediation shall be offered whenever a due process hearing is requested under §1507 and §1519. I. and, §1519 L. of these regulations.

1. Mediation, which is voluntary on the part of both parties, shall be conducted by a qualified and impartial mediator trained in effective mediation techniques and assigned by the Department.

2. Mediation shall not be used to deny or delay a parent's right to a due process hearing or to deny any other rights.

3. The Department shall maintain a list of individuals who are qualified mediators knowledgeable in laws and regulations relating to the provision of special education and related services.

4. The impartial mediator may not be an employee of any LEA or State agency that is providing direct services to the student. The mediator shall not have a personal or professional conflict of interest. A person who otherwise qualifies as a mediator shall not be an employee of a LEA solely because he or she is paid by the agency to serve as a mediator.

5. The Department shall bear the cost of the mediation process.

6. The mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

7. An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

8. Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1589 (August 2000).

#### §1507. Impartial Due Process Hearing

A. A parent or LEA may initiate a hearing on any of the matters described in §1504 A. 1 and 2. of these regulations. A parent initiates a hearing by sending written notice to the LEA. The LEA initiates a hearing by sending a written notice to the parents and the Department. When a hearing has been initiated, the LEA shall inform the parents of the availability of mediation.

1. The written notice to the LEA for a due process hearing shall include the student's name and address, the name of the school the student is attending, a description of the nature of

the problem, and a proposed resolution of the problem to the extent known and available to the person requesting the hearing.

2. The request for a due process hearing may be presented orally if the parents are illiterate in English or have a disability that prevents the production of a written statement.

3. A LEA may not deny or delay the parents' right to a due process hearing for failure to provide the required notice described above.

B. Any party to a hearing has the rights as described below.

1. The hearing shall be conducted at a time and place convenient to the parents, the student and the school system.

2. Any party to the hearing shall have the right to be accompanied and advised by counsel or by individuals with special knowledge or training with respect to the problems of exceptional students.

3. Any party to the hearing shall have the right not only to present evidence but also to confront, cross-examine, and compel the attendance of witnesses.

4. Any party to the hearing shall have the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;

5. At least five business days prior to a hearing, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluation that the party intends to use at the hearing.

6. The hearing officer may bar any party that fails to comply with the above requirement from introducing the relevant evaluation or recommendations at the hearing without the consent of the other party.

7. Any party to the hearing shall have the right to obtain a written or electronic, at the option of the parents, verbatim record of the hearing at no cost.

8. Any party to the hearing shall have a right to obtain written, or, at the option of the parent, electronic findings of fact and decisions at no cost.

C. A parent involved in a hearing shall have the right to

1. have the student who is the subject of the hearing present;

2. open the hearing to the public;

3. be informed, upon request, of any free or low-cost legal and other relevant services when either the parents or LEA initiates a due process hearing; and

4. be informed that, if the parent prevails in a due process hearing, the parents may be able to recover attorney fees.

D. The Department, after deleting any personally identifiable information, and shall upon request, make those findings and decisions available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1590 (August 2000).

§1508. Hearing Officer Appointment and Hearing Procedures

- A. The hearing officer appointed shall be in compliance with requirements stipulated below.
1. A hearing officer shall be an impartial person knowledgeable about the legal and educational issues involved in assessing compliance with these Regulations.
    - a. A hearing officer may not be an employee of a public agency that is involved in the education or care of the student. A person who otherwise qualifies to conduct a hearing under this section is not an employee of the public agency solely because he or she is paid by the agency to serve as a hearing officer.
    - b. No person who has a personal or professional interest that would conflict with his or her objectivity may be appointed to serve as a hearing officer.
  2. The Department and each LEA shall maintain the list of qualified hearing officers. The list shall include a statement of the qualifications of each of the hearing officers and, to the extent possible, shall include representation from all regions of the state. The Department shall ensure that these hearing officers have successfully completed an inservice training program approved by the Department. Additional inservice training shall be provided whenever warranted by changes in applicable legal standards or educational practices.
  3. Appointments, which shall be for a period of three years, may be renewed. The Department shall annually review the activities of persons on the list and shall remove persons from the list if they leave the state, decline to participate actively in the hearing process, cease to be impartial, or do not carry out their responsibilities in a satisfactory fashion.
- B. Hearing Procedures shall include the designating of a hearing officer as stipulated below.
1. The local special education administrator shall notify the Department of the need to assign a hearing officer within one day of receipt of a request for a hearing.
  2. The hearing officer will be assigned within five days by the Department on a rotational basis from the Department's list of certified hearing officers. Consideration will be given to the location of the hearing when making the assignment.
  3. After a hearing officer has been assigned, the Department shall provide both the complainant and local special education supervisor a written notice of the name of the hearing officer. The written notice shall be delivered by certified mail.
  4. If the parent or LEA has reasonable doubt regarding the impartiality of a hearing officer, written information shall be submitted to the Department within three days of receipt of the notice of the assigned hearing officer.
  5. The Department shall review any written challenge and provide a written decision and notice to the parent and LEA within three days after receipt of the written challenge.
  6. If the Department determines that doubt exists as to whether the proposed hearing officer is truly impartial, another hearing officer shall be immediately assigned.
- C. Procedures for conducting a hearing are stipulated below.
1. The hearing officer shall contact all parties to schedule the hearing and then shall notify in writing all parties and the Department of the date, time and place of the hearing.
  2. The hearing shall be conducted in accordance with guidelines developed by the Department.
  3. At the request of either party, the hearing officer shall have the authority to subpoena persons to appear at the hearing.

4. A final hearing decision shall be reached and a copy of the decision mailed to each party not later than forty-five (45) days after the receipt of the request for the hearing.

5. A hearing officer may grant specific extensions of time beyond the prescribed time requirements at the request of either party. When an extension is granted, the hearing officer shall, on the day the decision is made to grant the extension, notify all parties and the Department in writing, stating the date, time, and location of the rescheduled hearing.

6. A decision made by the hearing officer shall be final unless an appeal is made by either party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1591 (August 2000).

§1509. Appeal of the Hearing Decision

A. Any party aggrieved by the findings and decisions of the hearing may appeal the hearing decision.

B. A written request to review the hearing decisions shall be sent by certified mail to the Department within fifteen days of receipt of the hearing decision. The request shall state the basis upon which the review is requested.

C. The Department shall notify all parties of the request and activate the State Level Review Panel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1591 (August 2000).

§1510. The State Level Review Panel

A. A state level review panel shall be composed of three hearing officers trained by the Department in special education law and due process procedures.

B. State Level Review Panel Members may not be employees of the State agency or of the LEA responsible for the education or care of the student. They shall not have participated in the due process hearing being appealed or have a personal or professional interest that would conflict with their objectivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1591 (August 2000).

§1511. Appeal to the State Level Review Panel

A. In conducting the appeal, the panel shall issue a decision within thirty (30) days from receipt of the request for an appeal.

1. The panel shall examine the entire hearing record.
2. The panel shall ensure that procedures were consistent with the requirements of due process.

3. The panel shall seek additional evidence if necessary. If a hearing is held to receive additional evidence, the hearing rights stated in §1507 A. and B. of *Bulletin 1706, Subpart B*.

4. The panel shall afford all parties an opportunity for oral or written argument, or both, at the discretion of the reviewing panel. Any written argument(s) shall be submitted to all parties.

5. The panel shall make a final decision upon completion of the review.

B. In conducting the appeal, the panel shall provide copies of its written findings and the decision to all parties

C. The Department, after deleting any personally identifiable information, shall annually make those findings and decisions available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1591 (August 2000).

#### §1512. Appeal to State or Federal Court

A. Any party aggrieved by the decision and the finding of the State Level Review Panel has the right to bring a civil action in State or Federal court. The civil action shall be filed in State court within thirty (30) days of the decision. This timeline does not apply to Federal court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1591 (August 2000).

#### §1514. Student Status during Proceedings

A. During the pendency of any administrative or judicial proceeding regarding due process, the student involved shall remain in the current educational placement unless the parent and the LEA agree otherwise.

B. If the hearing involves an application for initial admission to a public school, the student with the consent of the parents, shall be placed in the public school program of the LEA until the completion of all the proceedings.

C. If the decision of a State Level Review Panel, as described in §1510 of these regulations in an administrative appeal agrees with the parent that a change of placement is appropriate, that

placement shall be treated as an agreement between the State or the LEA and the parents for the purposes of §1514.A of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1591 (August 2000).

#### §1515. Costs

A. LEAs shall be responsible for paying administrative costs or reasonable expenses related to participation of LEA personnel in a hearing or appeal. The expenses of the hearing officer, the review panel, and stenographic services shall be paid by the Department in accordance with its policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:

#### §1516. Surrogate Parents

A. An LEA shall ensure that the rights of a student are protected if no parent (as defined in §1904) can be identified; if the LEA, after reasonable efforts, cannot discover the whereabouts of a parent; or if the student is a ward of the State (including a ward of the court or of a State agency).

B. A surrogate parent may represent the student in all matters relating to the identification, evaluation, and educational placement of the student and the provision of a free appropriate public education

C. A method for determining whether a student needs a surrogate parent and for assigning a surrogate parent shall be developed and implemented by each LEA.

1. A person assigned as a surrogate parent has no interest that conflicts with the interests of the student and; he/she is not an employee of the Department, the LEA, or any agency involved in the education or care of the student.

2. The person assigned shall have knowledge and skills that ensure adequate representation of the student.

D. An LEA may select as a surrogate parent a person who is an employee of a private agency that only provides only noneducational care for the student and who meets the standards in §1515 C of *Bulletin 1706, Subpart B*.

E. Payment of fees for service as a surrogate parent does not, in and of itself, render a person an employee of the LEA.

F. Any person appointed as a surrogate parent is protected by the "limited liability" of L.R.S. 17:1958.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1592 (August 2000).

§1517. Confidentiality of Information

A. The Department shall have established policies and procedures for the implementation of the confidentiality requirements the Family Educational Rights and Privacy Act (FERPA) of 1974.

B. The Department shall have given adequate notice to inform parents fully about the requirements under identification, location, a evaluation of exceptional students.

1. The notice shall provide a description of the extent to which the notice is given in the native languages of the various population groups in the State.

2. The notice shall provide a description of the students on whom personally identifiable information is maintained, the types of information sought, the method the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information.

3. The notice shall provide a summary of the policies and procedures that participating agencies shall follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information.

4. The notice shall provide a description of all of the rights of parents and students regarding this information, including the rights under the FERPA.

5. Before any major identification, location, or evaluation activity, the notice shall be published or announced in newspapers, or media, or both, with circulation adequate to notify parents throughout the state of the activity.

C. In ensuring access rights, each LEA shall permit parents to inspect and review any educational records relating to their child which are collected, maintained or used by the LEA under these regulations. The LEA shall comply with the request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the student, and in no case shall the time exceed forty-five (45) days after the request is made. The LEA shall not destroy any educational records if there is an outstanding request to inspect and review the records.

1. The right to inspect and review any educational records includes the following:  
a. the right to a response from the LEA to reasonable requests for explanations and interpretations of the records,

b. the right to request that the LEA provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records, and

c. the right to have a representative of the parent inspect and review the records when written permission by the parent is presented.

4. Any LEA may presume that parents have the authority to inspect and review records relating to his or her child unless the LEA has been advised that the parents do not have

the authority under applicable State law governing such matters as guardianship, separation, and divorce.

D. In ensuring record of access, each LEA shall keep a record of parties attaining access to education records collected, maintained or used under these regulations (except access by parents or authorized parties of the LEA), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the record.

E. When any educational record includes information on more than one student, the parents of those students shall have a right to inspect and review only the information relating to their child or to be informed of that specific information.

F. Each LEA shall provide parents, on request, a list of the types and locations of education records collected, maintained or used by the LEA.

G. Each LEA may charge a fee for copies of records that are made for parents under these regulations if the fee does not effectively prevent the parents from exercising their right to inspect and review those records; but an LEA may not charge a fee to search or retrieve information under these regulations.

H. Amendments of records at parents' request shall follow prescribed guidelines.

1. The parents shall have a right to have the child's records amended when the parent believes that the information contained in the records is inaccurate, misleading, or otherwise in violation of the privacy or other rights.

2. After the receipt of a request by a parent of a G/T student to amend the student's record, the LEA shall decide within a reasonable time whether to amend the student's record.

3. If the LEA refuses to amend the records as requested by the parent, the LEA shall inform the parents of the right to request a hearing as stated below.

I. The LEA shall, on request, provide an opportunity for a hearing to challenge information in educational records to ensure that they are not inaccurate, misleading, or otherwise in violation of the parents' and child's privacy or other rights of the students.

1. A hearing under these regulations shall be conducted according to the procedures under the Family Educational Rights and Privacy Act (FERPA).

J. Results of a hearing regarding records have the following stipulations.

1. If, as a result of a hearing, the LEA decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and so inform the parents in writing.

2. If, as a result of a hearing, the LEA decides that the information is not inaccurate, misleading, or otherwise in violation of privacy or other rights, the parents shall be afforded a right to place in the record comments they may have concerning the records or comments setting forth any reasons for disagreeing with the decision of the agency.

3. Any explanations placed in the record shall be maintained by the LEA as part of the records of the student as long as the record portion is maintained by the LEA; and if the records of the student or the contested portion are disclosed by the LEA to any party, the explanation shall also be disclosed to the party.

K. Parental consent shall be obtained before personally identifiable information is disclosed to anyone other than officials of the LEA collecting or using the information under these regulations subject to K. 2 below of this section, or used for any purpose other than meeting a requirement of these Regulations.

1. A LEA or institution subject to the FERPA may not release information from education records to another LEA without parental consent unless authorized to do so under FERPA.

2. If parents refuse to provide consent under this Section, the requesting agency may file a written complaint. Such a complaint shall be investigated by the Division according to adopted procedures for complaint management.

L. Each LEA shall protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.

1. One official at each LEA shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

2. Any persons collecting or using personally identifiable information shall receive training or instruction regarding the State's policies and procedures.

3. Each LEA shall maintain for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

M. The LEA shall inform parents when personally identifiable information collected, maintained or used is no longer needed to provide educational services to the student.

1. The information shall be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance records, classes attended, grade level completed, and year completed may be maintained without time limitation.

N. All rights of privacy afforded to parents are afforded to G/T students.

1. Under the regulations for the Family Educational Rights and Privacy Act of 1974, the rights of parents regarding education records are transferred to the student at age eighteen.

2. If the rights accorded to parents are transferred to a student who reaches the age of majority,

5. the rights regarding educational records shall also be transferred to the student. However, the LEA shall provide any notice required, to the student and the parent.

O. *The Compliance Monitoring Procedures* includes the policies, procedures and sanctions that the State uses to ensure that the requirements of these Regulations are met.

P. Discipline procedures for G/T students are the same as for regular education students if no other *Pupil Appraisal Handbook* exceptionality is identified.

1. Discipline information remains with the regular education records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1592 (August 2000).

§1518. Transfer of Parental Rights at The Age of Majority

A. When a G/T student reaches the age of majority (eighteen years of age), which applies to all students, he or she shall be afforded those rights guaranteed at such age.

1. The LEA shall provide any notice required by these regulations to both the individual and the parent; and all rights accorded to parents under these regulations transfer to the student.

2. All rights accorded to parents under these Regulations shall transfer to students who are incarcerated in an adult or juvenile, State or local correctional institutions.

3. Whenever rights transfer under these Regulations pursuant to paragraph §1518A , 1 and 2 of Bulletin 1706, Subpart B, the LEA shall notify the individual and the parent of the transfer of rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1593 (August 2000).

## **CHAPTER 16. ESTABLISHMENT AND OPERATION OF SPECIAL SCHOOL DISTRICT**

### §1630. General Responsibilities

A. Whenever a student enters the jurisdiction of the SSD consistent with the requirements of these regulations, SSD shall be responsible for either providing or causing to be provided all needed educational services to each student in full compliance with provisions of Chapter 14 of these regulations, and/or as stipulated in SDE *Bulletin 741*, as listed below.

1. The necessary certified personnel to ensure the conduct of an Individual Evaluation for each student within its jurisdiction in accordance with all requirements of §1430-1436 of these Regulations
2. The development and implementation of an IEP for each G/T student in accordance with §1440-1446 of these regulations
3. Adequate administrative and instructional personnel to implement each student's educational plan
4. Adequate personnel to establish and maintain the appropriate relationships with each affected LEA to provide for a smooth transition of educational services for each student leaving SSD
5. The transmission of all educational records of a student leaving SSD to the LEA in which the student will be enrolled or seeking to be enrolled
6. The adherence to all procedural safeguards of Chapter 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1593 (August 2000).

### §1693. Procedural Safeguards

Students and parents of G/T students enrolled in SSD shall be provided the procedural safeguards in accordance with Chapter 15 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1594 (August 2000).

### §1695 Monitoring and Compliant Management

A. Special School District shall develop an internal monitoring and compliant management system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1594 (August 2000).

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## **Chapter 17. RESPONSIBILITIES OF STATE BOARD SPECIAL SCHOOLS**

### §1705. General Responsibilities

A. Whenever a G/T student enters a State Board Special School in compliance with §1401 D. 6. of these regulations, provision for a FAPE will be the responsibility of the LEA with jurisdiction .

B. State Board Special Schools shall, upon admitting a G/T student, assume the responsibility for providing the student a free appropriate public education in full compliance with all provisions of Chapter 14 of these regulations, including those related to child search, evaluation, IEP development and implementation, and placement; the provision of special education and related services; adherence to procedural safeguards; and certification of staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1594 (August 2000).

### §1707. Enrollment (Admission and Release)

A. Eligible students with exceptionalities shall be admitted to State Board Special Schools according to admission procedures established by the State Board Special School, approved by the State Board.

B. G/T students admitted to State Board Special Schools shall be released from enrollment according to procedures established by the State Board Special School, approved by the State Board, and in compliance with these regulations.

1. G/T students currently enrolled in State Board Special Schools shall not be referred to a city/parish LEA without a review of the current IEP/Placement (in compliance with §1440 ) being conducted by the State Board Special School and an LEA representative. Notification of placement change consideration shall be made in writing to the LEAs before the IEP committee meeting.

2. Prior to the release of any student placed in a State Board Special School through out- of- district placement procedures, the Division shall review and approve each release.

C. State Board Special Schools may enter into interagency agreements with Special School Districts for cooperative supportive efforts in the provision of services, such as child search, evaluation and coordination.

D. Admission to a State Board Special School does not necessarily mean that all educational services described in the IEP of the student shall be provided within such facility. Wherever appropriate, consistent with the rules for a least restrictive environment in §446, students admitted to State Board Special School programs shall participate in educational programs operated by city/parish school systems serving the geographic attendance area in which the facility is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1594 (August 2000).

§1709. Child Search Activities

A. State Board Special Schools shall cooperate with each LEA in which the parents of a G/T student enrolled in the State Board Special School are domiciled to permit the LEA to carry out its ongoing responsibility with respect to child search when a student is in a State Board Special School.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1594 (August 2000).

§1712. Individual Evaluation

A. Individual evaluations in State Board Special Schools shall be conducted in compliance with all requirements of  1430-1436 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1594 (August 2000).

§1713. IEP/Placement

A. IEP/Placement of students enrolled in a State Board Special School shall be reviewed or revised and implemented in accordance with  1440-1459 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1594 (August 2000).

§1714. Procedural Safeguards

A. G/T students and parents of G/T students enrolled in a State Board Special School shall be afforded all the procedural safeguards provided by Chapter 15 of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1594 (August 2000).

## Chapter 18. INTERAGENCY AGREEMENTS

### §1801. General Statement

A. Under R.S. 17 : 1941-1958 et seq., the SBESE has authorized the Department, Division of Special Populations under R.S. 17:1941-1958 et seq., to enter into any agreement developed with another public or private agency, or agencies, whenever such an agreement is consistent with the regulations; is essential to the achievement of full compliance with the regulations; is designed to achieve or accelerate the achievement of the full educational goal for all G/T students; and is necessary to provide maximum benefits appropriate in service, quality, and cost to meet the full educational opportunity goal in the State. Each LEA and the Department shall enter into all interagency agreements or other mechanisms for interagency collaboration specified in the regulations by following all the requirements in this part.

B. As used in this part, *interagency agreement* means an operational statement between two or more parties or agencies that describes a course of action to which the agencies are committed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1595 (August 2000).

### §1810. Relationship Between LEAs and the Department

The relationship between the Department and the LEAs is defined by these regulations in regard to providing a free appropriate public education to G/T students. Interagency agreements are not necessary to define such relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1595 (August 2000).

### §1820. Purpose of Interagency Agreements

A. The purpose of interagency agreements is to assure that the standards established by State mandates and the SBESE to ensure a free appropriate public education for G/T students are upheld when they are implemented by an approved public or private agency not within the governance of the SBESE.

B. The agreements are mandated to provide maximum use of both human and fiscal resources in the delivery of special education and related services and to identify or define a method for defining financial responsibility of each agency.

C. Agreements may be entered into with parties both inside and outside the state of Louisiana with special consideration being given to abide by the rules for least restrictive environment. Nothing in any agreement shall be construed to reduce assistance available or to alter eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education,  
LR 26: 1595 (August 2000).

§1830. Types of Interagency Agreements

SDE and SSD shall have agreements with the Department of Health and Hospitals (DHH), the Department of Social Services (DSS), and the Department of Public Safety and Corrections (DPS&C), and/or other state agencies and their sub-offices where appropriate. LEAs shall have those agreements whenever necessary for the provision of a free appropriate public education. The State School for the Deaf, State School for the Visually Impaired and the State Special Education Center now under the auspices of SSD shall have interagency agreements with 1) the LEA in whose geographic area they are located, 2) each LEA that places a student in the day programs of that facility, 3) regional state agencies, and 4) habilitation agencies with whom they share students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education,  
LR 26: 1595 (August 2000).

§1840. Mandatory Content of Interagency Agreements

- A. Each agreement shall contain in writing information specified by Federal and State mandates and SBESE policy as listed below.
1. A statement describing the disparate governance being dealt with by the parties of the agreement
  2. The reason for writing the agreement
  3. The responsibilities of each party of the agreement for providing a FAPE, including 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 of service
  4. An identification of or a method for defining financial responsibility of each agency providing services, including conditions and terms of reimbursement
  5. All applicable State and Federal standards that will apply to the agreement being developed
  6. The data to be exchanged and the methods for exchanging it
  7. The statements with respect to Child Search and confidentiality issues
  8. The monitoring schedule and procedures
  9. The duration of the agreement
  10. The process for amending the agreement, to include the statement to the effect that the contract may be terminated upon thirty days written notice and the disposition of data/materials collected to that point
  11. Any information specific to an agency which is necessary for approval of the agreement by the Department
  12. The titles, names, and signatures of individuals authorized to enter into such agreements

B. Interagency agreements shall be reviewed annually. It shall not be necessary to write a new agreement if there is documentation between parties that the existing signed agreement is still agreeable to all parties.

C. In addition, the agreements shall contain the three statements listed below for conformance to Division of Administration requirements.

1. The contractor shall not assign any interest in this contract and shall not transfer any interest in same (whether by assignment or novation), without prior written consent of the State, provided, however, that claims for money due or to become due to the Contractor from the State may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the State

2. The Contractor shall agree to abide by all of the provisions of Louisiana Revised Statutes 43:31 in regard to printing of public documents. The contractor shall agree that prior to the final publication of any reports, documents, or publications of whatever nature for delivery to or used by the State, that the final proofs will be proofread by personnel of the Department and that no final printing will occur until the Contractor has been advised by the Department in writing that the text of materials to be printed has been proofread and approved.

3. It is hereby agreed that the Legislative Auditor of the State of Louisiana and/or the Office of the Governor, Division of Administrator auditors shall have the option of auditing all accounts of Contractor which relate to this contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1595 (August 2000).

#### §1860. Resolving Interagency Disputes

A. The steps to be followed to resolve interagency disputes, to include funding, in an expeditious manner have been prescribed by the SBESE.

1. For agency disputes between educational agencies over which the SBESE has control, regular complaint procedures shall be followed.

2. Interagency disputes at the local, regional, or state level which involve either program or financial responsibility will be referred to the Office of the Governor.

3. If a dispute continues beyond these interventions, either party of the dispute may seek resolution from a court of competent authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1596 (August 2000).

## Chapter 19. DEFINITIONS

### §1901. Terms

A. The terms defined in §1902-1999 of this Chapter are used throughout these regulations. Unless expressly provided to the contrary, each term used in these regulations shall have the meaning established by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1596 (August 2000).

### §1902. Abbreviations/Acronyms used in these regulations.

- A. DSS - State Division of Social Services
- B. DHH - State Department of Health and Hospitals
- C. DPS&C - State Department of Public Safety and Corrections
- D. FAPE - Free Appropriate Public Education
- E. FERPA - Family Educational Records and Privacy Act of 1974
- F. G/T - Gifted and/or Talented
- G. IDEA - Part B of the Individuals with Disabilities Education Act amends the Education for All Handicapped Children Act of 1975 formerly known as EHA (P.L. 94-142).
- H. IEP - The Individualized Education Program required by §1440 of these Regulations
- I. LEA. - Local Education Agency
- J. LRE - Least Restrictive Environment
- K. SBESE - State Board of Elementary and Secondary Education
- L. Section 504 - Section 504 of the Rehabilitation Act of 1973, 29 USC 706 and the Regulation issued by the U.S. Department of Education at 45 CFR 84
- M. SSD#1 and SSD#2 - Special School District Number One and Two

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1596 (August 2000).

### §1903. Abbreviated Terms

- A. The Act - Sections 1941 through 1958 of Chapter 8 of Title 17 of Louisiana Statutes of 1950, as amended
- B. The Department - The State Department of Education
- C. The Division - The Division of Special Populations of the Louisiana Department of Education
- D. The State - The State of Louisiana
- E. The State Board - The State Board of Elementary and Secondary Education
- F. The State Board Special Schools - The Louisiana Special Education Center; The Louisiana School for the Deaf; The Louisiana School for the Visually Impaired

E. The Superintendent - The State Superintendent of Public Elementary and Secondary Education

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26: 1596 (August 2000).

§1904. Definitions

*Age of majority* - as defined in Louisiana means eighteen years of age.

*At no cost* - means that all specially designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to regular education students or their parents as a part of the regular educational program.

*Business day* - means Monday through Friday, except Federal and State holidays (unless holidays are specifically included in the designation of business day).

*Child search coordinator* - means the LEA employee who is responsible for the child search and child identification activities including that of locating the student. Child search in these regulations equates to Child Find in IDEA.

*Combination self-contained and resource classroom* - is an alternative education placement in which the same teacher provides special education instruction for students who receive instruction in various special education alternative placements. These placements include self-contained, resource, and regular class.

*Confidentiality of information* - involves the storage, disclosure to third parties, retention and destruction of personally identifiable information.

*Consent* - means that

1. the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
2. the parent understands and agrees in writing to the carrying out of activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
3. the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. If a parent revokes consent, that revocation is not retroactive (i.e. does not negate an action that has occurred after the consent was given and before the consent was revoked).

*Counseling services* - means services provided by qualified social workers, psychologists, guidance counselors, or otherwise qualified personnel.

*Day* - means calendar day unless otherwise indicated as business day or school day.

*Destruction* - means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

*Due Process* - See §1507. of these regulations.

*Education records* - means the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974).

*Educational Diagnostic Services* - include

1. identifying special needs of students by providing: consultation and collaboration with teachers, school administrators, students and parents, classroom, observations and academic support services;
2. preventing educational problems through early identification of at risk students;
3. consulting with teachers and other school staff members in planning, implementing and evaluating school programs and strategies to meet the educational needs of individuals and groups of students;
4. designing interventions which will increase success in the academic setting which address academic needs of specific students;
5. administering, analyzing and interpreting informal and formal tests which will assist in identifying educational strengths and/or weaknesses in students who may need special education and related services;
6. working as part of a multidisciplinary team to assess the educational psychological, social and health needs of individual students.

*Educational Service Agency* - means a regional public multiservice agency that is authorized by State law to develop, manage, and provide services or programs to LEAs and recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary and secondary schools of the state. This authorization includes any other public institution or agency having administrative control and direction over a public elementary or secondary school and includes entities that meet the definition of intermediate educational unit.

*Equipment* - means machinery, utilities, and built-in equipment and any necessary enclosures or structures to house the machinery, utilities, or equipment; and all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

*Excess cost* - means those costs that are in excess of the average annual per student expenditure in a LEA during the preceding school year for an elementary or secondary school student, as may be appropriate.

*Evaluation* - is a multidisciplinary evaluation of a child/student, ages 3-21 years, in all areas of suspected exceptional ability through a systematic process of review, examination, interpretation, and analysis of screening data, developmental status, intervention efforts, interviews, observations, test results, as required, and other assessment information relative to the predetermined criteria as defined in the *Pupil Appraisal Handbook*.

*Evaluation coordinator* - is the pupil appraisal person who, in addition to serving as an examiner in the individual evaluation, is assigned the responsibilities described in §1433 for a particular student.

*Free Appropriate Public Education (FAPE)* - means special education and related services that (1) are provided at public expense, under public supervision and direction, and without charge; (2) meet the standards of the Department; (3) include preschool, elementary school, or secondary school education in the State; and (4) are provided in conformity with an IEP.

*Foster parent* - See *Parent*.

*Gifted*- children or youth who demonstrate abilities that give evidence of high performance in academic and intellectual aptitude.

*IEP Team* - See §1441.of these regulations.

*Include* - means that the items named are not all of the possible items that are covered, whether like or unlike the one named.

*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 student in question. See §1503 of these regulations.

*Individualized education program* - means a written statement for each G/T student developed, reviewed, and revised in a meeting in accordance with §1440-1445.

*Individualized education program* - means a written statement for each G/T student developed, reviewed, and revised in a meeting in accordance with §1440-1445.

*Instruction in Regular Class* - is an alternative education placement for eligible G/T students who receive special education and related services less than 21 percent of the school day outside the regular classroom.

*Interagency agreement* - means an operational statement between two or more parties or agencies that describes a course of action to which the agencies are committed. The statement is drawn up to be consistent with the mandatory provision of Part 1800 of *Bulletin 1706, Subpart B*.

*Least restrictive environment* - means the educational placement of a G/T student in a manner consistent with the Least Restrictive Environment Requirements in §1446 of *Bulletin 1706, Subpart B*.

*LEA*. - means a public board of education or other public authority legally constituted within the state either to provide administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, parish, school district, or other political subdivision of the state. The term includes an educational service agency and any other public institution or agency having administrative control and direction of a public elementary or secondary school including a public charter school that is established as a LEA under state law.

*Native language* - when used with reference to an individual of limited English proficiency, means the language normally is used by that individual, or in the case of a student, the language normally used by parents of the student. In all direct contact with the student, including the evaluation of the student, the language normally used by the student in the home or learning environment. For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, braille, or oral communication).

*Nonacademic and extracurricular activities* - See §1446.A.10. of *Bulletin 1706, Subpart B*.

*Parent* - means (1.) a natural or adoptive parent of a child; (2.) a guardian but not the State if the child is a ward of the State; (3.) a person acting in the place of a parent such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare; or (4.) a surrogate parent who has been appointed in accordance with §1516 of *Bulletin 1706, Subpart B*. A foster parent may act as a "parent" under these regulations when the natural parents' authority to make educational decisions on the child's behalf has been extinguished under State law, and the foster parent (1.) has an ongoing, long-term parental relationship with the child; (2.) is willing to make the educational decisions required of parents under these regulations; and (3.) has no interest that would conflict with the interest of the child. Louisiana Law requires that the rights and responsibilities of a parent established by these regulations shall be exercised by the G/ T student who attains the age of 18 years.

*Parent counseling and training* - as a related service means assisting parents in understanding the special needs of their child; providing parents with information about child

development; and helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP.

*Participating Agency* - for confidentiality purposes, means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained under these regulations.

*Personally Identifiable* - means that information includes (1.) the name of the student, the student's parent, or other family member; (2.) the address of the student; (3.) a personal identifier, such as the student's social security number or student number; or (4.) a list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

*Prior notice* - See §1504. of these regulations.

*Psychological services* - as a related service includes,

1. administering psychological and educational tests and other assessment procedures;
2. interpreting assessment results;
3. obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
4. consulting with other staff members in planning school programs to meet the special needs of students as indicated by psychological tests, interviews, and behavioral evaluations;
5. planning and managing a program of psychological services, including psychological counseling for students and parents; and
6. assisting in developing positive behavior intervention strategies.

*Public Agency* - includes the SEA, LEAs, public charter schools that are not otherwise included as LEAs and are not a school of a LEA, and any other political subdivisions of the State that are responsible for providing education to G/T students.

*Public charter school* - See §1403 of these regulations.

*Public expense* - means that the LEA either pays for the full evaluation when an independent educational evaluation is being conducted or ensures that the evaluation is otherwise provided at no cost to the parent.

*Pupil appraisal personnel* - means personnel who meet the certification requirements for school personnel for such positions and who are responsible for the delivery of pupil appraisal services included in §1410-1436 in these Regulations.

*Qualified Personnel* - means personnel who have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the individuals are providing special education and related services.

*Related services* - means transportation and such developmental, corrective, and other supportive services as are required to assist a G/T student to benefit from special education. Related services include speech/language pathology and audiological 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. The term also includes school health services, social work services in schools, and parental counseling and training.

*Resource Departmentalized* - is an instructional setting in which students receive instruction from more than one special education teacher and each teacher teaches only a single content or subject matter area. The pupil/teacher ratio shall be consistent with those listed in

Chapter 20 of these regulations. Instruction is provided for not more than the maximum allowed for that exceptionality in a self-contained class at any given period.

*Resource room* - is a type of alternative education placement for special education and related services designed or adapted as a location where G/T students may receive all or a part of the special education required by their IEPs, and in which all of the following exist:

1. The pupil/teacher ratios established in Chapter 20 are used.
2. Only G/T students are enrolled.
3. Instruction is provided for not more than 12 students.
4. Special education is provided by a teacher certified generically or in the area of exceptionality for which special education is provided.
5. Students receive special education and related services for at least 21 percent, but no more than 60 percent, of the school day outside the regular classroom.

*School Building Level Committee* - is a committee of at least three school level staff members; it may be identified as an SBLC, SAT, STAT, etc., at the discretion of the LEA. The committee shall be comprised of at least the principal/designee, a classroom teacher, and the referring teacher. It is suggested that other persons be included-such as the guidance counselor, reading specialist, master teacher, nurse, parents, pupil appraisal personnel, etc. This committee is a decision-making group that meets on a scheduled basis to problem solve concerns from teachers, parents, or other professionals on individual students who are experiencing difficulty in school because of academic and/or behavior problems. In most instances, for enrolled students, it is only through the SBLC that a referral can be made to pupil appraisal services for an individual evaluation.

*School Day* - means any day, including a partial day, that students are in attendance at school for instructional purposes. School day has the same meaning for all students in school.

*School health services* - as a related services means services, as defined in the *Pupil Appraisal Handbook*, provided by a certified school nurse or other qualified person.

*Self-contained departmentalized* - is an instructional setting in which students receive instruction from more than one special education teacher and in which each teacher teaches only one content area or subject matter. Pupil/teacher ratios shall be consistent with those listed in Chapter 10 of these regulations. Instruction is provided for not more than the maximum number allowed for that exceptionality in a self-contained class at any given period.

*Self-contained special education class* - is a type of alternative education placement in which special education instruction and related services are provided outside the regular classroom more than sixty percent of the school day.

*Social work services in schools* - as a related service includes preparing a social or developmental history on a G/T student; group and individual counseling with the student and family; working in partnership with parents and others on those problems in a student's living situation (home, school, and community) that affect the student's adjustment in school; and mobilizing school and community resources to enable the student to learn as effectively as possible in his or her educational program and assisting in developing positive behavioral intervention strategies.

*Special education* - means specially designed instruction, at no cost to the parent, to meet the unique needs of the student with an exceptionality.

*Specially Designed Instruction* - means adapting, as appropriate, to the needs of an eligible student under these regulations, the content, methodology or delivery of instruction to address the unique needs of the student.

*Student with an exceptionality*- means a student who, when evaluated in accordance with §1430 - 1436 of *Bulletin 1706, Subpart B*, was determined according to the *Pupil Appraisal Handbook* to have an exceptionality that significantly affects educational performance to the extent that special education is needed.

*Supplementary aids and services* - means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable G/T students to be educated to the maximum extent possible.

*Surrogate Parent* - See §1516. of these regulations.

*Talented* -is possession of measurable abilities that give evidence of unique talent in visual and/or performing arts.

*Transportation* - as a related service, means transportation required to assist a G/T student to benefit from a special education program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education,  
LR 26: 1599 (August 2000).

**Chapter 20 STATE PROGRAM RULES FOR SPECIAL EDUCATION**

§2001. Pupil/Teacher, and Pupil Appraisal Ratios for Public Education

In providing services to all identified exceptional students, LEAs must assure that the number of students in each **instructional setting** shall not exceed the following numbers.

<b>Setting</b>	Preschool	Elementary	Secondary
Self-contained		25	27
Combination Resource/Self- contained		22	22
Resource		30	30
Resource or Self- contained Departmentalized		93	98
Instruction in Regular Class		25	27
Resource Center		55	55
Pre-school			
A. Full Day	19		
B. Half Day	23		

Pupil appraisal members shall be employed by LEAs at the following rate:

- Public School Ratios Based on Membership Educational Diagnosticians 1:2,400 or major fraction thereof
- School Psychologists 1:2,400 or major fraction thereof
- Social Workers 1:3,200 or major function thereof
- LEAs may substitute one pupil appraisal professional for another provided that all pupil appraisal services are provided in accordance with these regulations and the *Pupil Appraisal Handbook*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.  
 HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education,  
 LR 26: 1599 (August 2000).